CORRESPONDENCE.

ARGENTINE REPUBLIC

ARGENTINE-CHILE BOUNDARY DISPUTE.

[Telegram.]

Mr. Day to Mr. Buchanan.

DEPARTMENT OF STATE,
Washington, D. C., July 29, 1898.

BUCHANAN, *Minister, Buenos Ayres:*

Learning with great regret of the tension which has arisen in regard to the boundary demarcation between the Argentine Republic and Chile, the Government of the United States charges you to express the earnest hope that the parties may find it practicable to compose their differences in accordance with the agreement already existing for marking the boundary by the commissioners, and for arbitrating any point on which the commissioners may be unable to agree.

DAY.

Mr. M. García Mérou to Mr. Hay.

[Translation.]

ARGENTINE LEGATION,
Marblehead Neck, Mass., September 25, 1898.

MR. SECRETARY OF STATE: I have the honor to inform your excellency that I am just in receipt of a telegram from my Government advising me that the boundary question pending between the Argentine Republic and Chile, by mutual agreement of both Governments, is to be submitted to the arbitral decision of Her Majesty the Queen of Great Britain, in conformity with the stipulations in existing treaties, and particularly with the agreement of 1896, which I had the pleasure of communicating to your excellency with one of my earlier notes. According to said compacts the line whose fixation is given into the hands of an arbitrator is that which runs from the twenty-sixth parallel to the fifty-second—the definitive tracing of the frontier in the region known as "Puna de Atacama" being yet to be determined by means of direct negotiations which are now proceeding without hindrance.

This solution, which removes, happily, all fear of conflict between the two countries while satisfying the wishes of both, in no way diminishes the gratitude which my Government feels for the interest shown by that of your excellency for a pacific settlement of the long standing and complicated difficulty.

In begging your excellency to transmit these sentiments to His Excellency the President of the United States I reiterate to your excellency the assurance of my highest and most distinguished consideration.

M. GARCIA MÉROU.

Mr. Adee to Mr. M. Garcia Mérou.

No. 29.] DEPARTMENT OF STATE,
Washington, September 28, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 25th instant, in which you are pleased to inform me that you have received a telegram from your Government stating that the boundary question pending between the Argentine Republic and Chile is, by mutual accord of both Governments, about to be submitted to the arbitration of Her Majesty the Queen of Great Britain, in conformity with the stipulations of existing treaties, and in particular of the agreement of 1896, according to which compacts the lines submitted to arbitration run from the twenty-sixth to the fifty-second parallels of south latitude, leaving for future settlement by means of direct negotiations, which are forthwith to be undertaken without interruption, the definitive location of the frontier in the regions known as "Puna de Atacama."

The gratifying information which you thus convey has been confirmed by telegrams which I received from the United States minister at Buenos Ayres, who has been careful to keep the Department advised of the progress of the negotiations in conformity with the instructions which have been sent to him from time to time expressing the great interest felt by this Government in a just and peaceful solution of the pending controversies.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. M. Garcia Mérou to Mr. Hay.

[Translation.]

LEGATION OF THE ARGENTINE REPUBLIC,
Washington, December 15, 1898.

MR. SECRETARY OF STATE: In compliance with instructions from my Government, I have the honor to officially confirm the information which I was able to give you in the conversation had with your excellency two weeks ago respecting the designation by the Governments of the Argentine Republic and of Chile of his excellency, Mr. William Buchanan, to form part of the commission which shall definitely determine the boundary line in the region called Puna de Atacama, it being his function to act as third arbitrator if the conference of the delegates of both nations, which is to meet on the 10th of March, shall not succeed in reaching an accord concerning the demarcation of the said boundary.

My Government charges me, moreover, to make known to your excellency that up to this time the two Governments have not communicated to Mr. Buchanan the designation which has been agreed upon in the protocols drawn up to that end, as the Government of the Argentine

Republic is awaiting the reply of that of Chile in order to comply with the aforesaid stipulation in official form.

Notwithstanding that the matter concerns a personal designation, the Argentine foreign office understands that the minister of the United States will ask of your excellency's Government the authorization necessary to accept the same upon there being communicated to him by the Argentine Republic and by Chile the honorable choice which has been made of him; the Government which I have the honor to represent has ever believed that the Government of the United States would find no obstacle to authorizing his excellency Mr. Buchanan to accept the important mission which has been confided to him, thus giving the additional proof of the esteem and sincere friendship which the Argentine Republic has always enjoyed at its hands.

It is allowable for me, in conclusion, to state to your excellency in fulfillment of express orders, that as I had the pleasure to communicate to your excellency on previous occasions, Mr. Buchanan enjoys the greatest esteem of the Argentine Government for his high intellectual endowments and the precision and uniform tact of his official and private actions, and that in this sense my Government has not hesitated for an instant to designate him as arbitrator in a matter of such importance, being assured of the impartiality of his judgment and of his high spirit of justice.

For my part, I feel a keen satisfaction in transmitting to your excellency the contents of this note, and I avail myself of this opportunity, etc.

M. GARCIA MÉROU.

Mr. Hay to Mr. M. Garcia Mérou.

No. 31.] DEPARTMENT OF STATE,
Washington, December 16, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant, handed to me in person the same day, in which you inform me officially, and in confirmation of oral statements heretofore made by you, of the choice of the United States minister at Buenos Ayres, Mr. William I. Buchanan, as a member of the commission to definitely determine the boundary line in the region known as Puna de Atacama, with a view to his acting as arbitrator if the conference of the delegates of the two nations which is to meet on the 10th of March next shall not reach an accord respecting the demarcation of that line.

As I had the pleasure to inform you orally, the Chilean representative in this capital had already informally acquainted the President with the choice of Minister Buchanan as a member of the commission in question, and Señor Morla Vicuña has been informed of the provisional assent of this Government to such choice in case the two Governments should ask it.

If in accordance with the understanding of your Government Mr. Buchanan should advise me of the request concurrently made of him by your Government and by the Government of Chile to act as a member of the arbitral commission to which your note refers and shall request the permission of this Government to accept the same, it will afford me pleasure to communicate to him the consent of the President for the personal performance of the mission with which he has thus been honored.

Be pleased to accept, etc. JOHN HAY.

Mr. Hill to Mr. Buchanan.

No. 428.] DEPARTMENT OF STATE,
Washington, December 21, 1898.

SIR: I inclose for your information copy of a note from the Argentine minister at this capital informing the Department that you had been selected by the Argentine and Chilean Governments to act as third arbitrator in the matter of the Puna de Atacama boundary line, in case the delegates of the two countries who are to meet on March 10 next fail to reach an agreement concerning it.

Copy of the Department's reply is also inclosed.

I am, etc.,

DAVID J. HILL, *Acting Secretary.*

[Telegram sent in cipher.]

Mr. Buchanan to Mr. Hay.

LEGATION OF THE UNITED STATES,
Buenos Aires, February 21, 1899.

HAY, *Washington:*

Argentine and Chilean Governments have formally asked me accept position on limits commission referred to in my No. 591. What are wishes of the Department?

BUCHANAN.

Telegram received Washington, D. C., February 23, 1899.

Mr. Hay to Mr. Buchanan.

BUCHANAN, *Minister, Buenos Aires:*

President authorizes your acceptance.

HAY.

SETTLEMENT OF THE CLAIM OF THOMAS JEFFERSON PAGE.

Mr. Buchanan to Mr. Day.

No. 565.] LEGATION OF THE UNITED STATES,
Buenos Ayres, October 1, 1898.

SIR: I have the honor to advise you that the claim of Capt. Thomas Jefferson Page, which has been before the Argentine Congress for so many years, was day before yesterday finally passed by that body, and to append on the overleaf a copy of my telegram of yesterday so advising you.

The sum awarded by Congress was $4,242.35, Argentine national (paper) currency, to be paid in national 6 per cent internal debt bonds. These bonds were provided by an act of Congress some several years back to cover internal obligations, and, as the national exchequer has been depleted by the country's heavy expenses during the past few years, Congress, as well as the Executive, adopts this plan for paying all claims it can.

The amount awarded is exactly that recommended by the executive power when the claim was presented to Congress, now some fifteen years ago. At that time, however, gold was the standard "currency" here, and the recommendation of the Senate committee then was that the bill should be paid in "national currency," which recommendation the Senate at once confirmed.

It will be remembered that in my dispatches I have explained that when the claim then reached the House of Deputies it was discussed and amended to read $780, which sum that body approved; that Captain Page refused to accept that sum, and that the claim has ever since slumbered in the committee room of the House of Deputies.

Knowing all this, I have felt certain ever since I have had anything to do with this claim that the best thing that could be expected from the committee of the House of Deputies, within whose room it has slumbered for the past ten years, would be that they might be induced to recommend its approval in the form it had reached them from the Senate years ago. Beyond that I was convinced they would not go. I therefore felt that whatever the amount awarded, it would in all probability be "current money," because of the fact that, notwithstanding gold was current when the claim was filed, it was not specifically named either in the recommendation of the executive power in the beginning or of the Senate committee at that time.

Owing to the Chilian boundary question and other matters of importance claiming the attention of Congress this year, it has been considerable of a task to secure attention for this old claim. I was so desirous, however, to get some sort of a settlement for Captain Page that I allowed no opportunity to pass wherein I could do anything to that end, and am therefore glad to be able to say that, through the generous interest taken in the case by the speaker of the House and the chairman of the committee of claims and the kindly recollection of Captain Page had by several of the older members of the Senate, I am thus enabled to write you that the claim has been concluded.

All I could do was to use my best efforts toward getting the claim out of the committee's room, where it had lain so long, and through Congress in the best shape possible.

This I have done, and only hope the result may be measurably satisfactory to the claimant and my course meet your approval.

I have, etc.,

WILLIAM I. BUCHANAN.

CLEARANCE OF HAWAIIAN VESSELS UNDER AMERICAN FLAG.

Mr. Buchanan to Mr. Hay.

[Telegram.]

BUENOS AYRES, *November 16, 1898.*

Hawaiian schooner *Americana*, carrying the flag of Hawaii, has arrived from St. John, where was cleared by consul of the Hawaiian Islands. That Government was never represented here. Captain has applied the United States consul. Will you please send telegraph instructions for his guidance.

BUCHANAN.

Mr. Hay to Mr. Buchanan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 17, 1898.

Schooner mentioned telegram 16th should be recognized by Argentine Government. Consul should act for Hawaii's commercial intercourse so far as necessary and proper.

HAY.

No. 416.] *Mr. Hay to Mr. Buchanan.*

DEPARTMENT OF STATE,
Washington, November 17, 1898.

SIR: I confirm on the overleaf copy of your telegram of the 16th instant, and of my reply of the 17th, in regard to the recognition of the Hawaiian schooner *Americana* by the consul of this Government at Buenos Ayres.

As you no doubt understand, the United States minister at Honolulu ceased to discharge his diplomatic functions on July 4, 1898, but until Congress shall enact the necessary legislation our consul-general there has been instructed to perform his commercial duties as heretofore, and in like manner the consuls of the Hawaiian Government continue to perform their commercial functions in the United States, and of course in foreign countries, during the interval before Congress shall otherwise provide.

Appending for your information copy of a telegram from the Acting Secretary of the Treasury of the 17th instant upon the subject,

I am, etc.

JOHN HAY.

[Inclosure 1 in No. 416.—Telegram.]

Mr. Hay to the Secretary of the Treasury.

DEPARTMENT OF STATE,
Washington, November 16, 1898.

Our minister at Buenos Ayres telegraphs following:

Hawaiian schooner *Americana*, carrying the flag of Hawaii, has arrived from St. John, where was cleared by consul of Hawaiian Islands. That Government was never represented here. Captain has applied the United States consul. Will you please send telegraph instructions for his guidance?

This Department is of the opinion that Hawaiian consul was correct in clearing the vessel from St. John. Kindly give expression of your opinion on subject in order that minister may be instructed.

JOHN HAY.

[Inclosure 2 in No. 416.—Telegram.]

Mr. Spaulding to Mr. Hay.

TREASURY DEPARTMENT,
November 17, 1898. (Received 10.35 a. m.)

This Department of opinion that clearance of Hawaiian schooner *Americana*, mentioned in your telegram of yesterday afternoon, from St. John by Hawaiian consul should be recognized by Government of Buenos Ayres and by United States minister and consul there, and that our officers there should be instructed to act for Hawaii in such matters so far as necessary and proper.

O. L. SPAULDING,
Acting Secretary.

Mr. Buchanan to Mr. Hay.

[Telegram.]

BUENOS AYRES, *November 19, 1898.*

Have received telegram 17. Schooner English built, owner Hawaiian, manager and captain British. Ship's papers with port perfect. Captain to apply to United States consulate for clearance and the right to hoist United States flag. What shall consul require and do? No official notice of annexation has been received here.

BUCHANAN.

Mr. Hay to Mr. Buchanan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 21, 1898.

Can not authorize captain schooner *Americana* hoist United States flag in absence Congressional legislation. Hawaii formally annexed August 12, but legislation necessary to carry into operation internal and foreign commercial arrangements.

HAY.

Mr. Buchanan to Mr. Hay.

No. 582.] LEGATION OF THE UNITED STATES,
Buenos Ayres, November 22, 1898.

SIR: On the 15th instant the captain of the Hawaiian schooner *Americana*, which had arrived the previous day at the entrance to this port, with lumber from St. Johns, New Brunswick, called at our consulate and asked what he should do with regard to entering the docks, he having left St. Johns under the Hawaiian flag and register; and, also, as to whether our consul would enter and clear his ship.

Consul Mayer called to see me before giving an answer, and I advised him to withhold replying until I could advise you of the case and receive your instructions.

Upon being so informed by the consul, the captain of the schooner said he could not afford to lie outside the harbor awaiting a reply and

that he should hoist the Hawaiian flag, enter the docks, and deliver his ship's papers to the captain of the port. This he did.

In accordance with my reply to Consul Mayer, I telegraphed you as follows on the 16th instant:[1]

On the 17th instant I received the following reply to my inquiry:[1]

Inasmuch as your reply did not afford me the information I desired with regard to the status before our consul of the schooner in question, I deemed the case one of sufficient importance to justify my again telegraphing you with greater detail than I had thought necessary to do at first.

I therefore wired you on the 19th instant as follows:[1]

To my said telegram you replied as follows on the 21st:[1]

I have to-day furnished Consul Mayer with a copy of these telegrams and have said to him that it was clear therefrom that he could not clear the schooner in question, inasmuch as she was not entitled to carry the United States flag; and that I deemed it proper for him to so advise her captain to the end that he may, when ready to sail, either change his ship's registry to such flag as he desires, other than our own, or clear through the office of the captain of the port, as he entered, with the Hawaiian flag, or in such manner as he chooses.

The case is certainly a peculiar one, and of more than usual interest.

Had it not been for the fact that the legation was without official advice as to the annexation of Hawaii, and that I knew, from conversations, that this Government was equally without notice of such fact, I would probably not have been so careful to have telegraphed you as I did. As it now appears, I am glad I did so, because I am certain I should otherwise have reached a conclusion different from that outlined in your last telegram.

Had the legation had official knowledge of the annexation of Hawaii, I am inclined to think I should have assumed it to be a self-evident fact that the Hawaiian flag as an insignia of sovereignty and nationality ceased to exist when hauled down from over the Government House in Honolulu on August 12 last; and that from that moment the schooner in question had neither registry nor flag, since her registry would appear to be as much a part of the public property of Hawaii delivered to the United States by the terms of the first paragraph of the act of Congress accepting Hawaii as would the public record of deeds of the country; and assuming it to be a fact that the Hawaiian flag could not have been hoisted over a plantation there, for instance, after August 12 last, it would have appeared to me logical to presume therefrom that it could not be kept up over the schooner in question, which had been, equally with the plantation supposed, private Hawaiian property.

Following out that line of reasoning, I would, I think, have been inclined to the conclusion that it would appear reasonable to believe that, if the public Hawaiian record of deeds became in fact and actually a United States record by the act of changed sovereignty effected by the annexation of the islands, then it would equally follow that the Hawaiian registry of ships would, by the same change of sovereignty and flag, become a United States registry, notwithstanding the fact that in the case in point such a conclusion would run counter to the terms of section 348 of the consular regulations, and possibly other legislation.

I have, etc., WILLIAM I. BUCHANAN.

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[1] Printed, *ante*, p. 7.

Mr. Hay to Mr. Buchanan.

No. 436.] DEPARTMENT OF STATE,
Washington, January 13, 1899.

SIR: Referring to your No. 582, of November 22 last, relative to the request for the entry and clearance of the Hawaiian schooner *Americana*, I inclose copy of a letter from the Acting Secretary of the Treasury stating that such vessels can not be considered vessels of the United States without additional legislation.

I am, etc., JOHN HAY.

[Inclosure in No. 436.]

Mr. Spaulding to Mr. Hay.

TREASURY DEPARTMENT,
Washington, January 10, 1899.

SIR: I have the honor to acknowledge the receipt of your letter dated the 7th instant, transmitting for an expression of the views of this Department a copy of a dispatch from our minister to the Argentine Republic, reporting the case of the Hawaiian schooner *Americana*, whose master desired the United States consul at Buenos Ayres to enter and clear his vessel.

It appears to this Department that such vessels can not be considered as vessels of the United States without additional legislation. Pending such legislation, all proper action should be taken by the minister to facilitate their entry and clearance.

Respectfully, yours, O. L. SPAULDING,
Acting Secretary.

AUSTRIA-HUNGARY.

MILITARY SERVICE OF SIEGFRIED ABELES.

Mr. Tower to Mr. Sherman.

No. 37.] UNITED STATES LEGATION,
Vienna, January 11, 1898.

SIR: I have the honor to report to you herewith, for your information, the case of Siegfried Abeles, a naturalized citizen of the United States, domiciled in the city of New York, who was held by the criminal court at Leitmeritz, in Bohemia, to have evaded the military service to which he was subject by birth, and whose name was inscribed upon the list of deserters, under the military laws of the Austro-Hungarian Empire. By the intervention of this legation, Mr. Abeles has been recognized as an American citizen, his name stricken from the list of deserters, and his freedom from liability to perform military duty in Austria-Hungary established.

The facts are as follows: Siegfried Abeles was born in Neustraschitz, in Bohemia, on the 8th of August, 1871. He obtained a permit to travel in the year 1891, before he had been enrolled for military duty in Bohemia, and went to America, where he still resides. He was naturalized before the United States district court in and for the southern district of New York on the 4th day of December, 1896. It was during the period from 1891 to 1896, while he was absent in America, that he was adjudged to have evaded military duty at home.

On the 1st of July, 1897, Adolf Abeles, a merchant of Raudnitz, in Bohemia, appealed to this legation, saying that he is the father of the said Siegfried Abeles, the circumstances of whose case he narrated, as will be seen by the translated copy of his communication, which is respectfully submitted herewith, and begged that he might have the assistance of the representative of the United States in securing for his son the privileges which he is entitled to as an American citizen under the convention entered into by the United States and the Empire of Austria-Hungary. The purpose of Mr. Abeles, as he has since informed me, was to establish the citizenship of his said son and to have his name erased from the list of deserters, in order that, after an absence of nearly seven years, he may return to his home to visit his parents, who, being well advanced in years, greatly desire to see him again.

After having received Mr. Adolf Abeles's appeal I wrote to him, on the 16th of July, 1897, acknowledging its receipt, and I informed him that, before I could present his case to the Austro-Hungarian foreign office, it would be necessary for me to have the certificate of naturalization of his son Siegfried Abeles, or a certified copy of it, in order to ascertain his citizenship. In reply to this letter Mr. Abeles sent me the certificate of naturalization of his son, which proved that he was admitted to citizenship of the United States before the United States

district court in and for the southern district of New York, as above mentioned.

I addressed a note thereupon to the Count Goluchowski, minister of foreign affairs, in which I inclosed to him the certificate of naturalization of Siegfried Abeles and called his attention to the fact that, notwithstanding his American citizenship, the said Abeles had been adjudged by the court at Leitmeritz to have evaded military duty and his name had accordingly been entered upon the military lists of the district as a deserter. I repeated to him the assertion of Mr. Adolf Abeles that his son is not a deserter and that under the convention of 1870, entered into by the United States and Austria-Hungary, he could neither be held to military service nor be made liable to trial and punishment for nonfulfillment of military duty.

I requested the minister of foreign affairs to cause due inquiry to be made by the proper authorities with a view to having relief granted and justice done to this citizen of the United States, that, if the facts were found such as had been represented, the name of Siegfried Abeles might be removed from the list of deserters, and that, as an American citizen, he might enjoy freely within the limits of the Austro-Hungarian Empire all the privileges intended to be reciprocally enjoyed by the citizens of each of the high contracting parties within the territory of the other under the said convention of 1870.

I have now received, from the minister of foreign affairs, a note dated the 11th of January, 1898, in which he inclosed to me the certificate of naturalization of Siegfried Abeles, and announced that the legal naturalization of the said Abeles "is now fully affirmed, the necessary steps taken to terminate the proceedings instituted against him for having evaded military duty, and that his name will be dropped from the list of those liable to military duty, according to the provisions of the treaty of September 20, 1870, and he be recognized and treated as an American citizen."

The minister of foreign affairs adds that "the father of Siegfried Abeles will be acquainted by the authorities of his district with the dispositions which have been made."

A copy of the whole correspondence relating to this case is respectfully submitted herewith.

I have, etc., CHARLEMAGNE TOWER.

[Inclosure 1 in No. 37.]

Mr. Abeles to the United States Legation.

RAUDNITZ, *July 1, 1897.*

HONORABLE LEGATION: My son, Siegfried Abeles, who was born at Neustraschitz, in Bohemia, on August 8, 1871, received permission to go to Germany for two years.

While traveling through Germany he reached Bremen in the year 1891. There he got into great distress, having neither money nor work to sustain himself. In this emergency a company of Galicians assisted him and proposed that he should go with them to America. Being inexperienced he accepted this offer of the company who promised to pay all his expenses. He hoped that in America he would find work more readily than in Germany, and that, as soon as he could obtain the necessary means, he would return to his native country.

As the time was approaching when he would become liable to military duty, I made inquiry whether my son could not report to the Austrian consul in New York to be enrolled. In compliance with information received on that point I instructed my son to report to the Austrian consul in New York for enrollment; and my son then went to the consulate to be examined and enrolled if found able bodied.

The consul told him, however, to make a petition to the Bezirkshauptmann at Raudnitz, in Bohemia, and plead for a prolongation of his permit to travel, and also to request that a certificate be given him to extend his travels to America. The Austrian consul further advised him to write to the Bezirkshauptmann at Raudnitz to forward the conscription lists to America in order that his name might be properly enrolled. Thereupon I addressed the Bezirkshauptmann at Raudnitz, but neither the passport nor the conscription lists were forwarded to the consul in New York.

Although Siegfried Abeles subsequently reported again to the consulate in New York, no enrollment was made because there were no conscription lists. After a lapse of five years my son became a naturalized citizen of the United States.

In the meantime investigations were made by the district criminal court at Leitmeritz, in order to ascertain the liability of my son to military duty, and his violation of paragraph 45 of the military law of April 11, 1889, No. 41; but they were discontinued until further developments.

Afterwards I, as father, applied to the district criminal court at Leitmeritz under date of January 30, 1896, and requested that the proceedings should be resumed, stating that my son had been naturalized in the southern district of New York. I inclosed the certificate issued by the court, and asked that his name be struck from the list of those liable to military duty.

On May 28, 1897, the district criminal court in Leitmeritz replied that there was no cause for a resumption of the proceedings in this case.

This decision of the above named court at Leitmeritz is not in conformity, however, with the provisions of the treaty between Austria-Hungary and the United States of September 20, 1870, according to which emigrants of Austria-Hungary who have uninterruptedly resided at least five years in the United States, and who during that time have become naturalized citizens of the United States, will be regarded by the Government of Austria-Hungary as American citizens and treated as such, and vice versa. (Here Article II of the treaty of 1870 is quoted at length.)

Therefore, according to this international convention, Siegfried Abeles can not be held to have violated paragraph 45 of the military law, because he was not enrolled as a recruit, and because he had not yet reached the age which rendered him liable to military service at the time he emigrated.

As Siegfried Abeles has been declared to be a deserter from the military service, it might happen that, while paying a visit to his parents, he might be arrested and held until his innocence could be proved. But since my request to the court at Leitmeritz for resumption of proceedings has been left without result, I would most respectfully ask—

That the honorable legation, after investigation of this case, would condescend to cause the cancellation of the name of this United States citizen, Siegfried Abeles, from the rolls of persons liable to military duty in the Austro-Hungarian Empire.

ADOLF ABELES.

[Inclosure 2 in No. 37.]

Mr. Tower to Mr. Abeles.

UNITED STATES LEGATION,
Vienna, July 16, 1897.

SIR: I have received your application made to this legation on behalf of your son, Siegfried Abeles, who, you tell me, is a naturalized citizen of the United States and whose name now stands upon the list of deserters from military duty in the Austrian service. You ask the intervention of this legation with the Imperial and Royal authorities to have his name removed from the list so that he may return to Raudnitz upon a visit.

In order that I may present this case to the Imperial and Royal foreign office here, it will be necessary for me to have the certificate of naturalization of Siegfried Abeles, or a certified copy of the same. With that document in hand to prove his citizenship, I will see what may be done to obtain for him the relief he seeks.

I am, etc.

CHARLEMAGNE TOWER,
United States Minister.

In reply to the foregoing letter, Mr. Adolf Abeles sent to this legation the certificate of naturalization of Siegfried Abeles, issued by the United States district court in and for the southern district of New York on the 4th of December, 1896.

[Inclosure 3 in No. 37.]

Mr. Tower to Count Goluchowski.

UNITED STATES LEGATION,
Vienna, August 23, 1897.

YOUR EXCELLENCY: A complaint has been made at this legation by Mr. Adolf Abeles, a merchant of Raudnitz, on behalf of his son, Siegfried Abeles, setting forth that the name of the said Siegfried Abeles is retained upon the list of those who have failed to perform military duty in the Imperial and Royal army of Austria-Hungary, and that the said Siegfried Abeles is classed as a deserter, although he emigrated some years ago to America and has become a duly naturalized citizen of the United States.

The facts of the case appear from Mr. Adolf Abeles's statement to be as follows: Siegfried Abeles was born on the 8th of August, 1871, in Neustraschitz, in Bohemia. In the year 1891, having obtained a permit to travel, he went to Bremen, in Germany; and in the same year he sailed from Bremen to America. Having resided in the United States uninterruptedly for five years, he was admitted to become a citizen of the United States of America by the United States district court in and for the southern district of New York on the 4th of December, 1896. In the meantime, and during his absence in America, the said Siegfried Abeles was adjudged by the K. K. Kreisals Strafgericht in Leitmeritz to have evaded military duty, and his name was accordingly entered upon the military lists of the district as a deserter.

Mr. Adolf Abeles complains that, although he has appealed to the said honorable court to remove the charge of desertion which it

has decreed against his son, and although he has placed in evidence before it the certificate of naturalization of his son to show that Siegfried Abeles is a duly naturalized citizen of the United States of America, yet the said honorable court has refused to relieve Siegfried Abeles from the charge of desertion or to take his name from the list of those who are liable to trial and punishment under the Imperial and Royal laws of Austria-Hungary for nonfulfillment of military duty.

Mr. Adolf Abeles asserts, however, that his son is not a deserter, and that under the provisions of the convention concluded on the 20th of September, 1870, between the United States of America and the Empire of Austria-Hungary he can neither be held to military service nor does he remain liable to trial and punishment for the nonfulfillment of military duty; but that, on the contrary, as he has not transgressed any of the provisions, especially of Article II, of the aforementioned convention, and as he has resided uninterruptedly at least five years in the United States, and during such residence has become a naturalized citizen of the United States, he should now be treated as such.

I have the honor to submit this case to your excellency's attention, and to request that your excellency will cause due inquiry to be made by the proper Imperial and Royal authorities with a view to having relief granted and justice done to this citizen of the United States; that, if the facts of the case be found such as I have had the honor here to present them to your excellency, the name of Siegfried Abeles may be removed from the list of deserters, and that, as an American citizen, he may enjoy freely within the limits of the Imperial and Royal Austro-Hungarian dominions all the privileges which are intended to be reciprocally enjoyed by the citizens of each of the high contracting parties within the territory of the other under the aforesaid convention of September 20, 1870.

In support of the statement made by Mr. Adolph Abeles, I have the honor to inclose to your excellency herewith the certificate of naturalization of Siegfried Abeles, issued on the 4th of December, 1896, by the district court of the United States held in and for the southern district of New York.

I beg that your excellency will have this document returned to me, in order that I may send it back to Mr. Abeles.

I avail, etc.,

CHARLEMAGNE TOWER.

[Inclosure 4 in No. 37.]

Count Welshersheimb to Mr. Tower.

VIENNA, *January 11, 1898.*

SIR: In reply to the esteemed note of August 23, 1897, No. 19, relating to the citizenship of Siegfried Abeles, the contents of which were communicated to the Imperial and Royal ministry of foreign affairs, I now have the honor of informing the honorable envoy of the United States of America, Mr. Charlemagne Tower, that notice has been received from the above-mentioned ministry that, in view of the legal naturalization of the person aforesaid in the United States, which is now fully affirmed, the necessary steps have been taken to terminate the proceedings instituted against him for having evaded military duty, and that his name be dropped from the list of those liable to military duty, accord-

ing to the provisions of the treaty of September 20, 1870, and he be recognized and treated as an American citizen.

The father of Siegfried Abeles, Mr. Adolf Abeles, a merchant living in Raudnitz, will be acquainted by the authorities of his district with the dispositions which have been made.

While the undersigned has the honor of returning herewith the inclosure contained in the above-mentioned esteemed note, he avails himself, etc.

WELSERSHEIMB,
For the Minister.

MILITARY SERVICE OF PETER HORNIK.

Mr. Sherman to Mr. Tower.

No. 63.] DEPARTMENT OF STATE,
January 10, 1898.

SIR: I inclose for your information copy of a letter from the Hon. Ebenezer J. Hill,* a member of the House of Representatives from the State of Connecticut, inclosing a communication from Messrs. E. A. Mallory & Sons, of Danbury, in that State, stating that Peter Hornik, a naturalized American citizen of Hungarian birth, who went to his native country in November last for the purpose of bringing his family to the United States, has been notified by the Austro-Hungarian authorities to appear for military service.

You are instructed to make inquiries in the proper quarter in regard to the case, with a view to taking such action with reference thereto as the facts may be found to warrant.

Respectfully, yours, JOHN SHERMAN.

Mr. Tower to Mr. Sherman.

No. 42.] UNITED STATES LEGATION,
Vienna, February 11, 1898.

SIR: In reply to your dispatch (No. 63) of the 10th of January, 1898, and to your supplemental dispatch of the 22d of January, by which I was instructed to make inquiry in the proper quarter in regard to the detention by the Austro-Hungarian authorities, for military service, of Peter Hornik, a naturalized American citizen of Hungarian birth, who went to his native country in November of last year for the purpose of taking his family to the United States, I have the honor to report that immediately upon the receipt of your instructions I addressed a letter to Peter Hornik at Nagy Tarkany, in Hungary, the temporary residence of said Hornik as given in the letter of Messrs. Mallory & Sons, of Danbury, Conn., a copy of which accompanied your dispatch No. 63, and asked him to inform me whether he had been arrested or detained in Hungary contrary to his rights as an American citizen. I wrote at the same time to Mr. F. D. Chester, United States consul at Budapest, asking him whether he knew anything of this man, and requesting him to make such inquiries as he might be able, to discover

* Not printed.

whether he was in any difficulty from which his American citizenship ought to protect him. I have not received a reply to the letter which I addressed to Mr. Hornik at Nagy Tarkany; but the consul at Budapest reports that—

> The said Hornik was registered at this consulate on December 10 last; that he sent in to me from Nagy Tarkany on the 18th of the same his military pass, from which it appeared that he had served the usual time in the Austro-Hungarian army and was enrolled in the second reserve (militia) of Szabolcs-Zemplin district at the time of his emigration to America, which was in his twenty-eighth year. He begged me, at the time of sending his pass, to ask the proper authorities to excuse him from answering a summons which he had received immediately on his return to Nagy Tarkany.
>
> In compliance with my representations the district commandery of Szabolcs-Zemplin district informed me on December 24, 1897, that Hornik's name had been struck off the list, as being a citizen of the United States. On the 30th of the same Hornik informed me that he would leave for the United States by a steamer sailing the 11th of January, together with his wife and family, whom he came over expressly to take back with him to America.

It would seem that Mr. Hornik was in no way detained or molested contrary to his rights as an American citizen, but that the summons sent to him was merely the usual demand made in this country of all returning emigrants to prove their freedom from liability to perform military service. This demand was met satisfactorily in the case of Mr. Hornik by the exhibition of his naturalization certificate, which established his American citizenship.

The consul at Budapest informs me, under date of the 9th of February, that he has received information from Nagy Tarkany that Peter Hornik, with his entire family, left for America on the 6th of January.

I have, etc.,

CHARLEMAGNE TOWER.

MILITARY SERVICE OF ANTON GUERRA.

Mr. Tower to Mr. Day.

69.] UNITED STATES LEGATION,
Vienna, June 4, 1898.

SIR: I have the honor to report to you the case of Anton Guerra, a naturalized citizen of the United States, who was arrested in Styria for nonperformance of military duty, and, in consequence of the intervention of this legation in his behalf, has now been set at liberty.

Anton Guerra was born in Hrastnig, in Styria, on the 26th of November, 1875, and emigrated to America in August, 1889, when he was 13 years of age. He was naturalized before the circuit court of the United States in and for the eastern district of Pennsylvania on the 3d of May, 1897, and obtained a passport (No. 3660) from the Department of State on the 21st of the same month. He left the United States almost immediately after his naturalization and returned to his native town, where he now resides.

Soon after his arrival in Styria he was arrested on the 5th of August, 1897, for nonperformance of military service, though it appears that he succeeded upon that occasion, with the aid of a local attorney, in freeing himself. Having remained in the town of Hrastnig, however, until the following spring, when the Austrian recruits were being summoned into service, he was notified again, on the 6th of March, 1898, to present himself among those liable to perform military duty. He then

appealed to the United States consul-general in Vienna, who referred his letter to this legation.

Upon inquiry into the facts, I discovered that Mr. Guerra belongs to that class of foreigners who go to the United States and remain there long enough to obtain the privileges of citizenship, after which, upon various pretexts, they return to their native country with an American passport. Most of them have never performed the slightest service to our Government in return; and that is the case with Anton Guerra, who has never paid any taxes, owned any property, established any tangible interest, or served upon a jury within the United States of America.

Nevertheless, it was evident that he had emigrated to America before he was liable to military duty in Austria-Hungary, and therefore, under the provisions of the treaty of 1870, his United States passport should have been sufficient protection to him from arrest. His passport had been presented to the authorities in Styria and disregarded by them. It was this disregard of his passport which led me to present his case at once to the Austro-Hungarian ministry of foreign affairs, and I have the honor to announce to you that he has been set at liberty and his name struck from the list of those persons who are liable to perform military service. A copy of the entire correspondence is respectfully submitted herewith.

I have, etc., CHARLEMAGNE TOWER.

[Inclosure 1 in No. 69.]

Mr. Guerra to Mr. Judd.

HRASTNIG, *March 8, 1898.*

HONORABLE SIR: I am sorry to again have to trouble you, but I am again called to appear on the 12th of March to the "assentirung," as they call it. I thought best to inform you about it. I went yesterday to the bezirkshauptmann in Cilli to protest against it, but told me it would be best to come there on the 12th and show my papers to the assentirung commission; but as I proved my citizenship last summer, I don't see why I should be bothered again. I wish you would protest against it to the bezirkshauptmann, as well as to let me know what to do. They claim I was militarpflichtig here at the time I was made a citizen there, and so have a claim on me, but I don't see what that has to do with it.

Hoping to hear from you, I remain, very respectfully,

ANTHONY GUERRA.

[Inclosure 2 in No. 69.]

Mr. Tower to Mr. Guerra.

UNITED STATES LEGATION,
Vienna, March 14, 1898.

SIR: Your letter of the 8th instant to Mr. Max Judd has been referred by the United States consul-general, Mr. C. B. Hurst, to this legation.

As this legation has no record of your case, will you be kind enough to send hither a statement, setting forth the particulars, as fully as possible, both as to your previous as well as your present trouble.

It will also be necessary for you to send to this legation your passport, if possessed of one, and your certificate of naturalization.

Please state, also, the date of your birth, the date of your emigration to America, the date of your return to this country, the place of your temporary residence here, as well as other details you may deem proper to make known. With these details in hand, this legation will then take such steps as may be necessary to assist you.

I am, sir, etc.,

CHARLEMAGNE TOWER.

[Inclosure 3 in No. 69.]

Mr. Guerra to Mr. Tower.

HRASTNIG, *March 16, 1898.*

HONORABLE SIR: Your letter dated the 14th instant has been received, and in answer send you all my papers, letters, as well as full particulars about my case. I think it was an outrage on the part of the Austrian officials to have treated me as they did, and hope you will take the necessary steps, as they not only insulted me, but also the United States consul, as when I showed them his letters they said that he, too, is liable to make mistakes.

I kindly beg you to let me know what you think of the case, and should it prove that they have acted wrong with me here, I demand full satisfaction.

Awaiting your reply, I remain, etc.,

ANTHONY GUERRA.

[Inclosure 4 in No. 69.]

I, Anthony Guerra, jr., was born November 26, 1875, in Hrastnigg, Parish Trifail, Bezirk Cilli.

I emigrated to the United States August 3, 1889, and lived in Philadelphia from the 1st of September of same year to the 26th of May, 1897.

Was naturalized on the 3d of May, 1897, at the eastern district court of Pennsylvania. Being under the treatment of Dr. Manson, of Philadelphia, since the latter part of last winter, I followed his advice, which he gave me as a last resort, to take a trip abroad, and having my parents living here at Hrastnigg, I undertook this trip, and arrived here on the 10th of June. For security I applied to Washington for a passport, which I inclose herewith.

On the 5th of August, 1897, I received a call from the K. K. bezirkshauptmann of Cilli to present myself there as militarpflichtig. As soon as I received this call I wrote to the United States consul-general about it, praying his advice. Not receiving any reply from him, I presented myself on the same date, and showed them all my papers. But, notwithstanding, they put me under arrest, and was only released on the 7th of August through the intervention of the lawyer, Dr. Mavlag, which my brother-in-law, Mr. F. Wittschnig, engaged, and after giving bail to the amount of fes. 100.

It is understood that such treatment, joined with anger and shame, affected my ill health very much, inasmuch as I could not take my medicine as prescribed. Consequently, when I was released, my health was thrown back for several weeks.

As soon as I got home I wrote to the United States consul about the ill treatment I had received. In reply I received the inclosed letter which, translated in German, I sent to my lawyer. He advised me to make an application to the Austrian Government to release me from their books. I notified the consul about it, and he in reply told me not to.

With these letters I went to my lawyer, and not receiving any satisfaction from him, I myself went to the court and demanded my papers, which I got, as well as the fes. 100 bail I gave. The lawyer's fee was fes. 18, and other expenses I had on account of this trouble amounted to about fes. 50. After that I thought the Aus-

trian authorities recognized my citizenship of the United States and this incident ended.

To my surprise, though, I received on the 6th of March a new call. The next day, the 7th, I went to the bezirkshauptmann to protest, but was told there I would have to come there on the day named (March 12) and be examined like all others, they still claiming me as one of their subjects. I therefore wrote to Mr. Max Judd the letter which was referred to you, and not receiving any answer from him and not wanting to run the risk of being forced by gendarmes, I went there myself, thinking, of course, my papers and letters of the United States consul, which I had translated in German, would clear me. To my surprise they fully ignored these documents, and told me it would be best to leave myself be examined, as there was no help for me, and should I not, I would have to take the consequences and be treated as I was last summer. I protested vigorously against it, with the only result that they laughed at me, as well as the papers I tried to show them. I therefore thought it best to let myself be examined, of course with the full intention, as I told them there, of informing the United States consul about the whole affair, which I would have done had I not received your letter.

ANTHONY GUERRA.

[Inclosure 5 in No. 69.]

Mr. Tower to Mr. Guerra.

UNITED STATES LEGATION,
Vienna, March 18, 1898.

SIR: I have received your letter of the 16th of March. I regret that you did not refer your case to this legation before. I will do now, however, whatever it is proper to do to protect you in your rights as an American citizen.

Your passport is the only document you need show in order to prove your citizenship. You are not liable to military duty in Austria-Hungary unless you emigrated to America after having been drafted at the time of conscription or while you stood in service under the flag. As you were quite young at the time of your emigration, I presume you are subject to neither of these conditions. Let me know whether your name is still carried upon the lists of those liable to military service and whether you have not been allowed to excuse yourself by the exhibition of your passport.

Your United States citizenship must be recognized and your passport respected, and they will be so. In the meantime I recommend to you an attitude of civility toward the local authorities. A conflict with them can only lead to your personal discomfort.

I shall wait to hear from you, and if you inform me that your name is still kept upon the military lists and that your passport has not sufficed to prove your freedom from obligation to serve, I shall take steps in your behalf at the foreign office.

I return to you herewith your Tauf and Heimatschein; your Reise Pass, dated 1889; your certificate of naturalization before the circuit court of the United States for the eastern district of Pennsylvania on the 3d day of May, 1897, and your passport, No. 3660, dated at the Department of State the 21st of May, 1897; also the letters from Mr. Judd, and others which you inclosed to me.

Very truly yours,

CHARLEMAGNE TOWER.

[Inclosure 6 in No. 69.]

Mr. Guerra to Mr. Tower.

HRASTNIG, *March 22, 1898.*

HONORABLE SIR: Your favor of the 18th instant received. In reply would say I emigrated to the United States when under fourteen years of age. Showed here last summer both my passport as well as the certificate of naturalization, but notwithstanding put me under arrest for two days, and this last time they practically refused to look at either, telling me it didn't amount to anything. Of course my name is still kept on the lists, and what I desire is that my name should be stricken out, so as not to be troubled in future. I also think with your assistance I should be able to recover the amount of my expenses, which I had on account of this trouble.

Awaiting your reply, and looking forward for your assistance, I remain, etc.,

ANTHONY GUERRA.

[Inclosure 7 in No. 69.]

Mr. Tower to the District Captain.

UNITED STATES LEGATION,
Vienna, March 24, 1898.

SIR: Anton Guerra, a naturalized citizen of the United States, has addressed a petition to this legation, from which it appears that his name is inscribed on the army list at Hrastnig as one liable to military duty, and that he received summons to appear before a board of examinators, although he presented his American passport to the proper authorities.

The United States minister would be under obligations if the Imperial and Royal district captain at Hrastnig would make known whether the name of this American citizen is still carried on the army lists, and if so, whether his name can not be canceled from such list, as it appears from his passport that he can not be enrolled into the ranks of the Imperial and Royal army.

Begging to be favored with an early reply, I am, etc.,

CHARLEMAGNE TOWER.

[Inclosure 8 in No. 69.]

Mr. Tower to Mr. Guerra.

UNITED STATES LEGATION,
Vienna, March 25, 1898.

SIR: I have duly received your letter of the 25th of March, and I have already written to the Bezirkshauptmann in Hrastnig about your case. I shall see that the American passport which you bear is respected. At the same time I must inform you that the Department of State does not encourage the return of naturalized American citizens to the country of their birth; and it reserves the right to deny them its protection if they go back there to take up their residence. You left America in the month of May, 1897, within four weeks after having

been naturalized, and, returning to your home in Hrastnig, you have lived there with your parents for nearly a year.

While you are claiming protection from the United States, and I am taking steps now to give it to you, I wish you would tell me what your relations are to the United States in return. Have you any interests there, and when do you intend to return thither to perform your duties as a citizen? Do you pay taxes in America?

Awaiting your reply, I am, etc.,

CHARLEMAGNE TOWER.

[Inclosure 9 in No. 69.]

Mr. Guerra to Mr. Tower.

HRASTNIG, *March 27, 1898.*

HONORABLE SIR: Your letter of the 25th instant received, and in reply kindly wish to inform you that I had to leave the United States and return here on account of my health, having marked symptoms of consumption and had to have change of air.

I will return to the United States as soon as my health is fully restored, which I hope will be as soon as warmer weather sets in, and therefore I beg you not to trouble yourself about my case any more, as all I wanted was that my transport, etc., be respected, and as they had not been I thought it my duty to inform you about it.

Thanking you for the interest you took, I remain, etc.,

ANTHONY GUERRA.

[Inclosure 10 in No. 69.]

Mr. Tower to Count Goluchowski.

UNITED STATES LEGATION,
Vienna, April 4, 1898.

YOUR EXCELLENCY: I beg leave to call your excellency's attention to the case of Anton Guerra, a naturalized citizen of the United States of America, who has been enrolled upon the lists of those liable to perform military service, in Hrastnig, in the Gemeinde of Trifail and Bezirk Cilli. The facts are as follows:

The said Anton Guerra was born in Hrastnig, on the 26th of November, 1875, and emigrated to America in August, 1889, when he was 13 years of age, and before he was old enough to be enrolled in the military service of the Austro-Hungarian Empire. He was naturalized as a citizen of the United States, in Pennsylvania, in the year 1897.

As he was in poor health, he was advised by his physician in Philadelphia that he would be benefited by a trip to Europe, whereupon he decided to make a visit to his parents, who still reside in Hrastnig. He reached Hrastnig on the 10th of June, 1897. On the 5th of August of the same year he was summoned by the K. K. Bezirkshauptmannschaft of Cilli, to appear before it for military examination. He presented his United States passport to the authorities, but they declined to recognize it as proof of his American citizenship; and after being held under arrest for two days he was released through the intervention of a lawyer of Cilli, Dr. Meravlag, whom he employed to assist him. Mr. Guerra believed that he had been released from custody because he had

proved his American citizenship; but he now complains to this legation that he was summoned again by the Bezirkshauptmannschaft for examination on the 6th of March of the present year, and that although he exhibited his passport that document was completely ignored by the officials at Cilli. He was informed that his name was upon the list of persons liable to perform military service, and that he must submit to the physical examination. This he was obliged to do.

I have the honor to present these facts to your excellency's attention with the request that an examination of them be made by the proper authorities, and that if they be found correct as they have been reported to this legation the name of the said American citizen, Anton Guerra, may be removed from the Imperial and Royal military lists, and the authorities of Cilli be instructed to show due respect hereafter to a passport issued by the Government of the United States of America.

I avail myself, etc.,

CHARLEMAGNE TOWER.

Count Welsersheimb to Mr. Tower.

[Inclosure 11 in No. 69.]

VIENNA, *May 27, 1898.*

SIR: The Imperial and Royal ministry of foreign affairs has not omitted to communicate to the Imperial and Royal ministry of public defense the contents of the esteemed note dated April 4, 1898, numbered 41, relating to the arrest of Anton Guerra, a naturalized American citizen, by the authorities at Hrastnig, district of Cilli, for noncompliance with military duty, in order that the necessary investigations and proper dispositions may be made in this case.

The ministry of public defense now reports that Anton Guerra, of Trifail, near Cilli, who went to the United States in the year 1889, provided with a passport but without permit on the part of the authorities to emigrate, and who subsequently acquired American citizenship, was summoned on his return to his former home, and steps taken to ascertain his liability to military duty. On the presentation of his papers, however, Anton Guerra was set at liberty and proceedings against him were discontinued.

Orders for the canceling of his name from the active army list have already been issued.

While the undersigned has the honor of bringing the foregoing to the knowledge of the honorable envoy of the United States of America, he begs to avail himself, etc.,

WELSERSHEIMB,
For the Minister.

[Inclosure 12 in No. 69.]

Mr. Tower to Mr. Guerra.

UNITED STATES LEGATION,
Vienna, May 30, 1898.

SIR: In reply to a communication which I made to the Austro-Hungarian Government on the 4th of April, 1898, setting forth the facts in your case and asking that your American passports should be respected, the minister of foreign affairs announces to me, under

date of the 27th of May, that your American citizenship has been formally recognized and your name removed from the lists of those liable to perform military duty in Austria-Hungary.

I am, sir, etc.,

CHARLEMAGNE TOWER.

MILITARY SERVICE OF HERMAN MELLER.

Mr. Tower to Mr. Day.

No. 77.] UNITED STATES LEGATION,
Vienna, July 1, 1898.

SIR: I have the honor to report for your information the case of Herman Meller, a naturalized citizen of the United States, who was arrested in the month of April of the present year at Lemberg, in Galicia, upon a charge of nonperformance of military duty and released upon the intervention of this legation.

The facts of this case are as follows: Herman Meller was born at Brody, in Galicia, in September, 1863, and emigrated to the United States in the year 1879. He resided there eighteen years, in the city of New York and in Montgomery, Ala., which latter is his present residence. He was admitted to citizenship before the superior court of the city of New York, at New York, on the 14th of October, 1884. He is the bearer of a passport, numbered 11821, issued by the Hon. John Sherman, Secretary of State, at Washington, on the 7th of February, 1898.

Mr. Meller came to Austria in the month of March of the present year, intending to visit his friends here and to return to America early in May. He had already bought the ticket for his passage back to New York.

During the period of his visit in Lemberg, and shortly before the date upon which he intended to start for America, he was arrested upon a charge of having evaded his military duty at the time of emigration.

He appealed to this legation for assistance on the 24th of April, 1898, and upon my presenting a statement of the facts relating to his naturalization to the Imperial and Royal ministry of foreign affairs, on the 7th of May, he was released on the 2d of June. Copies of the entire correspondence are respectfully submitted herewith.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure 1 in No. 77.]

Mr. Tower to Mr. Meller.

UNITED STATES LEGATION,
Vienna, April 24, 1898.

SIR: I have duly received your telegram of the 24th of April, which reads as follows:

Arrested on account of military duty by the police at Lemberg. Citizen of the United States. Passport No. 11821. Request intervention. Reply Police Director, Lemberg.

HERMAN MELLER.

To which I replied by telegram this morning as follows:

Your telegram received. Have written to-day. Await my letter.

MINISTER.

I wish you would send me at once a detailed account of your arrest, its causes, and all other particulars connected with it, in order that I may take steps to give you such assistance as you may be entitled to by your American citizenship.

Where and when were you born? When did you emigrate to the United States? Where did you live, and how long? Where and when were you naturalized? When did you leave the United States? When do you intend to return to the United States? Send me your certificate of naturalization and your passport.

Once in possession of the data mentioned in the foregoing, I will do what I can in order to see that justice is done to you.

I am, sir, etc.,

CHARLEMAGNE TOWER.

[Inclosure 2 in No. 77.]

Mr. Meller to Mr. Tower.

LEMBERG, *April 27, 1898.*

YOUR HONOR: I am in possession of your letter dated April 24, and will hereby answer all you asked of me. I was born in Brody, Galizien, in September, 1863. I emigrated to the United States the end of 1879 or the beginning of 1880. I can not recollect, and therefore will give it to you as close as possible. I have lived for about thirteen years in New York and about five years in Alabama, Montgomery especially. I was naturalized in the superior court in the city of New York on the 14th of October, 1884, before Judge Dugro, by Clerk M. O. Boese, which I inclose to your honor, then the naturalization paper which I took out in the city court of Montgomery, Ala., the 1st of February, 1898, before Judge A. D. Sayre, by Clerk H. H. Mathews, through which I got my passport; being I had my former paper mislaid could not remember exact date of first paper mentioned, and thinking it is lost, Judge Sayre granted me the second, from which I got my passport the 7th of February, 1898, at the Department of State by Secretary John Sherman. Number of passport is 11821. I can not inclose to your honor the other paper and passport, being the criminal court of this city has it in their possession. Your honor has seen and read every one of the three documents I have, while I was in Vienna on the 11th of March, when I registered at your legation, and your secretary took a memorandum of my papers, and you told me to also take all dates and names of particulars and mark it separate. That is why I can give you correct dates and names of judges. I then told you that Judge Day told me not to go unless you say so. I have done so, and came here on the 14th of March, and was not molested until the 22d of this month, when a policeman came up to my house and asked me to go with him to the station. I obeyed, but the officer at the desk apologized and said I can go, as it was spite of somebody reporting me that I ran away from the military service, but hearing that I left when a boy of 16 years he would not hold me.

Two days later an officer of the police direction came to my room and asked me to go with him. The same boy which reported me first standing by the door, and pointed at me, this is the one. I went again, told

the presiding officer that I am an American citizen, and not fugitive; that I am reported at police headquarters upon my arrival and showed him my passport. He asked for my citizen papers, which I handed him. Nobody could read them. Then he decided it belongs to the bezirk-shauptmann. He could not understand my papers, and decided to hold me until the next day. My uncle, the above named, promised to bring me at 10 o'clock in the morning. We got there in time, and he decided to send me to the magistrate. There they said I must serve the army, and send me to the procurator. He put me to prison until they would decide. They tried to put me down that I was born in 1865, so as that I left when I was 18 years instead of 16 years; that I ran away from the army, but I produced my paper of birth and then they could not say anything. Then I was put with criminals in a cell and had to stay there for over twenty-four hours. You can imagine what a picnic. They called me up to make a statement and tried to hold me liable under some law which passed here in 1889. Then one judge said that the law passed ten years later—after I left. They send me back behind the iron bars, and in the meantime Uncle Litzerman got a lawyer and with hardship took me out with 2,000 gulden bail. They then yet send me back to the magistrate, and there with hard fighting had to give 500 gulden there to appear on the 5th of May to be put under military service.

I told him that I swore to the Stars and Stripes, but that did not help. I have my return ticket on which I was to return to the land of liberty in a few days, but now I will be detained and my place of business, which is located at 13 South Court street, at Montgomery, Ala., will have to suffer. It will be a great loss to me. I went under your advice, and hope and look to you for immediate relief, for if by the 5th of May if nothing is done through you I will be in fine pickle, with the Austrian uniform on. My brother-in-law ran to Vienna to you, while I was in prison, as they would not let me communicate, to tell you all particulars. I don't want to delay this letter, as time is very precious, but will try and ask for the passport and papers, and if they will give me same will send it to you by next mail; if not, you have in this letter the exact dates and names of judges and courts.

Hoping you will free me at your earliest opportunity and not forget the 5th of May, I will close, with many thanks beforehand.

Your obedient servant,

HERMAN MELLER.

[Inclosure 3 in No. 77.—Translation.]

Mr. Tower to the District Captain.

UNITED STATES LEGATION,
Vienna, April 27, 1898.

SIR: Herman Meller, a citizen of the United States, living at Montgomery, in the State of Alabama, has requested the assistance of this legation and reports having been arrested by the Imperial and Royal police at Lemberg and deprived of his passport and other documents whereby to prove his identity.

This legation therefore requests the Imperial and Royal district captaincy of Lemberg to make known upon what grounds the arrest of this American citizen is based and why he has been deprived of his liberty.

The United States minister would be under great obligations to the Imperial and Royal district captaincy at Lemberg if the desired information could be conveyed to this legation at the earliest practicable time.

Very respectfully,

CHARLEMAGNE TOWER.

[Inclosure 4 in No. 77.]

Mr. Tower to Mr. Meller.

UNITED STATES LEGATION,
Vienna, April 29, 1898.

Sir: I have received your letter of the 27th of April, and I have taken steps toward your relief. I wrote to the bezirkshauptmann at Lemberg on the 27th of April, immediately after receiving your telegram, and expect to hear from him soon in reply. You may be confident that I shall not lose sight of your case.

Very respectfully, yours,

CHARLEMAGNE TOWER.

[Inclosure 5 in No. 77.—Translation.]

The District Captain to the United States Legation.

LEMBERG, *April 29, 1898.*

In reply to the esteemed letter of the 27th of April, No. 408, I have the honor to inform the honorable legation that Herman Meller was not arrested by the district captaincy at Lemberg and surroundings, but by the provincial criminal court on solicitation of the magistrate of the city of Lemberg, and that his documents are in all probability at the court above named. The aforesaid esteemed letter of the 27th of April has been transmitted to the Imperial and Royal state attorney at Lemberg for further action, and the provincial criminal court is the only authority which can give to the honorable legation further information in this case.

———— ————,
The District Captain and Counsellor of State.

[Inclosure 6 in No. 77.]

Mr. Meller to Mr. Tower.

LEMBERG, *May 1, 1898.*

Your welcome letter of the 29th April to hand, and was very much pleased to hear that you are not losing sight of my case. I have tried to get my papers and passport from the criminal court procurator, so as to send same to you, but in vain. I told them that the bail was heavy enough for a murderer—not such offense—and that they could send my papers direct to you. But this is a one-sided affair here with them, and if the Austrian minister of justice will ask for them they will lose their power, so as even to give up the 2,000 florins they have in their possession, besides 500 florins in the magistrate court. I hope your honor will

free me from these obstacles in a few days, so I can start for home, as everything in my neighborhood is very lively, and my people at home at such a time can not do without me.

Hoping to hear from you soon, and please don't forget the 5th of this month, as they intend to put me before a military court, and if it is possible for you to avoid that, please accept my heartiest thanks.

Your obedient servant,

HERMAN MELLER.

[Inclosure 7 in No. 77.]

Mr. Tower to Count Goluchowski.

UNITED STATES LEGATION,
Vienna, May 7, 1898.

YOUR EXCELLENCY: Complaint has been made at this legation by Herman Meller, a naturalized citizen of the United States of America of Austrian birth, that he is unjustly held under arrest and is imprisoned at Lemberg upon a charge of nonperformance of military duty.

The facts of this case, as stated by Mr. Meller, are these: Herman Meller was born at Brody, in Galicia, in September, 1863, and emigrated to the United States in the year 1879. He resided there eighteen years, during which time he was admitted to citizenship before the superior court of the city of New York, at New York, on the 14th of October, 1884. He is the bearer of a passport, No. 11821, issued by the Hon. John Sherman, Secretary of State, at Washington, on the 7th of February, 1898.

Mr. Meller came to Austria in the month of March of the present year, intending to visit his friends and to return to America early in May, for which purpose he had already bought his ticket.

While visiting in Lemberg, and but a few days prior to his intended departure for the United States, he was arrested upon a charge of having failed to perform military duty when he first left his home. This Mr. Meller declares to be without foundation, since he was but 16 years of age at the time of his emigration, and he had never been summoned or enrolled as a conscript in the Empire of Austria-Hungary. If the facts as here set forth are accurate, this case is an unusually aggravated one, for Mr. Meller declares that he has proved his age at the time of his emigration by exhibiting his certificate of birth. This appears not to have been accepted by the authorities at Lemberg, who have disregarded his certificate of naturalization in the United States and his American passport, both of which documents they have taken from him, and they are detaining him now, to his serious detriment by reason of his personal interests in America, which are suffering from his prolonged absence.

I respectfully request your excellency to have the case of this American citizen promptly examined by the competent authority, and if the facts be found true as reported to this legation, that he be set at liberty immediately; also, that the authorities at Lemberg be instructed to give in the future that respect and recognition to United States passports and other official documents which they are legally and properly entitled to.

I avail myself, etc.,

CHARLEMAGNE TOWER.

[Inclosure 8 in No. 77.]

Mr. Meller to Mr. Tower.

LEMBERG, *May 11, 1898.*

SIR: Being informed that you have given over my case to the Austrian minister for investigation, I wish you will grant me that favor to see that the court of Lemberg should not take their time so easy in answering, so that too much time should not be lost, as they are here free and easy going and are not particular, and I am counting the minutes, as my time is required at home, and a great loss to me; if possible to notify the courts here by telegraph, so as to save a few days of railroad travel. This is a great unjust to me. I hope and trust you will put a spark in them to wake them up in forwarding matters, so to make my stay here very short.

Hoping to hear from you soon, I remain, very truly, yours,

HERMAN MELLER.

[Inclosure 9 in No. 77.]

Mr. Meller to Mr. Tower.

LEMBERG, *May 18, 1898.*

SIR: I have to-day received a notice to appear before the criminal court on the 23d of this month, as they found an indictment against me, from section 45, for not appearing for military service, and my answer as being an American citizen will not justify, says my attorney here, unless the Vienna high court will command them here in time, before the trial begins, to dismiss my case and scratch me as an Austrian. I am here at present in the dark, and don't know what to answer to questions which will be put before me. Don't know what will happen, and how long it may last. It is nearly a month, and I don't hear or see any sign which will enable me to make a break for home. This will be a ruin for me unless something is done to shorten my stay here. I hope your honor will inform me by return of mail all the particulars, so I can guide myself and know what is going on. By doing so, you will greatly oblige,

Very respectfully, yours, HERMAN MELLER.

[Inclosure 10 in No. 77.]

Mr. Tower to Mr. Meller.

UNITED STATES LEGATION,
Vienna, May 19, 1898.

SIR: I have duly received your letter of the 18th of May. I am sorry to hear that you are still detained by the Austrian authorities for nonperformance of military duty. Unless there is some ground of complaint against you of which I have not been informed your American citizenship will certainly free you from this charge. Of course I can not say precisely upon what day that will occur, because I do not know when your case will be reached by the court and decided; but I have written in your behalf to the Bezirkshauptmannschaft, as well as to the Landesgericht in Lemberg, and on the 7th of May I pre-

sented your case fully to the Austro-Hungarian foreign office, with the request that it should be examined into and you should be set at liberty at once.

I am, sir, very respectfully, yours,

CHARLEMAGNE TOWER.

[Inclosure 11 in No. 77.]

Mr. Meller to Mr. Tower.

LEMBERG, *June 2, 1898.*

SIR: With your kind assistance I regained my liberty to-day, and don't want to lose any time in expressing my sincere thanks for all the trouble I have given you. They tried their very best to deprive me of my rights, but at last it is Stars and Stripes forever. I am leaving to-night for home, sweet home, and shall not make no secret out of it, and have it published, and will demand something for depriving me of my liberty. They need a lesson, to have respect for the American Eagle, and not to say they can not read our passports. Why have we an interpreter in our courts for their language to suit their subjects? I'll close with many many thanks to you for hurrying my affair to a close. Good-bye.

Very respectfully, yours,

HERMAN MELLER.

[Inclosure 12 in No. 77.—Translation.]

Count Welsersheimb to Mr. Tower.

VIENNA, *June 18, 1898.*

SIR: The Imperial and Royal ministry of foreign affairs has not failed to address itself to the Imperial Royal ministry of public defense, in compliance with the esteemed note of May 7 last, No. 50, in order that the proper investigation be made relating to the arrest of the naturalized American citizen, Herman Meller, by the Imperial Royal authorities at Lemberg for nonperformance of military duty, and that the proper steps be taken in order that the said Herman Meller be treated in accordance with the provisions of the treaty of September 20, 1870.

It appears from a communication now received by the Imperial and Royal ministry of foreign affairs that proceedings were instituted in the court of Lemberg against Herman Meller for violation of paragraph 45 of the military law, and that a correspondence relative thereto was opened between the Imperial Royal ministry of public defense and the Imperial Royal ministry of justice. In consequence of this investigation the state attorney at Lemberg has since directed proceedings to be discontinued, because of Mr. Meller's naturalization in the United States, and the said Meller has therefore been set at liberty.

While the undersigned has the honor of conveying the foregoing to the knowledge of the honorable envoy extraordinary and minister plenipotentiary of the United States of America, Mr. Charlemagne Tower, he avails himself at the same time of this opportunity to renew, etc.

WELSERSHEIMB,
For the minister.

LAWS RELATING TO FLAG DESECRATION.

Mr. Sherman to Mr. Tower.

No. 87.] DEPARTMENT OF STATE,
March 25, 1898.

SIR: For use in connection with legislation contemplated in Congress, you are requested to obtain and forward to the Department copies of any Austro-Hungarian laws which may be in force to prevent the use of the Imperial flag for advertising purposes.

Respectfully, yours,

JOHN SHERMAN.

Mr. Tower to Mr. Day.

No. 68.] UNITED STATES LEGATION,
Vienna, May 26, 1898.

SIR: In reply to the dispatch of the Secretary of State (No. 87) dated the 25th of March, 1898, I have the honor to inclose to you herewith copies of the laws in Austria and Hungary which relate to the subject of disrespect toward the Imperial flag.

There are, however, no laws either in Austria or Hungary which specifically restrict the use of the flag for advertising purposes. It may be stated as a general proposition that this form of abuse of the flag is not known in these countries.

I have, etc., CHARLEMAGNE TOWER.

[Inclosure 1 in No. 68.]

VIENNA, *April 14, 1898.*

To the honorable legation of the United States of America at Vienna:

In reply to the esteemed note of April 5, 1898, No. 344, relating to a proposed law for protecting the integrity of the national flag, I have the honor to say that there is no special law in Austria containing provisions against insults offered to the national flag or desecrations to the coat of arms of the State when committed within the jurisdiction of the Empire.

The laws of this country provide that criminal actions involving insult to the imperial or national flag, the coat of arms of the Empire, or the imperial eagle, shall be individualized according to the circumstances, and in case by such action the reverence due to the Emperor shall appear to have been violated judgment may be passed according to the provisions of paragraph 63 of the criminal law, and the action be construed as an insult to the majesty of the Emperor, or if the facts are shown to come under the provisions of paragraph 65A of the criminal law the action may be construed as a disturbance of public peace.

Anyone attempting, publicly or before several persons, either in print or by pictures, to create derision of or hatred against the person of the Emperor, the integrity of the Empire, the form of government, or the administration of the Empire, renders himself liable to penalty for having violated the provisions of the above-mentioned paragraph.

The incriminating actions may, however, be dealt with by the police, provided they do not constitute an offense coming under the criminal law, as paragraph 11 of the imperial decree of April 20, 1854, No. 96, provides that the provincial, civil, and police authorities are empowered to punish any demonstrative act inciting to disloyalty toward the government or derision of its orders with a fine of from 1 florin to 100 florins, or with confinement of from six hours to fourteen days.

As regards the use of the imperial or provincial flag of Austria for purposes of advertising, it must be said that the laws of this country contain no specific provision in that respect. It must be mentioned, however, that a ministerial decree of April 24, 1858, No. 61, provides that the right of carrying the imperial coat of arms or eagle, or a provincial coat of arms, depends upon a consent obtained from the Emperor or upon a permit obtained by a separate provision of law. Such legal provision is contained in paragraph 58 of the trade law of March 15, 1883, No. 39, according to which industrial establishments may obtain this privilege to carry the imperial eagle on their sign or seal. The granting of such privilege belongs to the jurisdiction of the civil provincial authorities.

A strict prohibition in that respect is also contained in paragraph 3 of the law of January 6, 1890, No. 19, relating to trade-marks, according to which the registration of trade-marks can not take place when they consist of no other design than the coat of arms of the state or some other public design.

Finally, I beg leave to remark that all these provisions of the law apply only to the countries represented in the Reichsrath, and not to those of the Hungarian Crown.

The laws of Hungary relating to the same subject might be obtained by applying to the respective ministry at the imperial court in Vienna.

HAORDA,
Police President.

[Inclosure 2 in No. 68.]

Mr. Chester to Mr. Tower.

UNITED STATES CONSULATE,
Budapest, April 26, 1898.

SIR: Referring to your esteemed dispatch under date of the 12th instant, relative to laws in Hungary (1) protecting the integrity of the national flag and coat of arms and (2) limiting the use of the flag for advertising purposes, I have the honor to send you in translation a section of the criminal law of 1879 bearing upon the first point, and to inform you that to use the national coat of arms for advertising purposes requires a permit from the prime minister (in Hungary proper obtained through the minister of the interior, in Croatia-Slavonia through the ban) according to the provisions of Law XVIII of 1883 and of ordinances of 1883, September 10; 1884, May 26; 1885, July 10; 1888, February 22 and February 28. The ordinances of the ban for Croatia-Slavonia I am unable to give. I have learned of no order in regard to the use of the flag.

I have the honor, etc.

FRANK DYER CHESTER,
Consul.

[Inclosure 3 in No. 68.]

LAW XL OF 1879.—THE HUNGARIAN CRIMINAL LAW AS TO OFFENCES.

PART II.—KINDS OF OFFENCES AND THE PENALTIES THEREFOR.

CHAPTER I.—*Offences against the state.*

Paragraph 37. Not more than two months' arrest and not more than 300 florins fine shall be inflicted upon anyone who defiles, damages, or tears down the coat of arms or the flag of this country, of the allied countries (Croatia-Slavonia), or of the Austro-Hungarian Monarchy when publicly displayed; likewise upon anyone who, with intent to insult, defiles, damages, or tears down the flag or coat of arms publicly used as the insignia by either civil or military authorities.

[Inclosure 4 in No. 68.]

Paragraph 63 of the criminal law of Austria.—Insult to His Majesty the Emperor.

Any person who shall disregard the respect due the Emperor, by offering, publicly or before several persons, insult, defamation, or derision by means of prints, communication, or publication of pictorial representations, is guilty of the crime of insulting His Majesty, and renders himself liable to imprisonment at hard labor from one to five years.

Paragraph 65 of the same law.—Disturbing the public peace.

Such person shall be guilty of disturbing the public peace who shall publicly or before several persons, in print or by pictures: A, attempts to provoke contempt or hatred towards the person of the Emperor, the solidarity of the Empire, the form of government or administration.

The penalty for this crime shall be imprisonment at hard labor from one to five years.

RESTRICTION OF AMERICAN FRUIT.

Mr. Tower to Mr. Sherman.

No. 41.] UNITED STATES LEGATION,
Vienna, February 8, 1898.

SIR: I have the honor to report to you for your information that the prohibitive measures recently adopted in Germany against the importation of American fruit have attracted public attention in Austria-Hungary, and are likely to be followed here by similar regulations upon the part of this Government. Fear of infection has operated with immediate effect upon the public mind; and not only do the farmers and fruit growers seek to escape what they imagine to be a threatening danger, but the merchants also, who believe that unless they can prevent the importation of suspected fruit into this market from abroad their own shipments will be barred from the markets of neighboring European countries, and the suspicion of contagion will be fastened upon them.

An article which appeared this morning in the semiofficial Fremden-Blatt, a translation of which is respectfully submitted herewith, declares that the situation demands that the Austro-Hungarian Government shall consider what steps are to be taken to protect the cultivation of fruit within the Empire, and at the same time to defend its own export trade, "which, in the event of a failure upon the part of the two Governments to agree upon this subject, might ultimately be threatened with restrictive measures in Germany. For there would be the danger that North

America would turn the current of its fruit export trade into Germany partially, at least, through Austria-Hungary, and this would not only lead to the overstocking of our home market with the American product, but would cause the erection of inspection stations on our frontier and thus make the exportation of our own fruit more difficult."

The writer of this article adds that negotiations upon the subject are now taking place between the Government of Austria and that of Hungary, which, in view of the gravity of the situation, are likely to result in the adoption, within a very short time, by the dual Monarchy, of a definite policy as to American fruit; and there is every reason to expect, he continues, that Austria-Hungary will unite with Germany in a strict prohibition of the importation of life plants and windfalls, as also of packing materials; "a prohibition which is not only justified, but even made obligatory, by the convention of Berne, to which the United States of America declined to assent."

The evident intention of the Austro-Hungarian Government at the present moment is to enter into an agreement with Germany under which all American fruit imported into Austro-Hungary, except through Germany itself, shall be subject to rigid inspection, and shall be refused admission if it fail to stand the tests applied to it. In the case of fruit imported into Austria-Hungary through Germany, however, the tests to which it shall have been submitted there shall be deemed sufficient.

I shall not fail to report to you punctually further developments which may take place in this connection.

I have, etc.,

CHARLEMAGNE TOWER,
United States Minister.

[Inclosure in No. 41.—Translation.]

The German Government has, as we have already announced, taken measures against the introduction of the San Jose scale (*Aspidiotus perniciosus*). The importation of fresh plants and their windfalls, as well as their packing materials, have been entirely prohibited, whilst shipments of fresh fruit or of fresh fruit windfalls are to be examined and admission refused to them if they give evidence of the presence of this insect. It will not be long before Austria-Hungary will come to a decision upon this subject. Such a course is made necessary not only in order to protect our fruit growers but also to safeguard the interests of our fruit export trade, which, in default of an agreement between Austria-Hungary and Germany, would ultimately be threatened with repressive measures in the German Empire. For we should be in danger of having part, at least, of the American fruit trade with Germany turned into our Austro-Hungarian channels, which would not only lead to the overstocking of our market with the American product, but would cause Germany to erect examining stations on our frontier.

We understand that negotiations are now pending between the Government of Austria and that of Hungary with a view to establishing the policy of the two Governments in this matter; negotiations which, in view of the gravity of the situation, are likely to lead to an immediate result. Austria-Hungary imported during the year 1897, 8,163 meter centners (metric hundred kilograms) of American fruit from the United States (as against 1,821 in 1896); 135 from Canada; 501 from Hamburg; 1,221 (200) from Holland; and 903 (299) from Belgium. If we take the aggregate of all these imports, for those which come from other points than America are evidently to be considered as merely passing through them in transit, we find that we imported 10,923 meter centners in 1897.

We have every reason to expect that Austria will unite with Germany in the total exclusion of living plants and their windfalls and packing materials. We shall be able, all the more, to issue this decree because it is justified; it is even imposed upon us as a duty, by the convention of Berne, which the United States of America declined to assent to.

As to importation of fruit itself, it is expected that such shipments as may come to us through any country but Germany, which, after all, are quite inconsiderable,

shall be subjected to a rigid examination, and shall be rejected if found unequal to the test. On the other hand, such fruit as shall already have been subjected to inspection in Germany will be admitted upon a certificate of such inspection; for, as is well known, an examining station for American fruit was established some time ago at Hamburg.

Mr. Tower to Mr. Sherman.

No. 58.] UNITED STATES LEGATION,
Vienna, April 27, 1898.

SIR: As a supplemental report to my dispatch No. 41, dated the 8th of February, 1898, in which I called the attention of the Department to the fact that the Government of Austria-Hungary was likely to adopt restrictive measures as to the importation of American fruit similar to those now in effect in Germany, in order to prevent the introduction of the San Jose scale, I have the honor to inform you that, on the 20th of April, 1898, a decree was issued simultaneously at Vienna and at Budapest, a copy of which is herewith respectfully submitted, by which the importation of American fruit into Austria and Hungary is regulated. This decree is prohibitive only in so far as it relates to the importation of living plants, grafts, and layers, as also of the packing and coverings in which the same may be shipped.

As to the importation of fresh fruit, fresh fruit sections, and fruit parings, as well as the packings and coverings in which the same may be shipped, the decree provides that an examination shall be held at the custom-house upon the Austro-Hungarian frontier, where these articles are sought to be imported, and they shall be excluded if the presence of the San Jose scale be proved, either in the fruit itself or in the packings which surround it.

The importation of fruit is restricted to the custom-houses at Bodenbach, Fetschen, Trieste, and Fiume.

The application of this decree is rendered lenient by a provision contained in paragraph 4, by which the minister of agriculture is empowered to make exceptions, even in particular cases relating to the importation of living plants, grafts, and layers, when such exception may be justifiable in view of the precautions deemed necessary by the Government.

This decree went into effect on the 20th of April, 1898.

I telegraphed you to-day, in order to caution American shippers of fruit to Austria-Hungary, as follows:

SHERMAN, *Secretary, Washington:*

Decrees issued in Austria and Hungary requiring examination American fruit at frontier and prohibiting importation if San Jose scale be discovered. Living plants unconditionally excluded.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure in No. 58.—Translation.]

Decree of the ministries of agriculture, of the interior, of finance, and of commerce, dated the 20th of April, 1898, restricting the importation from America of living plants and fresh fruit infected with the San Jose scale (*Aspidiotus perniciosus*).

In order to prevent the introduction from America of the San Jose scale (*Aspidiotus perniciosus*) the following regulations, adopted in conjunction with the Royal Hungarian Government, will be enforced until further notice:

PAR. 1. The importation from America of living plants, grafts, and layers, and fresh plant refuse of every kind, as well as the barrels, boxes, and other coverings in which such goods or refuse may be packed, is prohibited.

PAR. 2. The importation from America of fresh fruit and the refuse of fresh fruit, as well as the packings which may cover the same, is prohibited, when the examination to be made at the custom-house on the frontier, where such importation is intended to take place, shall prove the presence of the San Jose scale.

Admission across the frontier is limited, in the case of the articles aforementioned, to the custom-houses at Bodenback, Tetschen, Trieste, and Fiume.

PAR. 3. The provisions of paragraphs 1 and 2 apply also to the articles therein mentioned when the same may be merely in transit through the territory of the Empire.

PAR. 4. The minister of agriculture is empowered to make exceptions to the provisions contained in paragraph 1, when such exceptions can be justified by the precautions that are necessary in this matter.

PAR. 5. This decree shall take effect upon the day of its publication.

Vienna, the 20th of April, 1898.

KAST. [M. P.]
KAIZL. [M. P.]
THUN. [M. P.]
BAERNREITHER. [M. P.]

ASSASSINATION OF THE EMPRESS.

Mr. Ridgely to Mr. Day.

[Telegram.]

GENEVA, *September 10, 1898.*

Empress of Austria just assassinated here by Italian anarchist.

RIDGELY, *Consul.*

The President to the Emperor of Austria.

[Telegram.]

EXECUTIVE MANSION,
Washington, September 10, 1898.

I have heard with profound regret of the assassination of Her Majesty the Empress of Austria while at Geneva, and tender to Your Majesty the deep sympathy of the Government and people of the United States.

WILLIAM MCKINLEY.

The Emperor of Austria to the President.

[Telegram.]

SCHOENGRUNN, *September 11, 1898.*

Sincerely touched by the expression of condolence and sympathy which you have been pleased to forward to me in the name of the Government and of the people of the United States, I beg you to accept my warmest thanks.

FRANCIS JOSEPH.

Mr. Herdliska to Mr. Day.

[Telegram.]

BUDISGDOR, *September 11, 1898.*

The Empress of Austria was assassinated last evening at Territe, Switzerland, by an Italian anarchist.

HERDLISKA, *Chargé.*

Mr. Moore to Mr. Herdliska.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 12, 1898.

On receiving Saturday report from consul at Geneva, the President telegraphed to the Emperor extending sincere condolences. His Majesty has replied. You will advise Mr. Tower, so that he can return to attend obsequies.

MOORE, *Acting.*

[Telegram.]

Mr. Day to Mr. Herdliska.

WASHINGTON, *September 5, 1898.*

Offer floral tribute in President's name.

DAY.

Mr. Herdliska to Mr. Day.

No. 92.] UNITED STATES LEGATION,
Vienna, September 19, 1898.

SIR: I have the honor to inclose to you herewith translation of a note, dated at Vienna the 14th of September, 1898, and received by me on the 15th of September, 1898, from His Excellency Count Goluchowski, imperial and royal minister of foreign affairs of Austria-Hungary, in which his excellency asks me to be the interpreter to my Government of the thanks of His Majesty the Emperor for the sympathy expressed by the United States of America for him and the nations of his Empire on the occasion of the sad calamity that befell him and his House and peoples in the assassination, on the 10th of September, 1898, at Geneva, Switzerland, by an Italian anarchist, of his beloved wife, the Empress of Austria and Queen of Hungary.

I have the honor, etc.,

CHARLES V. HERDLISKA,
Chargé d'Affaires ad Interim.

[Inclosure in No. 92.]

Count Welsersheimb to the Austro-Hungarian minister of foreign affairs.

VIENNA, *September 14, 1898.*

HONORABLE SIR: I have not failed to convey to the knowledge of His Imperial and Royal Apostolic Majesty, my most gracious master, the expression of sympathy offered by you in your own name and in the name of your Government on the occasion of the dire calamity that befell His Imperial and Royal Apostolic Majesty and all the nations of the Austro-Hungarian Monarchy.

Pursuant to an instruction communicated to me, I have now the honor, right honorable sir, to convey to you the warmest thanks of His Imperial and Royal Apostolic Majesty for this expression of condolence, and to request that you may, at the same time, be the interpreter to the American Government of His Majesty's sentiments of gratitude.

Accept, right honorable sir, the assurances of my highest consideration.

WELSERSHEIMB,
For the Minister.

MILITARY SERVICE-CASE OF IGNATZ GUTMAN.

Mr. Day to Mr. Tower.

No. 75.] DEPARTMENT OF STATE,
Washington, February 19, 1898.

SIR: I inclose for your information copies of correspondence, as indicated below, with Messrs. McKinley & Gottlieb relative to the case of Ignatz Gutman, an American citizen, residing in the city of New York, who, while on a visit to Hungary, his native country, was impressed into the Hungarian army at the city of Losoncz.

I also inclose a certified copy of the record of the naturalization of Joseph Gutman, the young man's father, and an affidavit[1] to the effect that his son came to this country as a minor and is a citizen of the United States.

You are instructed to bring the matter to the attention of the foreign office with the request that the subject may be promptly investigated, with a view to having the young man discharged from the Hungarian army as soon as possible.

Respectfully, yours, WILLIAM R. DAY,
Acting Secretary.

[Inclosure 1 in No. 75.]

Messrs. McKinley & Gottlieb to Mr. Sherman.

JANUARY 24, 1898.

SIR: A client of ours, Ignatz Gutman, a resident and a citizen of the United States and of the city of New York, who is on a visit in Hungary, has been taken as a soldier into the Hungarian army at the city of Losoncz.

He has been taken there under protest into the Twenty-fifth Regiment, stationed at that city.

Said Gutman is 22 years of age; was a voter of this city. His father and brothers are citizens of this State and of the United States. He acquired his citizenship by the naturalization of his father, having come to this country before he was 18 years of age.

We therefore kindly ask you to take such steps as are necessary to procure his release from the Hungarian military service and for safeguard to come back to this country.

If any proof is necessary please inform us, and we will send such proof as required in order to obtain his release.

An early reply awaiting, we are, yours, most respectfully,
MCKINLEY & GOTTLIEB.

[Inclosure 2 in No. 75.]

Mr. Day to Messrs. McKinley & Gottlieb.

DEPARTMENT OF STATE,
Washington, January 28, 1898.

GENTLEMEN: I have to acknowledge the receipt of your letter of the 24th instant, asking for the intervention of the Department on behalf of Mr. Ignatz Gutman, alleged to be an American citizen, who has been drafted into the Hungarian army at the city of Losoncz.

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[1] Not printed.

In reply I have to inform you that it will be necessary for you to furnish an authenticated copy of the father's certificate of naturalization, and evidence, under oath, that Mr. Ignatz Gutman came to this country while a minor. The date of the birth of the latter should be stated.

If the papers are found to be satisfactory, the United States minister at Vienna will be promptly instructed to intervene in behalf of your client.

Respectfully, yours,

WILLIAM R. DAY,
Assistant Secretary.

[Inclosure 3 in No. 75.]

Messrs. McKinley & Gottlieb to Mr. Day.

NEW YORK, *February 15, 1898.*

SIR: Yours of January 28, 1898, received. According to instructions we herewith forward certified copies of citizenship of the father of Ignatz Gutman, and also affidavits that said Ignatz Gutman came to this country as a minor and is a citizen of the United States.[1]

We kindly ask you to investigate this matter and to demand the release of said Ignatz Gutman from the Hungarian army, where he is serving.

A reply awaiting, we are, yours, most respectfully,

MCKINLEY & GOTTLIEB.

Mr. Day to Mr. Tower.

No. 105.] DEPARTMENT OF STATE,
Washington, May 10, 1898.

SIR: Awaiting your report in reply to the Department's instruction No. 75, of the 19th of February last, relative to the case of Ignatz Gutman, an American citizen, who was lately impressed into the Hungarian army, I inclose for your information a copy of a further letter from Messrs. McKinley & Gottlieb, in which they state that their client is now imprisoned in Vienna.

You will observe that it is alleged that Mr. Gutman is now worse off than he was before the intervention of the legation in his behalf.

Respectfully, yours,

WILLIAM R. DAY.

[Inclosure in No. 105.]

Messrs. McKinley & Gottlieb to Mr. Day.

NEW YORK, *May 5, 1898.*

HONORABLE SIR: Last February we received a letter from your office wherein you acknowledged the receipt of the papers in the matter of Ignatz Gutman, an American citizen doing military duty in Hungary.

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[1] Inclosures not printed.

We were also informed by same letter that the papers have been sent to our minister in Vienna in order to obtain his release.

Since that time we have not heard anything from your office, but have received a letter from Ignatz Gutman that he is worse off now than he was before we took any steps in the matter.

That the steps taken by us having come to the knowledge of the Austrian Government, the soldier in question has been removed from the town of his nativity in Hungary and taken to Vienna and there kept under surveillance as a quasi prisoner.

We are also informed that our minister resident at Vienna, to whom this soldier's matter was referred, has informed this soldier that he is remediless and must serve out the full term of his military obligations to the Government of Austria. This is not the law.

Our treaty with Austria exempts American citizens from military service. His right to that exemption would be found in our former correspondence with your Department.

We kindly ask you to give this matter your earliest attention.

Yours, most respectfully,

McKINLEY & GOTTLIEB.

Mr. Tower to Mr. Day.

No. 60.] LEGATION OF THE UNITED STATES,
Vienna, April 29, 1898.

SIR: I have the honor to acknowledge the receipt of the dispatch of Acting Secretary Day, No. 75, dated the 19th of February, 1898, with copies of the correspondence had by the Department of State with Messrs. McKinley & Gottlieb, of New York, in relation to the case of Ignatz Gutman, a naturalized citizen of the United States of Hungarian birth, who was reported to the Department of State, upon affidavit of the said Gutman's father, Joseph Gutman, to have been impressed into the Hungarian army, at the city of Losonez, while making a visit to his friends in his native country about the beginning of the present year.

I have duly investigated this case in accordance with the instructions of the Department, and I have ascertained that the said Ignatz Gutman is serving in the Hungarian army, in the Twenty-fifth Regiment of Infantry, called "Freiherr von Purcker," at Losonez, as was alleged; not, however, under constraint, as his friends in America believe, but that he is a volunteer, having enlisted of his own accord in January, 1898, for three years' service.

Immediately upon the receipt of the dispatch No. 75, on the 4th of March, I wrote to Ignatz Gutman, at Losonez, conveying to him the report made through the Department of State that he had been arrested while making a visit in Hungary and obliged to perform military duty. I asked him to inform me at once as to the truth of this report, in order that I might take steps to secure for him the rights to which he might be entitled. I wrote also upon the same day to the United States consul at Budapest, asking him whether he knew anything of Ignatz Gutman, and if not, to take such steps as he might be able to discover the facts of his arrest as reported.

On the 8th of March I received a reply from Gutman written in language which left his meaning so obscure that I could not understand his position beyond the fact that he had evidently not been arrested

for nonperformance of military duty; that he had reported himself to the Hungarian authorities for service, according to the obligation imposed by law upon Austrian and Hungarian subjects so to report themselves, called the "Assentierung," precisely as if he had not been an American citizen; but that, upon examination, he had not been registered by the military authorities as a conscript on account of his American citizenship. In order, however, to bring out from him as plain a statement of his case as possible, I wrote him again on the 8th of March that I understood that upon his return to Hungary he had offered himself as a soldier, but had not been accepted, adding:

If I am not mistaken in this, you are free now. But in order to make sure I wish you would answer the following questions: When did you come to Hungary? Were you ever in the army there? If so, when and for how long a time? How did you happen to go into the army? When do you expect to return to America?

He replied to this letter on the 13th of March as follows:

I give you the right answers of your questions. When did I come to Hungary? I came to Hungary in 1897, October 19th. Were I ever in the Army hier? I never was, only since 1898 January the 12th. I am hier. How did I come into the Army? I went voluntarily to the military authorities. What am I doing now? I am hier in the Army and doing what a soldier has to do. When do I expect to return to America? Soon as I get free from hier and I am waiting very hard for that time.

In the meanwhile I received from the United States consul at Budapest a reply, dated the 9th of March, to my letter of inquiry, in which he inclosed to me a copy of a letter from Colonel Basler, commanding the Twenty-fifth Regiment, to whom he had written, who informed him that "Ignatz Gutman is in actual service since the 7th of January of this year, in the Second Company (of the Twenty-fifth Regiment) at Losoncz station, as a volunteer for three years' service."

Thereupon I wrote to Colonel Basler directly on the 11th of March, requesting him to inform me "of the conditions under which the said Gutman enlisted, and under which he was sworn into the service of Hungary."

He has replied to me, after having made an official inquiry, on the 18th of April, that Gutman was not arrested for nonperformance of military duty, but that he enlisted as a volunteer in Rosenau, and that he had also presented himself as a conscript in Losoncz.

The facts of this case appear, therefore, to be that Ignatz Gutman not only was not seized and forced into the military service in Hungary, but that when he presented himself as a conscript he was rejected by the conscription officers on the ground that he was an American citizen.

Aside from the question whether the action of this young man might not furnish reasonable ground of presumption that he intended to abandon his American citizenship, which I apprehend need not be discussed here, he has willingly placed himself in a position into which his rights as an American citizen would have prevented him from being forced. He waived his American citizenship when he voluntarily presented himself as a Hungarian conscript; having then been rejected, he still continued to seek admission to the army, and was finally accepted as an enlisted man for three years.

I find no trace of coercion on the part of the Austro-Hungarian authorities in this connection. Ignatz Gutman had an unquestionable right to return to the country of his birth and become either a conscript or a volunteer if it suited him to do so. He entered into an agreement with knowledge of the facts, and of his own free will; and he invokes the authority of the Government of the United States now that he has grown tired of his bargain.

Pending instructions from the Department of State, I shall take no steps in relation to this matter with the Austro-Hungarian foreign office. Copies of the entire correspondence relating to this case are respectfully submitted herewith.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure 1 in No. 60.]

Mr. Tower to Mr. Gutman.

LEGATION OF THE UNITED STATES,
Vienna, March 4, 1898.

SIR: A report has reached this legation, through the Department of State at Washington, that you have been arrested while making a visit to your friends in Hungary and are now obliged to perform military service, from which, as an American citizen, you should be exempt.

I wish you would inform me at once if this report is true; and if so, give me all the facts of your case, in order that I may take proper steps to secure for you the rights to which you are entitled.

Very truly, yours,

CHARLEMAGNE TOWER.

Mr. IGNATZ GUTMAN,
Twenty-fifth Regiment of Hungarian Army,
Losonez, Neograd, Hungary.

[Inclosure 2 in No. 60.]

Mr. Tower to Mr. Chester.

LEGATION OF THE UNITED STATES,
Vienna, March 4, 1898.

SIR: Inquiry has been made at this legation by the Department of State as to a certain Ignatz Gutman, a naturalized citizen of the United States, who was born in Rosenau, in the district Gomor, in Hungary. The friends of Mr. Gutman have informed the Secretary of State that he has been arrested and is now made to perform military duty in the Twenty-fifth Regiment of the Hungarian army, stationed at Losonez, in the district of Neograd.

I shall thank you to inform me whether you have ever heard of this man; and, if so, whether he is now under arrest, as has been reported. If you have no knowledge of him, please take such steps as you may be able, to discover the facts of the case, and report to me as soon as possible.

I am, etc.,

CHARLEMAGNE TOWER.

FRANK D. CHESTER, Esq.,
United States Consul, Budapest.

[Inclosure 3 in No. 60.]

Mr. Gutman to Mr. Tower.

LOSONCZ, *March 6, 1898.*

YOUR HONOR: I had capted your letter, and give you all the facts of my case.

I came to this country to visit my friends and I was not hier not even 2 weeks when everybody was telling that they will lock me up if I would not report myself, and in the same time I did not had enough money to return to our country, and because I have baad eys so I thougt to myself they would not take me, so I went to the office of the city, and ther the regiment doctor said that I have baad eys but becouse I am a citizen of the United States and they leav me go now, so I would not come any more hier, and they loose a man so they took me.

In the same time I rote a letter to my parents they should try something for me and now I beg you Your Honor you should be so kind and make a few steps for my life, because this isn't not living for young man which is citizen of the United States.

Yours very truly servant, IGNATZ GUTMAN.

[Inclosure 4 in No. 60.]

Mr. Tower to Mr. Gutman.

LEGATION OF THE UNITED STATES,
Vienna, March 3, 1898.

SIR: I have received to-day your letter of the 6th instant in reply to mine addressed to you on the 4th. I understand from it that upon your return to Hungary from America you went voluntarily to the military authorities, but upon examination you were not accepted as a soldier. If I am not mistaken in this, you are free now. But in order to make sure, I wish you would answer the following questions: When did you came to Hungary? Were you ever in the army there? If so, when, where, and for how long a time? How did you happen to go into the army? What is your trade or occupation? What are you doing now? When do you expect to return to America?

Answer these questions as soon as possible and I will see what steps may be taken to help you.

Very truly, yours, CHARLEMAGNE TOWER.

[Inclosure 5 in No. 60.]

Mr. Chester to Mr. Tower.

CONSULATE OF THE UNITED STATES,
Budapest, March 9, 1898.

SIR: Replying to your esteemed dispatch of the 4th instant, inquiring as to the arrest of Ignatz Gutman, who was born at Rosenau, Gomor County, Hungary, and the forcible enlistment of the same in the Twenty-fifth Regiment of the Austro-Hungarian (common) army, I beg to inform you that I at once wrote to the commandery at Losoncz, Neograd County, inquiring as to the truth of the same, and have this

morning received the inclosed letter from the colonel of the regiment stating that Gutman volunteered to served under the same.

I beg further to inform you that the said Ignatz Gutman has never presented himself at this consulate, and there are therefore no data at my command regarding his United States citizenship.

I have, etc.,

FRANK DYER CHESTER,
United States Consul.

[Subinclosure to inclosure 5.—Translation.]

Colonel Basler to Mr. Chester.

To the Consulate of the United States of America at Budapest:

Referring to your letter of inquiry No. 831, under date of the 5th instant, you are informed with official respect that Ignatz Gutman is in actual service since the 7th of January of this year in the Second Company (of the Twenty-fifth Regiment) at Losoncz station as volunteer for three years' service.

BASLER,
Colonel of the I. and R. Regiment of Infantry, Freiherr von Puroker, No. 25.

VIENNA, *March 8, 1898.*

[Inclosure 6 in No. 60.]

Mr. Tower to Col. Basler.

LEGATION OF THE UNITED STATES,
Vienna, March 11, 1898.

SIR: The friends and relatives in America of one Ignatz Gutman, a naturalized citizen of the United States of Hungarian birth, have made complaint at the Department of State at Washington that the said Gutman was arrested during a visit which he recently made to Hungary, and is now obliged to perform military service in your regiment in disregard of his rights as an American citizen. But the American consul in Budapest reports to me that, in a letter which you did him the honor to write to him on the 8th of March, you explained to him that Ignatz Gutman is serving as a volunteer for three years. I shall be greatly indebted to you if you will kindly inform me of the conditions under which the said Gutman enlisted, and under which he was sworn into the service in Hungary, in order that I may make a report of the true state of the case to my Government.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure 7 in No. 60.]

Mr. Gutman to Mr. Tower.

LOSONCZ, *March 13, 1898.*

YOUR HONOR: I have received to-day your letter and I give you the right answers of your questions.

When did I come to Hungary? I came to Hungary in 1897, October 19. Were I ever in the Army hier? I never was, only since 1898, January the 12th, I came hier. How did I come into the Army? I went voluntarily to the military authorities, because they was looking for me all ready, and in the same time I did not had no money I should

return to America and thought they wouldn't take me because I have weak eyes, but they took me. My trade was in America as sigar salesman, but in this country I don't understand nothing. What I am doing now? I am hier in the Army and doing what a soldier has to do. When do I expect to return to America? Soon as I get free from hier and I am waiting very hard for that time, and I beg Your Honor again that if you would be so kind and make me free from this place and I think this is not so hard for your Honor, because I am a citizen of the United States.

Very truly yours, IGNATZ GUTMAN.

Please let me know what you can do for me.

[Inclosure 8 in No. 60.—Translation.]

Colonel Basler to Mr. Tower.

SIR: In reply to the esteemed note of the 11th of March, 1898, No. 300, I have the honor to say that for the present I am unable to give any information relative to the arrest and enrollment of Ignatz Gutman, serving at present as an enlisted man in my regiment, but that I shall apply for such details at the commander of the military district to which the Twenty-fifth Regiment belongs, and shall be happy to acquaint you with the result as soon as it has been received.

Vienna, March 18, 1898.

BASLER,
Colonel of the I. and R. Regiment, No. 25, Freiherr von Purcker.

[Inclosure 9 in No. 60.—Translation.]

Colonel Basler to Mr. Tower.

VIENNA, *April 18, 1898.*

SIR: Supplementary to my note of the 18th of March last, I beg leave to inform you that a letter received from the magistrate at Rosenau tells me that Ignatz Gutman was not arrested there for having failed to render military service, but that he reported voluntarily and was then enrolled at Losonez.

The above-named was enrolled as being domiciled in Rosenau.

Finally, I beg leave to make known that this man is at present with his regiment at Vienna.

BASLER,
Colonel of the I. and R. Regiment, No. 25, Freiherr von Purcker.

Mr. Day to Mr. Tower.

No. 111.] DEPARTMENT OF STATE,
Washington, May 26, 1898.

SIR: I have to inform you that your dispatch No. 60, of the 29th ultimo, reporting that Mr. Ignatz Gutman voluntarily enlisted in the Hungarian army, and thereby waived his rights as a naturalized American citizen, is received.

Your course in regard to the matter is approved by the Department.

Respectfully, yours,

WILLIAM R. DAY.

Mr. Moore to Messrs. McKinley & Gottlieb.

DEPARTMENT OF STATE,
Washington, May 26, 1898.

GENTLEMAN: Referring to previous correspondence concerning the alleged impressment of Mr. Ignatz Gutman, a naturalized American citizen, into the Hungarian army, I have to inform you that the Department has received a dispatch from our minister at Vienna in regard to the case.

Mr. Tower reports that he has duly investigated this case in accordance with the instructions of the Department, and has ascertained that the said Ignatz Gutman is serving in the Hungarian army, in the Twenty-fifth Regiment of Infantry, called "Freiherr von Purcker," at Losoncz, as was alleged; not, however, under constraint, as his friends in America believe, but that he is a volunteer, having enlisted of his own accord in January, 1898, for three years' service.

Immediately upon receipt of the Department's instruction No. 75, of the 4th of March, Mr. Tower wrote to Ignatz Gutman, at Losoncz, conveying to him the report made through the Department of State that he had been arrested while making a visit in Hungary and obliged to perform military duty. Mr. Tower asked him to inform him at once as to the truth of this report, in order that he might take steps to secure for him the rights to which he might be entitled. Mr. Tower wrote, also, upon the same day to the United States consul at Budapest, asking him whether he knew anything of Ignatz Gutman, and if not, to take such steps as he might be able to discover the facts of his arrest as reported.

On the 8th of March Mr. Tower received a reply from Gutman written in language which left his meaning so obscure that the minister could not understand Gutman's position beyond the fact that he had evidently not been arrested for nonperformance of military duty; that he had reported himself to the Hungarian authorities for service, according to the obligation imposed by law upon Austrian and Hungarian subjects so to report themselves, called the "Assentierung," precisely as if he had not been an American citizen, but that upon examination he had not been registered by the military authorities as a conscript on account of his American citizenship. In order, however, to bring out from Mr. Gutman as plain a statement of his case as possible Mr. Tower wrote him again, on the 8th of March, stating that he understood that upon his return to Hungary he had offered himself as a soldier, but had not been accepted. In his communication to Mr. Gutman Mr. Tower added—

> If I am not mistaken in this, you are free now. But in order to make sure, I wish you would answer the following questions: When did you come to Hungary? Were you ever in the army there? If so, when and for how long a time? How did you happen to go into the army? When do you expect to return to America?

Mr. Gutman replied to this letter on the 13th of March, as follows:

> I give you the right answers of your questions. When did I come to Hungary? I came to Hungary in 1897, October 19th. Were I ever in the Army hier? I never was, only since 1898, January the 12th I am hier. How did I come into the Army? I went voluntarily to the military authorities. What am I doing now? I am hier in the Army and doing what a soldier has to do. When do I expect to return to America? Soon as I get free from hier and I am waiting very hard for that time.

In the meanwhile Mr. Tower received from the consul of the United States at Budapest a reply, dated the 9th of March, to his letter of inquiry, in which the consul inclosed to him a copy of a letter from

Colonel Basler, commanding the Twenty-fifth Regiment, to whom he had written, who informed him that "Ignatz Gutman is in actual service since the 7th of January of this year in the Second Company (of the Twenty-fifth Regiment), at Losoncz station, as a volunteer for three years' service."

Thereupon Mr. Tower wrote to Colonel Basler directly on the 11th of March, requesting him to inform him "of the conditions under which the said Gutman enlisted and under which he was sworn into the service of Hungary."

Colonel Basler replied to Mr. Tower, after having made an official inquiry, on the 18th of April, that Gutman was not arrested for nonperformance of military duty, but that he enlisted as a volunteer in Rosenau, and that he had also presented himself as a conscript in Losoncz.

The facts of the case appear, therefore, to be that Ignatz Gutman not only was not seized and forced into the military service in Hungary, but that when he presented himself as a conscript he was rejected by the conscription officers on the ground that he was an American citizen. Mr. Tower states that Gutman appears to have willingly placed himself in a position into which his rights as an American citizen would have prevented him from being forced. He waived his American citizenship when he voluntarily presented himself as a Hungarian conscript. Having then been rejected, he still continued to seek admission to the army, and was finally accepted as an enlisted man for three years.

Mr. Tower says, in conclusion, that he "finds no trace of coercion on the part of the Austro-Hungarian authorities in this connection. Ignatz Gutman had an unquestionable right to return to the country of his birth and become either a conscript or a volunteer if it suited him to do so. He entered into an agreement with knowledge of the facts and of his own free will, and he invokes the authority of the Government of the United States now that he has grown tired of his bargain."

Respectfully, yours,

J. B. MOORE,
Assistant Secretary.

KILLING OF AUSTRO-HUNGARIAN SUBJECTS AT LATTIMER, PA.

Mr. Hengelmüller to Mr. Sherman.

[Translation.]

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, September 28, 1897.

MR. SECRETARY OF STATE: On the occasion of the conflict which took place on the 10th instant at Lattimer, near Hazleton, Pa., between the sheriff of Luzerne County and his armed force on one side, and the striking laborers on the other, 10 Austrian and Hungarian subjects were killed and 11 more or less severely wounded. I take the liberty, Mr. Secretary of State, herewith to inclose a list of these dead and wounded persons, and to add that it has not yet been possible to ascertain the citizenship of all the victims of that collision, and that there are 23 more wounded men in the hospital at Hazleton whose names

indicate that they are of Austrian or Hungarian origin, but the physicians who have them in charge have not permitted them to be questioned.

According to the information which I have received, and which is based upon the inquiries made by the imperial and royal consulate at Philadelphia and the examination of several witnesses of the occurrence, the unfortunate victims of the catastrophe had engaged in no acts of violence and were guilty of no resistance to the lawful authorities that could justify the violent means used against them.

I have the honor to inclose a report of the examination of 13 eye-witnesses, among which are not only the statements of workmen who had taken part in the procession, but also the sworn depositions of American citizens who were not concerned in the affair at all, and I likewise inclose a memorandum in the English language, in order that it may be more readily examined, wherein I have given a concise account of the occurrence as it is shown, by the aforesaid inquiries, to have taken place.

I have no reason to doubt the correctness of these depositions, or that of the reports which I have received, and I have found no fact mentioned in the numerous accounts given by the press that deprives the essential points of the accompanying statements of their force. These important points go to show that:

(1) The workmen who took part in the procession from Harwood to Lattimer were unarmed, and had no intention of engaging in acts of violence at the latter place.

(2) That the sheriff, before fire was opened, had certainly not exhausted all means of asserting his authority in a peaceful manner, but that fire was opened upon defenseless and unarmed men, who had already obeyed the first orders of the sheriff, who forbade them to pass through West Hazleton.

(3) That the men fled at the first shot, and that the firing upon the fugitives was nevertheless continued for two minutes.

In this connection I have the honor, Mr. Secretary of State, to call your special attention to the statement made by Mr. Boyle, the undertaker at Hazleton, who says that of the 10 bodies mentioned by him 9 had received their wounds in the back.

The Imperial and Royal Government, in view of this statement, can not avoid the impression that its subjects suffered death or wounds, not in consequence of unlawful resistance to the constituted authorities, and therefore not through their fault or owing to an unfortunate accident, but through an unjustifiable, illegal, and, as it appears, improper use of the official authority of the sheriff, consequently of a responsible representative of the authority of the State. It has therefore instructed me to call the attention of the Federal Government to the case, and to request it to cause the facts to be subjected to a rigid investigation, and to acquaint me with the result thereof with as little delay as possible.

I have the honor hereby to obey these instructions, and I have, at the same time, been directed to add that my Government reserves the right to ask for a suitable indemnity for its subjects who were killed or wounded on that occasion, and for their surviving relatives.

I avail myself, etc.,

HENGELMÜLLER.

List of names of the Austrian and Hungarian citizens ascertained, up to September 23, to have been killed near Lattimer, Pa.

No.	Family and given name.	Age.	Birthplace.	District to which they belonged.	Citizenship.	Surviving relatives of whom deceased was the supporter.
1	Michael Coslak.	40	Zamutov ...	County Zemplin ..	Hungarian	Wife and five children.
2	Stefun Roskonjansky, alias Jurek.	25	Siroka.....	County Saros.....	.....do	Pregnant wife and one child.
3	Jahn Fota.....	24	Krisovjan ..	.....do	.....do	Not yet ascertained.
4	Andro Jurczest.	25	Dubina.....	.....do	.....do	Father and mother.
5	Wojciech Brzostowsky.	38	Bizesnica...	Ropczyce district.	.....do	Not yet ascertained.
6	Anton Adam Zemlniskl.	25	Wysnlowa..	Ropczyce.....	Austrian..	Father and mother.
7	Zieba Wojciech..	25	Wadowicce.	Mielec district....	.....do	Not yet ascertained.
8	Platek Clemens.....	.....	It could only be ascertained that he was from Galicia.		.....do	Wife and three children.
9	Stanislaus Zagurski.	38	Siedlitz.....	Pilsno district....	.....do	Wife and two children.
10	Skreb Ivan.....	28	Oslanicie ...	Lisko district.....	.....do	Do.

D. THODOROVICH.

PHILADELPHIA, *September 25, 1897.*

List of names of the Austrian and Hungarian subjects ascertained, up to September 23, to have been received in the hospital in Hazleton on September 10 from Lattimer.

No.	Family and given name.	Age.	Birthplace.	District to which they belonged.	Citizenship.	Where wounded
1	Fr. Fagyas.....	20	Bajahaza ...	County Ung	Hungarian	Back of arm and leg.
2	Josef Mehki....	40	Kiszac.....	County Trenssen .	.....do	In back between shoulders.
3	Johan Dolny....	32	Czeklya	County Zemplin ..	.....do	In back.
4	Josef Platek....	28	Czermyn ...	Mielec district....	Austrian..	Do.
5	Andrej Urban ..	38	Jedlowa	Pilzno district....	.....do	Do.
6	Andrej Hanczur	22	Dubina.....	County Saros.....	Hungarian	In leg and back.
7	Thomas Pares ..	.....	Beszicza....	Ropczyce district.	Austrian..	According to statements of the officials, all these were wounded in the back.
8	Fr. Roman.....	43	Ostrusow...	Grybow district ..	.....do	
9	Istvan Juszko..	27	Kouhaza....	County Ung	Hungarian	
10	John Pusztay ..	24	Maglizow...	County Zemplin ..	... do	
11	Jos. Zapay.....	28	Also Tvarosc.	County Saros.....	.....do	

D. THODOROVICH.

PHILADELPHIA, PA., *September 25, 1897.*

Proceedings held by order of the imperial and royal consulate at Philadelphia, at Harwood, September 12, 1897.

Present: Those whose names are signed below.

Thomas Racek, a naturalized American citizen, from Karacsony Mezzo, County Saros, now residing in Harwood, Pa., on being questioned, makes the following statement:

"John Glavati, of Lattimer, came to my house on September 10 at 9 o'clock in the morning and told me that he and his fellow-workmen in that place had decided to join our strike if we would march to Lattimer. I went to Jacob Stiver and gave him Glavati's message, and we called the men together and decided to go in procession to Lattimer, and we started on the same day at 1 o'clock."

Read, and, after the party had declared that he might suffer injury from making the deposition and asked to be excused from signing it, the testimony was closed.

Official witness:

JOHN NEMETH, *Notary Public.*

D. THODOROVICH, *Chancellor.* [L. S.]

Proceedings held by order of the imperial and royal consulate at Philadelphia, in Hazleton, September 15, 1897.

Present: Those whose names are signed below.

John Andryonski, born in Saso, County Saros, appears, and being questioned, makes the following statement:

"I was marching at the head of the procession as we came near to West Hazleton. About 300 yards from the last-named place Sheriff J. Martin came to meet us. He had about 40 (it might have been more) armed deputies with him. The sheriff, leaving the deputies behind him and holding a revolver in his hand, came to meet us and told us to stop. To my remark that we, as well as everybody, had a right to go where we chose, he answered me and those standing by me that we must not go through West Hazleton, but that we were at liberty to go in the public road. I had never seen the sheriff until that moment, nor did he announce himself as such. I must also add that the sheriff did not say a word about forbidding us to go to Lattimer. The word Lattimer was not mentioned during the occurrence I have described. On the prohibition of the sheriff we avoided West Hazleton, and continued our way to Lattimer. The sheriff came to meet us from the latter place, leaving the deputies standing 15 or 20 yards behind him. I do not know whether the sheriff said anything to those standing in the first row or not, but I can testify that I heard nothing, although I was standing only 4 yards from the sheriff. The sheriff had only his revolver in the hand, and read nothing aloud. I only saw him tussling with some of those standing in the front row. About two minutes after the sheriff had reached the first row of the procession the firing began. Five men fell dead around me. I flung myself flat on the ground and stayed there about ten minutes. I can not say how long the firing lasted, as I was very much excited at the time, but I think it was over two minutes. As I lay on the ground I lifted my head and I could see that the deputies were firing at my fleeing companions, already about 300 yards away. The deputies while they were firing at the fugitives called after them, 'come back, you son ———.' I lay until things around me were comparatively quiet. When I arose I saw the deputies still standing in the same place, while my companions, with the exception of those who had immediately thrown themselves on the ground, had run far away. I can testify that not one of us had a weapon in his hand. When we left Harwood in the procession we decided to take nothing, not even a stick, in order not to create the impression that we had the intention of committing acts of violence. I am ready to swear to the above statement. I am a Hungarian subject, and not naturalized."

Read and signed.

JOHN (his x mark) ANDRYONSKI.

MIKE KUCHAR, *Witness.*
D. THODOROVICH, *Chancellor.*

Sworn to and subscribed before me this 16th day of September, A. D. 1897.

[L. S.] JOHN NEMETH, *Notary Public.*

Proceedings held by order of the imperial and royal consulate at Philadelphia, at Hazleton, September 16, 1897.

Present: Those whose names are written below.

Andrew Sivar, born in Jaso-Ujfelu, County Abanj, 27 years of age, fifteen years in America, not naturalized, appears, and being questioned, gives the following testimony:

"I marched in the procession from Harwood to Lattimer on the 10th of the month. I was about 300 yards from the front, and could hear nothing of what was said between the sheriff and those marching in the first rows. So it was near West Hazleton, and so near Lattimer. When the firing began near Lattimer I saw everybody run away; I myself bent over so as to partly protect myself, but I could nevertheless see everything. As I stood so bent over one of my fellow-workmen came running to me. I do not know his name, but it seems to me it might have been a Lithuanian. He came running to me, wounded in the right arm, and begged me to help him. I told him I would gladly do so if I did not have to save myself. The firing lasted two or three minutes. I only stayed a short time bent and then ran myself. While we were running the deputies shot at us when we were already about 300 yards from them."

Read and signed.

D. THODOROVICH. ANDREW SIVAR.

Sworn to and subscribed before me this 18th day of September, A. D. 1897.

[L. S.] JOHN NEMETH, *Notary Public.*

Proceedings held by order of the imperial and royal consulate at Philadelphia, at Hazleton, September 16, 1897.

Present: Those whose names are signed below.

Michael Kuhar, a Hungarian subject, born in Nemeth Jakale (Jakab?) Vagas, County Saros, 19 years old, four years in America, appears, and being questioned, gives the following testimony:

"I was marching with my fellow-workmen in the procession from Harwood to Lattimer about 5 yards from the front. As we came near to West Hazleton a man came to meet us whom I had never seen before, but whom I afterwards heard was Sheriff Martin, with drawn revolver, and told us that we must not go through that place. Besides this man I saw 40 armed persons, with weepons raised, standing behind the sheriff. To some objections made by my fellow-workmen, Sheriff Martin said that we were at liberty to go on the public road. After a stop of about fifteen minutes we continued on our way to Lattimer, going around West Hazleton. After about an hour's walk we came to Lattimer, and about 25 or 30 yards from that place the sheriff came to meet us with about twice as many deputies. I could not hear what the sheriff said to those in the front row, nor could I see with whom he was scuffling, as I was about 10 yards away from him in the crowd. I only know that about two minutes after the sheriff stopped us the shooting began and lasted two or three minutes. As soon as it began I threw myself face downward on the ground. About three minutes after the firing stopped I got up and saw dead and wounded lying around me. The other workmen were in flight. The sheriff omitted to explain his true character to us at Lattimer also, and he read us nothing. Whether the sheriff ordered his men to fire or not I do not know. I am ready to swear to this statement."

Read and signed.

MIHALY KUHAR.

D. THODOROVICH.

Sworn to and subscribed before me this 16th day of September, A. D. 1897.

[L. S.] JOHN NEMETH, *Notary Public.*

Proceedings held by order of the imperial and royal consulate at Philadelphia, at Hazleton, September 14, 1897.

Present: Those whose names are signed below.

Ando Siver, 21 years old, born in Abanj, County Abanj, resident in Harwood, appears, and being questioned, makes the following statement:

"I came to America sixteen years ago with my parents, and now live here with my father, Jacob Siver, who is an American citizen. As a member of the local committee of the United Miners of America in Harwood, I went with John Eagler on the 10th of the month to Humboldt, to get an American flag, which we wanted to use in a procession (with a demonstration) from Harwood to Lattimer, in order to give the workmen in the last-named place an opportunity to join the strike begun by us workmen in Harwood. We had often been requested to have this procession by those in Lattimer, and the same day that I went with Eagler to Humboldt a man by the name of John Glavati came to Harwood to ask us to have the procession. About 1 in the afternoon of the 10th instant the workmen met. They were all unarmed and no one was allowed to carry a stick, which was in accordance with the decision at a meeting held on the previous evening, the 9th, at which meeting the men were told, first, to march together to Lattimer; second, to carry no weapon or anything that might give the impression that acts of violence were intended. When we came near to West Hazleton I saw Sheriff Martin, whom I had met once before and consequently knew, speak to my companion, John Eagler. I knew that it was a question of our not going through West Hazleton, and I reached this conclusion because I saw the sheriff's deputies, with guns aimed at us, standing before us. I also saw the sheriff take a folded paper out of his pocket, and without opening it put it back again directly. It is true the sheriff said that this was his proclamation, but whether the paper he showed was a proclamation or not I could of course not know. After a delay of about fifteen minutes, we proceeded on our march to Lattimer, leaving West Hazleton to one side. When we were about 25 or 30 yards from the former place, the sheriff came to meet us again with about 50 or 70—I do not know the number exactly, but am certain that there were more than near West Hazleton. I was in the fourth row, and could only see that the sheriff had seized

one of my fellow-workmen in front and aimed the revolver at his breast. In the confusion that followed I could not see all that happened. The deputies began firing soon afterwards. I was much excited, and consequently can not say exactly how long it was between the stopping of the procession and the beginning of the shooting, but it seems to me it could not have been more than one or two minutes. At the first shot we all turned our backs, and I with the others. I saw as I turned a man who was also turning around receive a wound in the back and fall. I do not know his name. I remained lying down until the deputies had stopped firing. The firing lasted about two minutes. As I was lying face down on the ground I could see nothing, but from the circumstances that all the men at the first shot either turned around or threw themselves on the ground, and the shooting kept on, I decided that they were firing upon the men in flight, which is also proven by the position of the wounds. After about three minutes, as things were comparatively quiet around me, I arose. As I arose I saw men lying around me who had been struck down by balls. I did not see any of the deputies lend a helping hand to the wounded men. I saw a man I knew, John Slobodnik, who is now in the hospital, sitting wounded, and at his request brought him water and accompanied him to a hotel. John Slobodnik had received a wound from behind, a little above the neck."

Read and signed.

ANDREW SIVAR.

Sworn to and subscribed before me this 16th day of September, A. D., 1897.

[L. S.] JOHN NEMETH, *Notary Public.*

Proceedings held by order of the imperial and royal consulate at Philadelphia, at Harwood, Luzerne County, September 12, 1897.

Present: Those whose names are signed below.

Jacob Stiver, born in Joszogfaln, County Abanj, resident in Harwood, a naturalized American citizen, appears and gives, as an eyewitness of the conflict between the striking workmen of the C. Pardee Company and the sheriff, which took place on September 10, the following testimony:

"On the 3d of September, at the instigation of the workmen of the Lehigh and Wilkesbarre Company, the workmen of the C. Pardee Company began the strike, in order to obtain an increase of our very low wages, and especially to obtain freedom from the necessity of buying all our provisions at the company's stores. Our companions in the coal mines in Lattimer, which last also belong to the C. Pardee Company, did not join the strike. On the 10th of September the coal miner, John Glavati, came from Lattimer to Harwood as a messenger from the workmen in the former place. He hunted up Thomas Racek in Harwood, to induce him to have all the workmen there march together to Lattimer, in order that this demonstration might also cause the workmen in the latter place to join the strike. Thomas Racek called all his companions together and told them Glavati's message, and it was decided that they should go in a procession to Lattimer the same day. At 1 o'clock the men met and marched together toward Lattimer, with the intention of influencing the workmen there, in a peaceful manner, to join the strike. None of the men had a weapon. As the workmen on the road to Lattimer came near West Hazleton they met Sheriff Martin, with about 50 deputies. What the sheriff said to those marching in the front rows witness can not say, as he was farther back. But he knows that he and his companions, abandoning their original intention of going through West Hazleton, avoided that place and continued their march. As the procession, in which from 700 to 1,000 men from Harwood and neighboring places took part, came near to Lattimer, Sheriff Martin (who must have come by the street car from West Hazleton to Lattimer) came to meet them. This time Sheriff Martin had about 75 deputies with him. What happened between the sheriff and those marching in the front rows witness does not know, and he first realized the gravity of the situation when the firing began. The deputies began to fire about two or three minutes after the sheriff stopped the procession. The shooting may have lasted two minutes. All who were in the procession ran away, and the firing was continued upon the fleeing men."

After the reading of the deposition in the Slovak language, the witness asks to be excused from signing the same, lest he may suffer injury from so doing.

Official witness:

[L. S.] JOHN NEMETH, *Notary Public.*

D. THODOROVICH, *Chancellor.*

Proceedings held by order of the imperial and royal consulate at Philadelphia, at Harwood, September 12, 1897.

Present: Those whose names are signed below.

Michael Malody, born in Magyaroska, County Zemplin, a Hungarian subject, appears, and being questioned, makes the following statement:

"I walked on the 10th of September in the front row of the procession with Jogn Eagler, Jogn Pustag, who is now in the Hazleton hospital wounded, with Mike Ceslak and Steve Jurek, who was killed on the spot near Lattimer, also with Andro Novotry and Georg Jenco. As we came near Lattimer we met the sheriff with 70 armed deputies. Sheriff Martin came to meet the procession and told the men that they must go no farther. Some one behind me called out go ahead (English) and the sheriff thinking that these words came from me, seized me by the coat and asked me what I had to say, to which I answered that that order to march onward did not come from me. After this answer had been confirmed by my companion Andro Novotry, standing near me, the sheriff seized the latter. About three minutes after, the firing began. I threw myself on the ground and crawled back. The firing may have lasted two minutes. Each deputy fired several times, and I think that each one shot off all the cartridges in the magazine guns they were carrying. I saw that all the workmen immediately took flight, like me, at the first fire, while the deputies continued to fire on the fugitives."

Read in the Slovak language, and then the witness asks, on account of fear that his testimony may do him harm, to be excused from signing.

Official witness:

JOHN NEMETH, *Notary Public.*

D. THODOROVICH, *Chancellor.*

Andro Novotry, born in Krusco, County Saros, a naturalized American citizen, appears, and, being questioned, gives the following testimony:

"I was at the head of the procession and was not far from Malody when the sheriff seized him by the coat. When the sheriff let him go he caught me by the coat with one hand and with the other pointed his revolver, which he then drew, at my breast. The sheriff asked me, 'Where are you going?' and I answered, 'Let me alone' (English), at the same time throwing off his arm with which he was holding the revolver against my breast. At this movement of mine the sheriff gave the command 'Fire,' and the shooting began. George Jancso, who was near me, helped me out of the hands of the sheriff, and once free from the same I ran until I found proper shelter."

Read in the Slovak language, and the party asks to be excused from signing, lest he may suffer harm from the deposition.

Official witness: JOHN NEMETH, *Notary Public.*

D. THODOROVICH, *Chancellor.*

George Jancso, a Hungarian subject, from Visno, County Zemplin, appears, and, being questioned, gives the following testimony:

"I was near Novotry when the sheriff threatened him with the revolver, and I tried to free him from the sheriff's hands, in which I succeeded. The sheriff then caught my coat with one hand and with the other pointed his revolver at my forehead. He did not shoot at me, and I think his pistol was not loaded, for it seemed to me that he snapped it. When he caught me the firing had already begun. I attribute my escape, although I was in the front row, to the fact that my body was protected by that of the sheriff. I think I heard the sheriff call to the deputies, 'Give two or three shots' (English). At first I thought that the deputies were firing blank cartridges, but when I saw my companions fall wounded to the ground I realized the seriousness of the situation, tore myself from the hands of the sheriff, and ran to a ditch not far away, in which I lay down flat."

Read in the Slovak language, and the party asks to be excused from signing, lest he may suffer harm through the deposition.

Official witness: JOHN NEMETH, *Notary Public.*

D. THODOROVICH.

Proceedings held by order of the imperial and royal consulate at Philadelphia, in Hazleton, September 17, 1897.

Present: Those whose names are signed below.

Mr. Charles H. Juscott, school-teacher in Lattimer, complying with my request, is kind enough to give the following statement about the meeting of the strikers of Harwood with Sheriff Martin and his deputies at Lattimer, September 10:

"I was standing on the steps of my school with Miss Coyle, my assistant, on the afternoon of September 10 when a number of striking men—probably 500—came

along the public highway. These men showed no outward appearance that I could see of a riotous body. They were orderly and unarmed, making no boisterous demonstrations of any kind. As they advanced to within 40 yards of the company houses they were met by the sheriff. The sheriff, with about 60 of his deputies, who formed a line almost parallel with the public road, but not across it, stepped out to meet the strikers. The strikers did not make any attempt to pass him, but crowded around him to hear what he had to say. As I was about 300 yards away from the sheriff I could not hear what he had to say; however, I saw him take two men and pull them to the side of the road. Then the strikers made an attempt to march down the road. About two minutes after the sheriff stopped the men I heard the report of one of the deputies' guns, followed about ten seconds by another, which was followed by a volley. Miss Coyle remarked to me that the deputies were firing blank, but I said, 'No; see them dropping.' The strikers turned and run up over the ridge and toward my schoolhouse. The deputies continued their firing after the running men, dropping men as they ran. The firing lasted from three to five minutes. Some men were about 200 yards from the deputies when the firing ceased.

"My statement is correct written down."

C. H. GUSCOTT.

D. THODOROVICH, *Chancellor.*

Sworn to and signed before me this 17th day of September, A. D. 1897.

[L. S.] JOHN NEMETH, *Notary Public.*

Proceedings held by order of the imperial and royal consulate at Philadelphia, in Harwood, September 17, 1897.

Present: Those whose names are signed below.

Miss Grace Coyle, school-teacher at Lattimer, complying with my request, is kind enough to give the following statement about the meeting of the strikers of Harwood with sheriff and deputies at Lattimer September 10:

"I was standing in the door of my schoolhouse when strikers came along the public road, and about the same time the deputies coming with the trolley, getting off a little below the first block. The deputies marched across the public road and formed a line extending from the corner of the first fence to the doctor's office. No deputy was standing on the public road. While the strikers came down hill the deputies formed the line. When the strikers approached within a short distance to the first fence one man, whom I suppose to be the sheriff, came to the first row of the strikers. What he spoke to them I of course could not hear, as that spot is about 300 yards of the schoolhouse. I only saw the sheriff, or at least a man whom I suppose to have been the sheriff, to speak with the men in the first row, while the rest of the strikers pushed forward to listen. I did not see any paper in the hand of the sheriff. About two minutes after the strikers were stopped I heard the first report of a gun, and saw smoke from about the middle of the line of the deputies, about 25 yards from the sheriff. The shot took effect, as I saw a man down. The rest of the strikers fled in the direction facing the schoolhouse. The deputies continued the firing while they (the strikers) were running with their backs turned to the deputies. The firing of the deputies lasted about five minutes. I add that the deputies fired and continued firing after the retreating strikers had reached a distance of about 200 yards from the deputies.

"After this statement was read to me I found it correct.

"GRACE COYLE."

D. THODOROVICH, *Chancellor.*

Sworn to and signed before me this 17th day of September, A. D. 1897.

[L. S.] JOHN NEMETH, *Notary Public.*

Proceedings held by order of the imperial and royal consulate at Philadelphia, in Hazleton, September 18, 1897.

Present: Those whose names are signed below.

John Welsh, resident of Hazleton, school director for Hazleton Township, being asked to give testimony as an eyewitness of the catastrophe in Lattimer, declares that he is ready, and makes the following statement:

"It was September 10 when I saw the strikers come on the Gravelrun road, at the outskirts of Hazleton. It was about between the hours 3 and 4 p. m. I walked up to them, and seeing that few of them carried walking canes with them I told them to throw the canes away. They did so. I took the next car for Milnesville. I passed the strikers again at Harley. They carried no canes nor any kind of weapons

I could see. At the crossing of Harley the strikers halted and chatted there a few minutes. Around the curve the deputies' car stood in front of our car; they stood there for a few minutes anxiously waiting to see where the strikers will turn to. The car in which the deputies were waiting was packed with deputies carrying their guns. The strikers were uphill toward Latimer, and then the car with the deputies started for Lattimer. Our car went to Milnesville. Returning from Milnesville to Lattimer, I saw the deputies on the railroad standing with their guns. Aronnd the curve stood the deputies' car. The strikers went up the public road toward Lattimer. The deputies seeing that the strikers went towards Lattimer, came through the woods to the car which took them to Lattimer. Our car followed, with some of the deputies on our car. Edward Turnbach, a deputy, whom I know, was puffing, exhausting-like. 'I suppose,' I said, 'Ed. Turnbach, that's the hardest day you ever worked.' He said, 'Yes; I do not know what the sheriff means by fooling us around like this all day without giving order to fire.' I said to him, 'The sheriff has no right to give you order to fire without committing some violence. If the sheriff did give you orders you have no right to fire.' This ended my conversation with Ed. Turnbach at that time. At the first stop at Lattimer I got off my car. I walked down a piece toward the deputies. I stood at the corner of the alley there, about 25 to 30 yards from the deputies, who were formed in a line alongside the fence. The strikers came on close to the deputies on the public road. They carried an American flag. I have seen a deputy by the name of Hess, whom I know, walk up to the strikers. In his hand he carried a rifle, and he hallooed 'Halt.' They did stop. He wanted them to go back, but they did not. He made a grab for the flag. I saw the flag go up from his reach. He grabbed a man by the shoulder and then another. He pulled them to the roadside. Then there was a loud talk. Then the strikers which were back from the front a few yards came up to the front. Then I have seen a gun turned in the hand of Hess all around. I heard somebody halloo to shoot. After one shot was fired I have seen some of the crowd of strikers leaving the ranks. Then there was another shot, then a regular volley of shots. The strikers kept on running away and the deputies kept on shooting after them, and I saw a man drop into the golet. I could not see other men dropping because of the smoke and dust, which was very heavy. My opinion is that the firing lasted two to three minutes. After the firing was all over I saw a deputy whom I know, but whose name I can not just now remember; I think he is blind in one eye; he fired after a man who was running away through the woods toward the schoolhouse. Whether the man was hit or not I cannot say, but I saw that he ducked. After all was over I met again Deputy Turnbach, and said to him it was a shame to shoot the men down like this without any cause or provocation. He said, 'That was the trouble with you people. You do not understand the law. If there was English-speaking people that would not happen.' I said, 'Yes, it would happen.' Then Turnbach said the sheriff went up to arrest them. I answered he did not try to arrest them. With that my conversation ended. I have to add that I know Sheriff Martin very well. I did not see him until the shooting was over. As I was but about 25 to 30 yards off, I ought to have seen the sheriff if he would have stopped or spoken with the strikers. I saw only Hess to speak with the strikers. My statement is correctly written down, and I have but to add that I was present when Joe Costello, a resident of Hazleton, asked the sheriff after the shooting was over how he (the sheriff) was. The sheriff answered, 'I am not well.' Then I said, you ought to be ashamed of yourselves for the shooting of to-day."

JOHN WELSH.

Sworn to and subscribed before me this 18th day of September, A. D. 1897.

[SEAL.] JOHN NEMETH, *Notary Public.*

Proceedings held by order of the imperial and royal consulate at Philadelphia, in Hazleton, Pa., September 16, 1897.

Present: Those whose names are signed below.

John Eagler, 19 years of age, born in Tajo County, Zemplin, a Hungarian subject, appears and, being questioned, makes the following statement. After reading the deposition, the same is taken in the English language:

"I am in America since sixteen years, but as not of age I am not yet American citizen. I am secretary of the United Mine Workers of America, of local number 84. I am employed at the C. Pardee Company. September 3 we, laborers at Harwood and employees of the aforesaid company, started to strike, owing to the inducement from the laborers at McAdoo, where the Lehigh and Wilkesbarre Company have its mines. We struck against the company stores and company butcher and for the reduction of the price of powder. As we paid for a keg of powder $2.75, we wanted a reduction to $2. From the side of the laborers at Lattimer, who were also

employed by the C. Pardee Company, many a time there was sent word to us that we may come over to them and they are willing to come out on strike for the same as us. According to these requests, we called together a meeting Thursday, September 9, and it was resolved, firstly, that we laborers at Harwood shall march Friday, the 10th, at 1 o'clock; secondly, that no cane or weapon is allowed to be carried along with us. I wrote to the president, Alex. McMullen, of the United Mine Workers of America, to McAdoo, notifying him of our decision and asking him altogether that he may send to us some of his men and an American flag. I was answered from McMullen that as them in McAdoo had a meeting he could not comply with my request, and in the same time he let us know that we could not march without an American flag. Friday morning I was told that a certain John Glanati came over from Lattimer to induce us to march. In the meanwhile I and the committee, consisting of four members, to wit, Andro Sivar, Joe Mehalto, and August Kosko, went to Humboldt for a flag, which we received from a certain Turith at half past 12 o'clock. We returned with one flag to Harwood, where, about at half past 1, the march was formed, and we started in two parts, who came together at the cross-roads near Harwood, at the picnic ground. Therefrom we started toward Lattimer. We intended on our March to Lattimer to go through a part of West Hazleton. I was about 50 yards from the head of the line when we approached West Hazleton, and when we met a man who told me afterwards that he was the sheriff of the Luzerne County. There were with him deputies, but I could hardly tell the number of them; there might have been from 50 to 75 of them. While we were marching on the road they had their guns up and commanded us to stop. The line all broke up then, and some of them (I mean our people) run away, and I was talking with one of the deputies and the latter called the sheriff. The sheriff came and told me that we are going against the law, at what I answered that as far as I understood we were not going against the law, because we have no weapons, either sticks. I proceeded to tell the sheriff that we are not going to destroy property or to commit murder, but that we are marching because our fellow-employees at Lattimer told us when they see us coming they would drop their tools and quit work. Whether the sheriff said or not that we are allowed to proceed on the public road I could not tell. By hearsay—but I do not remember who told me so—I know that the chief of the police of West Hazleton, M. Jones, told us to take the outskirts of the borough and they (the deputy sheriffs) would not be allowed to shoot at us. So at least we did, to say we took the outskirts of West Hazleton, and we went toward Lattimer. I was then in the first row, and when we came to about 25 yards off Lattimer the sheriff came up to us and told us we had to stop. The sheriff went to about the middle of the first row, and some fellow of the second or third row said, 'Go ahead,' and the sheriff caught a young fellow by the name of Mike Malady. The latter said to the sheriff, 'It was not I.' Then the people of behind said again, 'Go ahead,' and pushed ahead. Then the sheriff caught a hold of another fellow, as it seems to me, by the name of Nuvosny, and put a revolver right to his breast. I heard a snap of the revolver, but it did not take any effect. While this happened and the crowd pushed forward the firing started. Mike Gesslak, a colaborer of mine, who was standing beside me, dropped to the ground and I dropped with him, but still believing that there were blank cartridges the deputies were shooting with. But when lying on the ground I saw blood. Then I got aware of the danger, and I got up, bent down, and kept running till the firing stopped. The firing lasted about one or two minutes, while all of us were running, and I am quite positive that the deputies shot while we were running and while we had our backs turned toward them. I am also positive that the sheriff did not at Lattimer show his proclamation. Standing in the first row and being close to him, I ought to have seen the proclamation if he would have shown it. I may add that the sheriff at West Hazleton showed to me a folded paper, telling to me altogether that this paper contains his proclamation; but as he put this paper in his pocket without reading or even unfolding it, I could not know whether that paper was his proclamation or not. At Lattimer he (the sheriff) did not show said paper at all, and I am quite positive about that. Five minutes, about, after the sheriff had stopped us at Lattimer the firing began. When the firing was over I was about 100 or 150 yards away from the deputies. I turned back then and found a fellow of Cristalridge with one bullet in his arm and the other in his back, and he asked me to loosen his suspenders, and so I did; and then there was another fellow, by the name of Frank Tages, telling me to pull off his coat, and he asked me what he will do, and I informed him to go down as close to the railroad as he was able and they would put him on the car and take him to the hospital. As I saw the people and some of the deputies giving to the wounded water and tending to them, I started on my way home. I add that after the shooting I did not see the sheriff at all."

JOHN EAGLER.

Sworn to and subscribed before me this 16th day of September, A. D. 1897.

[SEAL.] JOHN NEMETH, *Notary Public.*

Transcript of the docket of H. J. Boyle, undertaker at Hazleton, concerning the bodies of the men shot September 10, at Lattimer, by the deputies of the sheriff, Martin.

John Turnactick, 37 years old, wounded in the back; ball entered in the right side of spine, came out near the heart.

Frank Kadel, 18 years, shot in back between fourth and fifth ribs.

Miko Listak, shot in back; ball came out of stomach.

Adam Smishkay, six gun wounds in the face, gash on the right side of head.

Not identified, supposed a Slovak; shot in the back of skull.

Not identified, wounded through right shoulder; ball came out between fourth and fifth ribs. Another ball wound in the back on the base of the spine.

Anthony Grekos, 24 years old, wound from behind between the shoulders and ball from behind through hip.

George Gamgok (Harwood), two shots in back part of head and one wound in back near spinal column.

Fr. Sracoski (Harwood), shot in the left side and one ball through the left arm.

John Franks (residence, Humboldt), ball in back of neck and one in lower part of back, right side.

Andrew Netzkolski (residence, Harwood), two shots in back and one through back of his neck.

The foregoing is the correct transcript of my docket. I may add that I identified the bodies by countrymen of the deceased and that I spelled the respective names as I was told to do.

PHILIP J. BOYLE.

Sworn to and signed before me this 17th day of September, A. D. 1897.

JOHN NEMETH, *Notary Public.*

Mr. Sherman to Mr. Hengelmüller.

No. 195.] DEPARTMENT OF STATE,
Washington, October 9, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo, relative to a conflict which took place between a body of striking miners and the sheriff and his deputies of Luzerne County, Pa., whereby a number of persons were killed and wounded, of whom 10 of the killed and 12 of the wounded are alleged to have been Austrian and Hungarian subjects.

In reply I beg to say that the subject will receive the prompt and careful attention demanded by the gravity of the matters set forth in your communication.

Accept, etc., JOHN SHERMAN.

Mr. Sherman to the Governor of Pennsylvania.

DEPARTMENT OF STATE,
Washington, October 11, 1897.

SIR: His excellency, the Austrian minister, has filed a communication with this Department representing that in the Commonwealth of Pennsylvania, near Hazleton, on the 10th September, 1897, a conflict took place between the sheriff of Luzerne County, supported by an armed force, and certain striking workmen; that in that conflict 10 Austrian and Hungarian subjects were killed and 11 more wounded; also, that of the other wounded men there are some 23 in hospitals whose names would seem to indicate that they are of Austrian or Hungarian birth.

According to the representations of the minister, the victims of this catastrophe were guilty of no acts of violence, nor of any opposition

to local authority which might justify the measures taken against them. It is also claimed by the minister that a number of the deceased were fired upon without cause and while in retreat, and that these acts constitute a violation of the rights of Austrian subjects. It is represented on the part of the Austrian Government that these subjects suffered death and grievous wounds, not in unlawful opposition to the authorities of Pennsylvania, but by reason of unwarranted and unlawful use of power by the sheriff of Luzerne County, of your State.

The Austrian Government, through its minister, has requested this Department to bring the matter to the proper authority that it may be thoroughly investigated and the result communicated to that Government.

Will you be kind enough to report to this Department the facts in the matter and the status of affairs in relation to these cases, together with such information and suggestions as may be deemed pertinent by you, in order that the request of the Austrian minister may be complied with and such action taken as may be proper in the premises.

Very respectfully,

JOHN SHERMAN.

Mr. Sherman to Mr. Hengelmüller.

No. 196.] DEPARTMENT OF STATE,
Washington, October 12, 1897.

SIR: Referring to the Department's reply of the 9th instant to your note of the 28th ultimo, relative to a recent occurrence in Pennsylvania, in which, it is alleged, certain Austrian and Hungarian subjects were unlawfully killed and wounded, I have the honor to inform you that I have requested the governor of the above-named State to investigate the subject, if he has not already done so, and to report to this Department the facts in regard to the matter and the status of affairs in relation to the cases in question, together with such information and suggestions as he may deem pertinent, with a view to such action upon the part of this Government as may be found proper.

The result of the governor's investigation will be promptly communicated to your legation.

Accept, etc., JOHN SHERMAN.

The Governor of Pennsylvania to Mr. Sherman.

HARRISBURG, PA., *October 13, 1897.*

SIR: I beg to acknowledge the receipt of your communication of the 11th instant, representing that his excellency, the Austrian minister, had filed a communication in the State Department representing that in this Commonwealth, near Hazleton, on the 10th of September, 1897, a conflict took place between the sheriff of Luzerne County supported by an armed force and certain striking workmen, which resulted in the death and wounding of a number of strikers, and asking that the matter be fully investigated and the facts reported to you.

I will at once take steps to collect the facts relating to the unfortunate occurrence and report them promptly to you.

I have, etc.,

DANIEL H. HASTINGS,
Governor of Pennsylvania.

Mr. Hengelmüller to Mr. Sherman.

[Translation.]

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, November 11, 1897.

YOUR EXCELLENCY: By your note of the 12th ultimo, No. 196, you had the kindness, Mr. Secretary of State, to inform me, in reply to my note of September 28, No. 2391, that the governor of the State of Pennsylvania had been requested to investigate the occurrences which took place September 10 at Lattimer, near Hazleton, in which 21 Austrian and Hungarian subjects were either killed or wounded. That note also contained the assurance that the result of the investigation would be communicated to the imperial and royal legation without delay.

As a month has elapsed since then, I have the honor, Mr. Secretary of State, to remind you of this case, the importance of which was also recognized in the note of the Department of State of October 9, 1897, No. 195, and to request that you will do all in your power to expedite the proceedings in the investigation which has been initiated.

Accept, etc.

HENGELMÜLLER.

Mr. Sherman to the Governor of Pennsylvania.

DEPARTMENT OF STATE,
Washington, November 12, 1897.

SIR: On the 15th ultimo, in answer to a communication from this Department of the 11th ultimo, concerning the representation filed by his excellency the Austrian minister as to the death and wounding of certain strikers, alleged Austrian subjects, near Hazleton, Pa., on the 10th of September, 1897, you stated that the matter would be fully investigated and the facts reported.

This Department is now in receipt of another communication from the Austrian minister asking a response to his former letter, which has been delayed awaiting a report upon the facts from you. Will you kindly give the matter your attention and oblige,

Very respectfully, yours,

JOHN SHERMAN.

Mr. Sherman to Mr. Hengelmüller.

No. 200.] DEPARTMENT OF STATE,
Washington, November 12, 1897.

SIR: Your note of the 11th instant, calling attention to yours of September 28, concerning the alleged killing and wounding of certain Austrian subjects near Hazleton, in the Commonwealth of Pennsylvania, on the 10th of September, 1897, is received.

Upon receipt of your former communication the governor of Pennsylvania was requested to investigate the occurrence and report the facts. A letter was received from him, acknowledging receipt of the communication from this Department and stating that he would make full investigation and report the facts of this unfortunate occurrence promptly to the Department. We have to-day written the governor of

Pennsylvania a second letter upon the subject and hope to receive from him a full report at no distant day, of which you will be at once advised.

Accept, etc.,

JOHN SHERMAN.

The Governor of Pennsylvania to Mr. Sherman.

HARRISBURG, PA., *November 17, 1897.*

SIR: Replying to your letter of the 12th instant concerning the representation filed by his excellency, the Austrian minister, as to the death and wounding of certain strikers, alleged Austrian subjects, near Hazleton, Pa., on the 10th of September, 1897, I beg to say that the investigation is not yet completed, Gen. J. P. S. Gobin, who commanded the troops in that vicinity, not yet having made his report. I hope to be able to forward you the report at an early date.

Very respectfully,

DANIEL H. HASTINGS,
Governor of Pennsylvania.

Mr. Sherman to the Governor of Pennsylvania.

DEPARTMENT OF STATE,
Washington, December 10, 1897.

SIR: Adverting to my letters of October 11 and November 12, 1897, and to your replies of the 13th and 17th of those months, respectively, I have now the honor to say that the Austrian minister called at the Department on the 9th instant, and personally urged me to request that the promised report of your investigation in regard to the killing and wounding of 21 subjects of Austria-Hungary, near Hazleton, September 10, 1897, be immediately forthcoming. In your letter of November 17 you state that the "investigation is not yet completed, Gen. J. P. S. Gobin, who commanded the troops in that vicinity, not yet having made his report."

I sincerely trust that you will give this subject prompt consideration, and that I may be immediately placed in possession of the facts upon your investigation of the occurrence. The desire of the Austrian minister seems but natural in view of the time that has elapsed since the incident took place, September 10, 1897.

Respectfully, yours, JOHN SHERMAN.

Mr. Beitler to Mr. Sherman.

HARRISBURG, PA., *December 11, 1897.*

SIR: In the absence of Governor Hastings, I have the honor to acknowledge your favor of 10th instant, urging, at the personal request of the Austrian minister, a prompt transmittal to you of the promised report of our investigation in regard to the killing and wounding of subjects of Austria-Hungary near Hazleton in September last.

In reply, I beg to state that immediately upon the governor's return to the capitol, which is expected between the 15th and 20th instants, the matter will be brought to his attention.

I have, etc.,

LEWIS E. BEITLER,
Private Secretary.

Mr. Sherman to Mr. Hengelmüller.

DEPARTMENT OF STATE,
Washington, December 13, 1897.

MY DEAR MR. MINISTER: Referring to our interview of the 9th instant, in regard to the killing and wounding of 21 subjects of Austria-Hungary at Hazelton, Pa., September 10, 1897, I have now to say that according to my promise I addressed the governor on the 10th instant, concluding my request in the following words:

> I sincerely trust that you will give this subject prompt consideration, and that I may be immediately placed in possession of the facts upon your investigation of the occurrence. The desire of the Austrian minister seems but natural in view of the time that has elapsed since the incident took place, September 10, 1897.

The Department is in receipt to-day of a letter from the governor's private secretary stating that upon the return of the governor to Harrisburg the matter will be immediately brought to his attention. I shall be glad to apprise you of the purport of his letter.

Very truly, yours,

JOHN SHERMAN.

Mr. Sherman to the Governor of Pennsylvania.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 22, 1897.

Referring to your letter of 11th instant, I desire to say that the Austrian minister is pressing for a copy of the promised Hazleton investigation report concerning the killing and wounding of Austrian subjects in September last. Please expedite, if possible.

JOHN SHERMAN.

The Governor of Pennsylvania to Mr. Sherman.

[Telegram.]

HARRISBURG, PA., *December 22, 1897.*
(Received 3.20 p. m.)

Replying to your telegram of this date calling for the Hazleton investigation report, I beg to say the sheriff of Luzerne County has not yet forwarded his report. All the other reports are here, and I have the promise of the sheriff's report by to-morrow. It will be promptly forwarded when received.

DANIEL H. HASTINGS.

Mr. Sherman to Mr. Hengelmüller.

No. 206.] DEPARTMENT OF STATE,
Washington, December 24, 1897.

SIR: Referring to your note of the 28th of September last, relative to the killing of certain Austrian strikers by the sheriff's posse at Lattimer, Pa., and with regard to the subsequent correspondence on the subject,

I have the honor to inform you that the Department has received a telegram from the governor of Pennsylvania, stating that he has received all the reports on the subject except the one from the sheriff of Luzerne County, which is promised within a few days.

Accept, etc., JOHN SHERMAN.

The Governor of Pennsylvania to Mr. Sherman.

HARRISBURG, PA., *December 24, 1897.*

SIR: Replying to your letter of December 10 and the telegram of 22d instant, calling for response to your request for a report of my investigation in regard to the alleged killing and wounding of certain subjects of Austria-Hungary near Hazleton, September 10, 1897, I have the honor to say that I have now in my possession the report of Brig. Gen. J. P. S. Gobin, who commanded the Third Brigade, National Guard of Pennsylvania, which was sent to Hazleton on the night of September 10 to quell the riots; I have also the report of James Martin, esq., high sheriff of Luzerne County, who was in charge of the deputies at the time of the disturbance; and also the report of Brig. Gen. Thomas J. Stewart, adjutant-general of the State, who directed the movement of the troops.

Inasmuch as Sheriff Martin and his deputies are now under indictment for murder growing out of the riots at Hazleton, I am requested by him and his counsel, as well as the counsel for his deputies, to submit to you that if his report, which I am ready to send you, should be made public before trial, it might prove prejudicial to the case of himself and his deputies. I therefore beg leave to submit to you the question whether I shall forward these reports at the present time, or whether I shall hold them until after the trial, which is now set for the latter part of January. The sheriff is entirely willing that the report shall be sent forward if I should receive the assurance that the same will not be made public before the trial.

Awaiting your good judgment in regard thereto, I have the honor, etc.,

DANIEL H. HASTINGS,
Governor of Pennsylvania.

Mr. Sherman to the Governor of Pennsylvania.

DEPARTMENT OF STATE,
Washington, December 28, 1897.

SIR: I have your favor of the 24th instant, in which you state that the trial of the parties accused of killing and wounding certain Austrian subjects near Hazelton on September 10, 1897, will take place at the coming January term of the court. You also suggest the holding of the report of the sheriff and the other reports already in your possession until after this trial. No objection is perceived to this course, and unless you hear from this Department to the contrary, will you kindly furnish the reports as soon as the trial is concluded; also an account of so much of the trial and its result as may aid the Department in reaching a just conclusion in this matter.

Respectfully, yours, JOHN SHERMAN.

Mr. Sherman to Mr. Hengelmüller.

DEPARTMENT OF STATE,
Washington, December 28, 1897.

DEAR MR. MINISTER: Referring again to the matter of the alleged killing and wounding of certain subjects of Austria-Hungary near Hazelton, Pa., September 10, 1897, I have to inform you that the Department is in receipt of a communication from the governor of Pennsylvania, stating that the trial of the persons charged with the killing and wounding of such Austrian subjects will take place the coming month. He further states that he is in possession of certain reports, but that it might prejudice the trial were they made public now, and he will hold them until the trial is concluded, when full and ample reports of the matter will be made to the Department, at which time we shall take pleasure in further communicating with you.

Accept, etc.,

JOHN SHERMAN.

The Governor of Pennsylvania to Mr. Sherman.

HARRISBURG, Pa., *December 29, 1897.*

SIR: I have the honor to acknowledge receipt of your letter of the 28th instant, relating to the trial of the parties accused of the killing and wounding of certain Austrian subjects at Hazleton on September 10, 1897. I thank you very much for the concession to postpone making public the report until after the trial of the accused sheriff and his deputies. I will request the proper authorities of Luzerne County to furnish me an account of so much of the trial and its results as may aid the Department in reaching a just conclusion in relation to the matter.

Very respectfuly, etc., DANIEL H. HASTINGS,
Governor of Pennsylvania.

Mr. Hengelmüller to Mr. Sherman.

[Translation.]

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, December 30, 1897.

MR. SECRETARY OF STATE: I have had the honor to receive your note of the 28th instant, relative to the well-known occurrences which took place at Lattimer, near Hazleton, Pa. You thereby inform me, Mr. Secretary of State, that you have received a communication from the governor of Pennsylvania, stating that judicial proceedings against the persons who are charged with killing and wounding, on the occasion of these occurrences, both Austrian and Hungarian subjects will be held in the course of the coming month. You add that the aforesaid governor has at the same time declared that he is in possession of several reports on the subject, but that their communication might interfere with the judicial proceedings, and that he will consequently report to the Federal Government when said proceedings are terminated.

In reply to this communication I can not avoid, Mr. Secretary of State, calling your attention to the fact that the recent declaration of the governor of Pennsylvania is not only openly at variance with the position taken and the promises made by the Federal Government in the matter, but also with his own previous declarations.

In view of the importance and gravity of the case, I here take the liberty briefly to recapitulate the various phases through which it has passed in the course of our verbal and written discussions.

Immediately after the conclusion of the investigation made by our officers concerning the circumstances of the catastrophe at Lattimer I had the honor to call your attention, Mr. Secretary of State, both verbally and in writing, by my note of the 28th of September last, to the case, and, reserving the presentation of our claims for indemnity in behalf of our countrymen who had suffered disaster and of their surviving relatives, I further had the honor to request that an investigation might be held by the Federal Government. My note was accompanied by reports of the examinations of 13 eyewitnesses (among which were the sworn statements of several American citizens) and also by a perspicuous account of the entire occurrence, and I laid special stress upon the circumstance that, according to all the information that had been received, our countrymen had met death or received their wounds not owing to unlawful resistance to the legally constituted authorities, and therefore not through their own fault or by an unfortunate accident, but through an unwarranted, illegal, and, as it appears, abusive exercise of the sheriff's official authority.

The justice of our request for an investigation was recognized by you, Mr. Secretary of State, and my Government had the more reason to expect that an investigation would be held, and that it would soon be informed of the result, inasmuch as I shortly afterwards received the assurance, in your note of October 9, that the case would receive from the Federal Government the speedy and careful attention which its gravity demanded.

I was further informed, on the 12th of October, by your note No. 196, that the governor of Pennsylvania had been requested to investigate the case, and that the result of his investigation would be communicated to me without delay.

On the 11th of November I was again compelled to address you in relation to the matter, and received in consequence, on the 22d, a copy of a communication which had been addressed to you by the governor of Pennsylvania, according to which the investigation was not yet fully terminated, and the report of General Gobin, who had had command of the troops in the vicinity, had not yet been received. This communication was accompanied by an expression of the hope that the report of the investigation, Mr. Secretary of State, would soon be sent to you.

On the 24th of December I was apprised by your note No. 206, as a result of the additional efforts made by me, that the Department of State had received a telegram from the governor of Pennsylvania, according to which the report of the sheriff of the county was the only thing needed for the termination of the investigation, and that report was expected in a few days.

According to the newspaper reports which lie before me, an indictment against Sheriff Martin and his posse was found by the grand jury at Wilkesbarre on the 26th of October. The fact that the accused persons were to be brought to trial can not have been unknown to the governor of Pennsylvania on the 17th of November and 24th of December, when he sent the above-mentioned statements to you, Mr. Secretary of State. His refusal at this time to make known the result of the investigation before the termination of the trial reveals an entirely new phase of the question, and one that is at variance with his previous declarations.

Three months and a half have elapsed since the occurrence at Lattimer. I do not know when the trial of the persons who are charged

with the commission of the outrages in question will begin, and no one can now predict when it will be definitely ended. I do not know, moreover, what is the technical basis of the indictment of Sheriff Martin and his posse, but my Government can in no case consider the technical question of his guilt or innocence of the crime with which he is charged as being synonymous with the question whether those victims of the catastrophe, who had a right to their protection, are entitled to indemnity or not.

The Imperial and Royal Government has, from the outset, had no reason to doubt the correctness and accuracy of the conscientious investigation held by its consular officers, who secured sworn depositions of witnesses, with which the accounts given by the American press agreed. It would have been impossible, in view of the facts shown by that investigation, for it to do otherwise than reach the conviction that an outrage had been perpetrated by the representatives of authority of the State of Pennsylvania upon its subjects who were slain or wounded, full redress for which it has a right to expect from the Federal Government. When the Imperial and Royal Government instructed me to request, as a preliminary step, the Federal Government to institute a careful investigation, it cherished the hope that the Federal Government would be glad to ascertain the facts for itself, and to secure a basis, well established by both parties, for the subsequent treatment of the case.

Your note of day before yesterday, Mr. Secretary of State, with the mere communication of the last answer of the governor of Pennsylvania, destroys this hope, and is practically tantamount to a declaration that it is impossible for the Federal Government to institute an investigation or to receive official information, in any definite time, in a case which occurred on the 10th of September last in the territory of the Union, and which has attracted public attention, in a high degree, both here and in my native land. Yet, much as my Government regrets this turn of affairs, it can not consider itself thereby relieved of its duty to take measures in behalf of its killed and wounded countrymen, and it has instructed me to declare that it must hold the Federal Government responsible for the injury suffered by its subjects on the occasion of the occurrences in question, and that it must ask of it a just and adequate indemnity for the victims of the catastrophe who were mentioned in my note of September 28.

In having the honor to ask your kind mediation, Mr. Secretary of State, for the fulfillment of these instructions, I avail myself, etc.,

HENGELMÜLLER.

Mr. Tower to Mr. Sherman.

No. 34.] LEGATION OF THE UNITED STATES,
Vienna, December 31, 1897.

SIR: I have the honor to report to you that in an interview which I had yesterday, at his request, with the Count Goluchowski, minister of foreign affairs, he asked me to bring to the attention of the Government of the United States the case of the Austro-Hungarian subjects concerned in the recent disturbances near Hazleton, Pa., certain of whom were either killed or wounded when the sheriff of Luzerne County gave the order to his men to fire.

The minister of foreign affairs informed me that the Austro-Hungarian envoy at Washington reported to him that, although he had presented the claims of these people or their families to the Department of State,

he had not been able to secure recognition for them, and he urged his Government, therefore, to take formal action in the premises, in order that the Government of the United States might be induced to consider their demands. This led to a request from the Count Goluchowski that I should call upon him at the foreign office, which I did accordingly.

I replied to the minister of foreign affairs that, as far as I understood the case, in regard to which I had no official instructions from my Government, it was one that related to the maintenance of public order under the laws of the State of Pennsylvania, and that the sheriff had acted in his official capacity when he gave the command to fire upon a body of men assembled in a riotous manner, who, in spite of his summons to disperse, had persisted in conduct which threatened the peace of the Commonwealth.

He then read to me extracts from the dispatches of the Austro-Hungarian envoy in Washington, who quoted the statements, published in American newspapers, of persons declaring themselves to have been eyewitnesses of the occurrence, according to which the subjects of this Empire who had been killed or wounded were entirely peaceable and in no way concerned in or threatening a breach of public order. I said in reply to this that I believed the action of the sheriff was about to be examined by a court of competent jurisdiction in Pennsylvania, and that I felt certain no claims for damages could properly be entertained pending the decision of the court as to whether the sheriff was or was not completely justified in the steps he had taken as a public official, reminding the minister of foreign affairs at the same time that the sheriff and his men represented under the circumstances the same force which is employed, under the form of gendarmerie, for quelling mobs or preventing disorder in this Empire.

He informed me that the Austro-Hungarian envoy at Washington complained that he had asked the governor of Pennsylvania for certain information upon this subject, which the governor promised to furnish him, but that up to this time, in spite of frequent requests to do so, he has declined to keep his promise. I said to the Count Goluchowski, in reply to this, that I had no doubt that the information which the governor of Pennsylvania had referred to must depend upon the jury trial to be held in investigation of the sheriff's conduct, and that this trial had, I believed, not yet taken place.

I promised the Count Goluchowski that I would report my conversation with him to the Department of State without delay, whereupon he requested me to urge the Government of the United States, as a matter of reciprocity and international comity, to take up and consider the question of damages in this case in so far as it relates to subjects of the Austro-Hungarian Empire.

I have, etc., CHARLEMAGNE TOWER,

Mr. Sherman to Mr. Hengelmüller.

No. 208.] DEPARTMENT OF STATE,
Washington, January 8, 1898.

SIR: I have the honor to acknowledge the receipt of your note which you were pleased to address to me under the date of the 30th ultimo, in further relation to the killing and wounding of certain Austro-Hungarian subjects at Lattimer, near Hazleton, Pa., on the 10th of September last, which occurrence has heretofore been the occasion of correspondence between us.

You appear to interpret the reply of the governor of Pennsylvania to the Department's request for the official reports of the State officer in relation to the killing of those persons as a refusal on his part to comply with the assurances heretofore given, and its communication to you as practically tantamount to a declaration, presumably on my part, "that it is impossible for the Federal Government to institute an investigation or to receive official information in any definite time, in a case which occurred on the 10th of September last in the territory of the Union, and which has attracted public attention in a high degree, both here and in my [your] native land." As to these points I am obliged to say that I am unable to admit your premise or to accept your conclusion.

The killing at Lattimer, as you justly observe, has indeed attracted attention, not alone on the part of the public, but extraordinarily so on the part of the Governments of the State of Pennsylvania and of the United States. The former has not only secured, after careful and exact investigation, full reports in the matter, but the justice of that State has found an indictment against the officer in responsible command of the armed forces at the time of the killing, and is about to place him on trial for a very grave offense against the peace of the Commonweath. This Department, as the proper organ of the Federal Government, has, step by step, been advised of the progress made in the collection of that evidence, which has now been completed on the eve of the trial of the officer to whom the guilt of the killing has been imputed. Neither now nor at any time has there been the slightest question as to the communication of every fact and circumstance bearing on the case to the Government of the United States. The question propounded is simply that of making the collected reports public at this particular time, when they might prejudice the trial of the alleged offender. As to this the government of the State of Pennsylvania and the Government of the United States are in complete accord in deeming such publicity inexpedient at this moment. On this account I have refrained from accepting the reports and papers which the governor has offered to place in my hands for their examination by this Government pending the trial of the accused sheriff. However much I am disposed to continue in that attitude, I can do so no longer in view of the extraordinary and unjustifiable imputation which your note conveys. The papers will be in my possession in a day or two, and, after due consideration thereof, I shall do myself the honor to communicate further with you on the subject.

I can not permit myself to pass over in silence that passage of your note in which you say:

> I do not know, moreover, what is the technical basis of the indictment of Sheriff Martin and his posse, but my Government can in no case consider the technical question of his guilt or innocence of the crime with which he is charged as being synonymous with the question whether those victims of the catastrophe, who had a right to their protection, are entitled to indemnity or not.

It is alleged, and so far as I know without contradiction that the men who were killed formed part of an unlawful and riotous assemblage which it became the duty of the guardians of the public peace to disperse. The essential question is whether the degree of force employed was or was not lawful. If it was not, the act constituted homicide. The justice of the State of Pennsylvania, holding that the facts of the killing as they have appeared raise the presumption that the killing was unlawful, has indicted the sheriff and his deputies on the charge of murder, and for that offense they are about to be tried. It strikes

me that the question so presented and to be decided by the independent judicial branch has a very material bearing on the question to which you apparently seek to confine your representations; that is, whether the victims of the catastraphe are entitled to indemnity or not. It involves the determination of a fact—whether those men were unlawfully killed by the agents of the public peace, or whether they met their death through lawful action of the authorities in repression of an unlawful act done by the men themselves.

While apparently going so far as to admit, in the words I have quoted from your note, that there is, in fact, question whether the victims of the catastrophe are entitled to indemnity or not, that admission would appear to be rescinded or ignored by the concluding passage of your note, whereby you inform me that your Government has instructed you "to declare that it must hold the Federal Government responsible for the injury suffered by its subjects on the occasion of the occurrence in question, and that it must ask of it a just and adequate indemnity for the victims of the catastrophe who were mentioned in my [your] note of September 28."

It may, however, have been your purpose to give to this remarkable language an intendment which it does not bear on its face. Acting on the mistaken assumption that this Government stood powerless in the face of the supposed refusal of the government of the State of Pennsylvania to heed its representations and requests in the matter, and was unable to investigate the facts for itself, you may have intended to say that your Government could only deal with the Federal Government touching the question of such indemnity as might be found just and adequate. But, if on the contrary, it were your intention to declare that your Government does not regard the question open as to whether an indemnity is or is not due, but assumes to decide it for itself according to its own lights, I must enter a respectful but absolute dissent from such a proposition. I am unaware of any forum known to the high public law and the principles of justice that governs the intercourse of sovereign nations whereby such an ex parte judgment can be reached.

The United States Government in the exercise of its indisputable rights of sovereignty, and in the full performance of the duties and obligations thereof, has never hesitated to meet and determine according to justice and equity any allegation of wrong suffered by the citizens or subjects of another nation within its border. You can hardly be unaware of recent instances where the unlawful killing of aliens in the States and Territories of the Union has been made the occasion of searching action by the local and Federal authorities, and where, although the facts of the unlawfulness of the killing may have been deemed to be less open to question than in the present case, the Government being unable by judicial proceedings to identify, convict, and punish the authors, has, as an act of sovereign grace, tendered indemnity to the families of the victims, upon the results of the investigations made through the regular channels, or when those proved insufficient, to elicit the truth of the matter made through the Federal channels at command. It can certainly not be disposed to do otherwise in the present instance, and I beg to say that, if the evidence soon to be in my possession be not enough to enable this Government to decide as to its duty in the premises, no steps within my reach will be omitted to supply the deficiency.

Adding that the trial of Sheriff Martin and his deputies on the capital charge of murder is set for the latter part of the current month, I have the honor, Mr. Minister, to repeat, etc.

JOHN SHERMAN.

Mr. Sherman to the Governor of Pennsylvania.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 8, 1898.

Referring to your letter of December 24, circumstances now require the report which it was thought might be delayed without objection. Please forward to me the reports you have in regard to the killing and wounding of Austro-Hungarians near Hazleton. They are necessary to enable the Federal Government to deal with the international aspects of the case, but will not be made public pending the trial of the sheriff and his deputies.

JOHN SHERMAN.

[Telegram.]

The Governor of Pennsylvania to Mr. Sherman.

HARRISBURG, PA., *January 8, 1898.*

In accordance with your telegram of this date, the report of the Hazleton riots will be forwarded to you on Monday next.

DANIEL H. HASTINGS.

The Governor of Pennsylvania to Mr. Sherman.

COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, January 12, 1898.

SIR: In accordance with your request, I have the honor to inclose herewith a copy of the report of James Martin, esq., high sheriff of Luzerne County, Pa., relating to the riots which took place in Luzerne County, Pa., on September 10, 1897. I also inclose copy of the report of Brig. Gen. J. P. S. Gobin, who commanded the Third Brigade of the National Guard of Pennsylvania at Hazleton during the riots. Also copy of the report of Gen. Thomas J. Stewart, adjutant-general of Pennsylvania, relating to the same subject.

I note with satisfaction your telegram now before me, assuring me that the report of Sheriff Martin will not be made public until after the trial of himself and his deputies.

Very respectfully, etc. DANIEL H. HASTINGS,
Governor of Pennsylvania.

[Inclosure 1.]

Mr. Martin to the Governor of Pennsylvania.

SHERIFF'S OFFICE, *October 18, 1897.*

In reply to yours of the 13th, and also the communication addressed to you by the Hon. John Sherman, Secretary of State, asking for facts and information about the conflict that took place at Lattimer in this county on the 10th day of September, 1897, between myself and deputy sheriffs and a mob of strikers, I respectfully submit the following:

On Friday, the 3d day of September, there was a mob of about 2,000 men who went around the different mines in that region about Hazleton and drove the men from their work and compelled them to join the ranks of the mob, and if they refused they were clubbed and beaten and made to join. On Saturday, September 4, 1897, the Lehigh Valley Coal Company notified the sheriff's office—I being away at Atlantic City at the time—that they would hold the sheriff responsible for any more interference at their mines. My attorney, Mr. Ferris, told my chief deputy, Mr. Wall, to wire me at once, which he did, and I came on Sunday the 5th of September. On Monday morning, September 6, Labor Day, Mr. Lathrop, superintendent of the Lehigh Valley Coal Company, sent for me to meet him at his office, which I did at 9 a. m. I also met Mr. Stearns, superintendent of the Cross Creek Coal Company, and Mr. Lawall, superintendent of the Lehigh and Wilkesbarre Coal Company. Mr. Lathrop and Mr. Stearns then notified me that they would

hold me responsible for any more interference with their mines. My attorney, Mr. Ferris, was present at the time, and he and I agreed that, under the circumstances, it was my duty to go to Hazleton and see that there were no more violations of the laws of the State. I left for Hazleton on the 10.15 train, and on arriving at Hazleton I met at the depot Mr. Zerby, assistant superintendent of the Lehigh Valley Coal Company, and Mr. Platt, superintendent of Pardee & Co., and from them I learned the state of affairs, and that the mob that caused all the trouble on Friday, the 3d, were from Schuylkill and Carbon counties, so I had telegrams sent to Sheriff Scott, of Schuylkill County, and Sheriff Stetzer, of Carbon County, to meet me at Hazleton Monday afternoon. We all agreed to issue a proclamation and have it printed in the Hazleton papers. Our proclamations were published in the Hazleton Sentinel on Monday evening, September 6, 1897, and in the Plain Speaker and Standard, Tuesday morning, September 7, 1897, and we also had a lot of handbills printed, which were posted around the mines on telegraph poles and in every conspicuous place in the neighborhood.

On Monday evening, just before I went to supper, I received word that a number of men had watched and beaten a Hungarian laborer while returning from work at Cuyle's strippings. The man was so badly beaten that he died in a day or two at the hospital.

That afternoon I saw some good citizens and told them that I wanted a number of good citizens to act as deputy sheriffs in assisting me in maintaining the peace, and to protect life and property, and also to see that every man who wished to work would have the privilege of doing so.

So Monday night I made arrangements to meet them and as many more as they could recommend to me in a storeroom on Broad street, Hazleton, about 8 o'clock. When I arrived there, being accompanied by Sheriff Stetzer of Carbon County, there were 87 men who were willing to act as deputies, and I swore them in as such. There was a report that evening that a mob was going to start out for the purpose of stopping any mines that were working.

So I ordered the deputies to report at 5 o'clock on Tuesday morning. At 5.30 a. m. I went to the storeroom and a number of deputies were there, but nothing occurred until about 8 a. m., when I received word that a mob was forming at Crystal Ridge Colliery for the purpose of stopping the men that were working at the strippings there.

Myself and Mr. Platt and Mr. Hampden, superintendent of coal and iron police, and Mr. Eby took a special train and ran up to the mines. When we got there, there was a mob of about 150 men who were just commencing to throw stones at the men in the strippings. I ordered them to stop, and read the riot act to them and ordered them to disperse. They all had clubs from 3 to 5 feet long and looked very threatening. After I had them dispersed I went among them and explained who I was and what my duty was, and told them that they were doing wrong, and breaking the laws by interfering with the men at work. One young man said that they would stop the men anyhow. I told him if I heard him say that again I would arrest him and put him in prison, and he did not say any more in my hearing. That afternoon I left for Wilkesbarre at 2 p. m. After I left, a mob went to Lattimer and started to drive the men from their work, when the deputies arrived and drove them away.

On Wednesday morning I went to Drifton and swore in a number of deputies for the purpose of protecting the property of the Cross Creek Coal Company and other property around Drifton, Freeland, Jeddo, Eckley, and Stockton, and also to protect those who wanted to work. After that was done, I went to West Hazleton and made some inquiries in regard to the situation. I was not known there and I went into a barroom and there I met an old Irish gentleman from McAdoo, and from him I learned that a mob was coming from there that afternoon for the purpose of stopping the works. He also told me that he had come to West Hazleton as he did not want to go with the mob, as he was afraid there would be trouble. He also told me that his boys had left home so that they would not be compelled to march with the mob. He also said that all the English-speaking people were hiding away in the woods, or else left for some other place through the night. They were afraid to stay home, as the foreigners had announced their intention that they must go along with them.

After dinner Mr. Samuel Price, one of my deputies, came and told me that the mob was marching to Stockton, so I told him to get a train at the Wyoming Street Depot, and I and the deputies took the train for Stockton. When we reached Hazleton shops there was great excitement, and the people were running in all directions. I ordered the train stopped, and I got off and asked some workmen who were gathering up their tools why they were so excited, and they said that the mob was coming, and, not knowing who I was, told me that I had better get out of the way or they would take me along with them. As soon as the workmen gathered up their tools they would run off so as to be out of the way of the mob, so great was their fear. Rhone Trescott was with me, and I said to him that I did not feel it my duty to stop the mob if they were within the city limits, but the mayor's

We telephoned the mayor, but he was sick. I had Mr. Trescott point out the city line to me, and, as they had not yet got to the city, we went to the city line, about 100 yards from where we were, to meet them. Just as we got there we met the mob. I ordered them to stop, and read the riot act and ordered them to disperse. While we were talking to them the chief of police and one or two of his men came. We finally got them turned for home. Then Mr. Trescott, Mr. Blanchard, and I walked around the outskirts of the city, and when we came to the main road a gentleman told me that the mob was going to stop the work at Crystal Ridge Colliery. Mr. Trescott and I cut through the woods and arrived at the colliery before the mob. I had sent word to the deputies to go to Crystal Ridge. After I arrived there I waited about ten minutes for the mob to put in an appearance.

I went up to the railroad to meet them again, and I ordered them to disperse. They refused to do so right away, but wanted to go ahead. One young man had gone to the breaker, and he came back and told them that they must go back as there were too many deputies there for them that day, but they would come to-morrow and stop the works. I told them it was wrong for them to do so, but they said that they did not give a damn, they would do so anyhow. I then warned them that they had better not try.

On Thursday morning I was notified that the mob intended to march again, and that they were going to stop Beaver Meadow mines first, so I took the deputies over there. While there I met Sheriff Setzer, and we got word that a mob was forming, and that they intended to march. We waited until about 11 a. m., when the report came that the mob was coming. The mob got to Beaver Meadow before they were stopped and turned back. One of the mob had a gun, and some of the deputies ran to catch him. The man ran, and as he ran he turned and fired a shot at us, then some of the deputies fired some shots, but I don't think they tried to shoot him. There were about 300 men in the mob. After that we waited around there all day, expecting that they would come back, but they did not. That evening I went to Wilkesbarre.

On Friday, September 10, I went to Drifton, where I met the deputies. We took the train and went to the lumber yard, so that we could be in easy communication with any part of the trouble. We stayed there till about 1.20 p. m., when I received a dispatch saying that a mob was at West Hazleton stripping, and had driven the men from their work. I ordered the train stopped, and we got to West Hazleton about 1.40 or 2 p. m. I was unable to get to the head of the mob, but struck it well toward the rear. I ordered them to halt behind where I met them and read the riot act, but they kept on shouting "Come on," and kept waving their hands. I also heard a man say, "No stop, s—— b——," so I arrested him. I then hurried along through the mob and kept ordering them to stop, but they paid no attention to me, but kept right along shouting and waving their hands to everyone they could see. When I got to the head of the mob I ordered them to stop again. Some ran on both sides of the road, but I got them stopped. I then read the riot act again, and by this time the deputies had caught up to me. They then told me that we could not stop them; that they were going to Lattimer mines to stop it. I had to call several deputies with their guns to assist in keeping them back. I thought then that there would be serious trouble, as some of them had picked up stones, and it looked as though they intended to strike me or some of my deputies. We were there about half an hour. I tried to get them quiet, so that I could talk to them. I went among them and asked them who could talk English. When I found a man who could talk English I would explain what was my duty, and would tell them that they were breaking the laws of the country, and that we could not allow them to do so, when he would try and explain it to the rest of them. I could hear them say, "Him be a ———, and we stop Lattimer mines." I told them that they must not do so. I told them that I could arrest them for what they had done and what they were doing and for what they had declared their intention of doing, but that I did not want to do so.

I begged them to go home and not cause any more trouble. I think that some of them wanted to do so, but it looked to me, by the way they acted and talked, as if the majority wanted to keep on and stop Lattimer mines at any cost. They also told me that to-morrow they would all bring guns along, and we would see whether we would stop them then, and that if we shot they would shoot, and called me and the deputies all the vile names they could think of. I left them here, but warned them that they should not undertake to stop any more mines. We went on up the street, the deputies and myself, and then some one reported that they were marching again. I said that I could not help it as I was tired out and was not able to meet them again. I then ordered the deputies to take the car and we would go to Lattimer and meet them again. When we got to Harleigh, about 2 miles from Hazleton, I ordered the car stopped until the mob came along to see which way they would go. When they arrived at Harleigh they halted. When they saw the car with the deputies they got off on one side of the road, and some of them sneaked away through the woods, and I saw some that were trying to leave the mob get called back, and when they would not come back some of them would run after

them and bring them back to the mob. We waited on the hillside at Harleigh to see which way the mob would go, and when we saw them start up the Lattimer road I ordered the car to proceed. When we arrived at Farley's hotel we got out of the car and walked up the railroad toward one of the Lattimer breakers. There I met a number of deputies who had been placed there to see that the men who were working there would not be interfered with. We stood on the railroad expecting that the mob would come that way; when they saw us they went up the wagon road toward Lattimer village and another breaker at Lattimer. I then ordered the deputies to take the car again to head them off before they reached the other mines, which we did. When the car arrived at Lattimer village we left the car again and I told the deputies to stand on one side of the road and to keep cool and not get excited. I said I would go out and stop the mob again and see what they intended to do. I said if they say they are not going to do anything I may let them go on and we will go along with them. I then started out to meet the mob, and I took the riot act out of my pocket, and I walked out between 40 and 50 yards away from my deputies to meet the mob. When we came close together the front column walked slow so that the back column closed close together with it. I ordered them to halt and asked them what they were going to do, and a number shouted out: "We stop Lattimer mines." I then started to read the riot act and they kept pushing ahead and against me, when a young man back in the fourth column said: "Go ahead; him ——; him no good; we stop Lattimer mines." I then reached my hand and caught him with the intent of placing him under arrest, and when I did, some seven or eight of them took hold of me; some of them struck me with their fists, while two of them pulled revolvers, and one of them made a dig at me with a knife. I then pulled my revolver, when one big fellow gave me a blow on the cheek and knocked me on my knees. I would have been knocked down on my back but the crowd was too close around me, so that there was no room for me to get down, and while we were struggling I heard a shot followed closely by a second and then a number of shots together. Those who were attacking me were shot, and I was then unable to recover myself, and there is no doubt in my mind that if the deputies had not shot just when they did I would certainly have been killed. While I was struggling with part of the mob on one side of the road in the ditch where they had pushed me, the part on the other side of the road with a whoop and a yell rushed on toward the deputies, who, no doubt fearing that their lives were in danger and that I was about to be killed, fired, the result being that 18 men were either killed or mortally wounded, and a number of others wounded, all of whom have or will recover. Some of the men that were killed were from 5 to 8 yards from the deputies, and a large number of the mob had passed me by at least 25 yards toward the deputies. The mob numbered about 700 or 800. The number of deputies was 80. When I recovered myself, I raised my hands and shouted to the deputies to cease firing, which they did. The whole firing lasted less than one minute. A few of the men were shot in the back, but this can be accounted for by the fact that they were circled around me and had their backs toward the deputies. The mob was composed of desperate men who, in my opinion, would halt at nothing to further their ends. The deputies were all good, reputable citizens, most of them being property owners. They were men who had good, sound judgment, and possessed no desire to shed blood but were compelled to take life to protect their own, and we had no desires or intentions whatever to wantonly kill or wound any person. Most of the mob lived at Harwood and Cranberry, about 6 miles from the scene of the shooting.

The reason I stopped the mob before they came to the breaker and mines was that I was notified by the superintendent, Mr. Drake, that they would hold me responsible for any interference with their mines. I knew very well that if the mob got to the breaker they would surely attempt to stop it, and then if we undertook to arrest them that there would be serious trouble, and I have no doubt that some innocent blood would have been shed, and there is no doubt in my mind that the loss of life would have been greater.

Another reason was that I thought I could get them stopped, and that I would have a chance to talk and reason with them, and that I might possibly get them to turn back and go home; but I saw as soon as I met them that they had no intention of allowing themselves to be stopped. I most positively deny that there was any wanton and malicious killing of anyone, and I further say that I do not know whether those who were killed were American citizens or subjects of a foreign country. What I do know is that they were a mob who were violating the laws of the country; and further, their friends have seen fit to have me and the deputies arrested for murder, and we are under heavy bail for the same. I would think that if any foreign country though that any of its subjects had been killed unlawfully that it would wait to see what the decision of our courts would be before taking action in the matter. I feel that the Austrian Government is rather premature in the matter. I do not think it right and fair for any foreign country to be allowed to try and prejudice our case at the present time; and furthermore, if our act and actions

were wrong, our courts and the American people are the proper parties to say so, and they will not be afraid to do so, without the interference of the Austrian Government.

Respectfully submitted.

JAMES MARTIN,
Sheriff of Luzerne County, Pa.

[Inclosure 2.]

Sheriff's proclamation.

It having come to my knowledge that a certain condition of turbulence and disorder exists in the neighborhood of the city of Hazleton, in the county of Luzerne, by reason of which acts of disorder are said to have been committed, and men forcibly prevented from pursuing their daily avocations, and the peace of the community seriously disturbed:

Now, therefore, notice is hereby given to all good citizens to refrain from all tumultuous and unlawful assembly and from all acts of disorder or violence, and from all acts interfering with the liberty of other citizens, or tending to a breach of the peace.

Notice is further given that all such acts of disorder and lawlessness will be summarily repressed and punished in accordance with the laws of the land.

JAMES MARTIN,
High Sheriff of Luzerne County.

[Inclosure 3.]

General Gobin to the Governor of Pennsylvania.

HEADQUARTERS THIRD BRIGADE,
NATIONAL GUARD OF PENNSYLVANIA,
Lebanon, October 20, 1897.

SIR: I have the honor of acknowledging the receipt of your favor of October 1, instant, inclosing a copy of the letter of Hon. John Sherman, Secretary of State, relating to the inquiries of the Austrian consul as to the collision between striking miners and the sheriff of Luzerne County and his deputies at Lattimer, Luzerne County, September 10, 1897. I note your request for a report of such facts as I may be possessed of in connection therewith, and respectfully present the following:

I arrived at Hazleton, adjacent to the scene of the trouble, at 7.30 a. m. of the 11th, the day following the conflict. From all available sources I endeavored to gather information, and believe the status to have been as herewith stated. This, I may state, was further impressed upon my mind by visitations to the place and other surroundings after the excitement had subsided and the military were in full control of the situation.

This portion of Luzerne County, which I shall term the Hazleton district, is in the midst of an anthracite coal deposit of great magnitude, extending into the counties of Carbon and Schuylkill, within a short distance to the south, and remote from the county seats of all the counties. It has been for years the scene of violence and disorder. Much of the work being done is stripping and removing the coal from the outcrop or washing the culm banks. This has brought into the district a large proportion of unskilled labor, and from the best information I could obtain 70 per cent of the population are foreigners, of almost every nationality, the greater majority unnaturalized. These people live in patches and are exceedingly clannish. Nearly all carry some kind of weapon, and fights are frequent and fatal between them. In the last six years over 250 murders were committed.

In the latter part of August or the beginning of September the employees at ——— colliery quit work, owing to some difficulty with the superintendent. Other workings followed in sympathy, but there was no general strike. In fact, there appeared to be no general ground for a strike, and no grievance which enlisted the combined action of any considerable number of the workmen. As it continued, however, agitators appeared, marching parties began to assemble and move upon collieries and workings, and drive the workmen from their places. The officials of these operations called upon the sheriff of Luzerne County to protect their properties from these trespassers and their men from this interference. The sheriff, whose office is at Wilkesbarre, 50 miles away, proceeded to Hazleton, summoned and swore in a large number of deputies, who established headquarters at that town, and were organized into three companies. Each man armed himself with such weapons as were obtainable, some of them with repeating Winchester rifles.

At different times, previous to the 10th of September, marching parties, intent upon visiting certain operations, had been turned aside by the mayor of Hazleton, or the sheriff, but excitement and unrest naturally resulted. During it all a number

of collieries continued working, their men indicating no desire, at least so far as known, to quit work. Among these was the large operation at Lattimer. On the morning of the 10th the body of men, variously estimated at from 300 to 600, started from Harwood with the avowed purpose of visiting Lattimer and compelling the men there to leave their work. They were met at West Hazleton en route by the sheriff, who commanded them to disperse, and read, or attempted to read to them, the riot act; they refused to listen and passed on. On the move they compelled persons whom they met to join their force, taking one lad of not over 17 from a wagon he was driving and placed him in the ranks. This boy subsequently lost a leg in the mêlée at Lattimer. The sheriff hastily proceeded to Hazleton, summoned his deputies, and took the street cars to reach a point to head off the marchers. The posse reached Lattimer in advance of them, and were lined up on the sidewalk, parallel to and facing the road, the right toward the marching strikers. In the rear of the posse were several houses, the property of the Lattimer proprietors. The marchers soon made their appearance, headed for the Lattimer colliery. As they came near the sheriff stepped out in the road in front of them with a paper in one hand and a drawn revolver in the other and commanded them to halt. Several of the marchers surrounded him with cries of defiance, and a struggle, apparently for the revolver, ensued. While this struggle continued the greater portion of the column pushed on, the rear men crowding the front ones forward. As they were passing the line of deputies they jeered and hooted. The head of the column had almost reached the left of the line when a single shot was fired, from where I have been unable to determine. It was the signal, however, for a general fusillade from the center and left of the line of deputies, the right being unable to fire for fear of injuring the sheriff still struggling with the crowd in their immediate front. It was in no sense a volley, simply spasmodic acts of firing. The results of this fire at such close quarters, with the crowded condition of the marchers, was such that almost every shot took effect, and the heavy list of casualties naturally followed. A stampede in every direction immediately took place, and the affair was ended. I do not believe it lasted beyond thirty seconds.

No order, apparently, was given, and I have been unable to learn of a single gun being reloaded. A number, particularly in the right company, were not fired at all. The fact that some men were shot in the side or back, eleven wounded being so reported in the hospital, is as readily attributable to the fact that some of the men had passed a portion of the firing line as that they were fired at after they dispersed or were retreating.

These men had a second time within a few hours been ordered by the sheriff not to interfere with the property or men at Lattimer. Some of them were personally assaulting the sheriff; others with jeers and insults passing the line of his deputies with the avowed purpose of committing violence upon private property and of provoking a breach of the peace upon the employees. The owners of the property and the employers of the men had applied to the sheriff for protection, and in the line of his duty this affair occured as stated. The jeopardy the official was in can only be conjectured, but that he was being interfered with in the discharge of his duty is very evident. The effect which his struggle, in plain view of his men, who stood with guns in their hands for the enforcement of the law, under his orders, is equally difficult to measure.

From the information obtained as to the position of the men I was interested in securing all the facts I could as to the number of repeating rifles in the line. There were quite a number, and only from these and revolvers were a second shot fired, if at all, as I could not ascertain a well-defined instance of a reloading.

Very respectfully, etc.,

J. P. S. GOBIN,
Brigadier-General.

[Inclosure 4.]

General Stewart to the Governor of Pennsylvania.

ADJUTANT-GENERAL'S OFFICE,
Harrisburg, Pa., January 11, 1898.

SIR: I have the honor to submit for your information the following report of the assembling of the Third Brigade, National Guard of Pennsylvania, at Hazleton, Pa., for the purpose of supporting the sheriff of Luzerne County in the preservation of law and order and the protection of property.

It appears that on the evening of Friday, September 10, 1897, after a week of disturbance and unrest among the mining population of Hazleton, Luzerne County, and vicinity, a collision occurred between a large body of miners and the sheriff of Luzerne County and a number of deputies whom he had sworn in to support him in the enforcement of the laws, the protection of property, and the security of citizens of the Commonwealth in their rights under the constitution and the laws of the State. In this collision a number of persons were killed and injured, and the situ-

ation became so threatening and likely to result in further loss of life and destruction of property that the sheriff, feeling unable to cope with the emergency, telephoned the governor at Harrisburg for assistance. A public meeting of the citizens of Hazleton was also held, at which resolutions were passed showing the necessity of prompt action on the part of the governor and expressing fear that unless the military were sent to that section without delay that great loss of property and life would occur. This request for assistance reached you at Harrisburg about 10.30 p. m., Friday, September 10. The following telegram was immediately sent to the adjutant-general, then in Philadelphia:

"Governor in telephonic communication with sheriff of Luzerne County, who demands troops to quell riot at Hazleton, claiming same is beyond his control. Governor requests you to come to executive mansion first train to-night. Advise when you start.

"LEWIS E. BEITLER, *Private Secretary.*"

A telegram of similar import was sent to Maj. Gen. George R. Snowden, commanding division, National Guard of Pennsylvania, and who was located in Philadelphia. To Gen. J. P. S. Gobin, commanding Third Brigade, National Guard of Pennsylvania, within the territorial limits of which Luzerne County was located, who was known to be in Philadelphia, a telegram was sent directing him to report immediately at Harrisburg. A telegram was also sent to Gen. John W. Schall, commanding First Brigade, the territorial limits of which are the city of Philadelphia and counties of Montgomery, Bucks, Delaware, and Chester, in the eastern portion of the State, advising him to hold the First Brigade in readiness.

General Orders, No. 26, Headquarters National Guard of Pennsylvania, were issued by your order as follows:

"HEADQUARTERS NATIONAL GUARD OF PENNSYLVANIA,
"ADJUTANT-GENERAL'S OFFICE,
"*Harrisburg, September 10, 1897.*

"General Orders, }
"No. 26. }

"I. Maj. Gen George R. Snowden, commanding division, National Guard of Pennsylvania, will order on duty immediately such portion of the division as in his judgment may be necessary to support the sheriff of Luzerne County in protecting life and property and securing to the citizens of the Commonwealth their rights and privileges under the constitution and laws of the State.

"II. Maj. Gen. George R. Snowden will report fully to these headquarters.

"By order of Daniel H. Hastings, governor and commander in chief:

"THOMAS J. STEWART, *Adjutant-General.*"

Major-General Snowden immediately proceeded to Harrisburg, as did also General Gobin. In the meantime telegraphic and telephonic instructions were sent to the commanders of the organizations comprising the Third Brigade, advising them that that brigade had been ordered upon duty, and that they proceed to Hazleton with their commands fully armed and equipped with the least possible delay.

General Gobin, commander of the brigade, arrived in Harrisburg at 1.30 a. m., Saturday, September 11; reported to you at the executive mansion; was advised that the Third Brigade, which he commanded, had been ordered on duty, and he was directed to proceed immediately to Hazleton, and leaving Harrisburg at 3.25 a. m., he (according to his report on file in the adjutant-general's office) arrived at Hazleton at 7.30 a. m.

The commanding officers of the various organizations comprising the Third Brigade in the meantime were assembling their troops and proceeding to Hazleton. These organizations are as follows:

Fourth Regiment Infantry, Col. D. Brainard Case, commanding; Eighth Regiment Infantry, Col. Frank J. Magee, commanding; Ninth Regiment Infantry, Col. C. Bow Dougherty, commanding; Twelfth Regiment Infantry, Col. James B. Coryell, commanding; Thirteenth Regiment Infantry, Col. Henry A. Coursen, commanding; Battery C, Capt. John Denithorne, commanding; Governor's Troop (cavalry), Capt. Fred M. Ott, commanding.

Instructions were immediately given for the shipment from the State arsenal of the camp equipage for the organizations of the brigade. These instructions were given at 12 o'clock midnight. The employees of the arsenal were on duty at 12.45 a. m., the necessary number of teams (7) were ready at 1.40 a. m., and the entire camp equipage of the Third Brigade was loaded on six cars by 6 o'clock a. m. and immediately transported by rail to Hazleton, arriving there at 12.54 noon of September 11.

There was also sent with this camp equipage 40,000 rounds of ball cartridges for caliber .45 Springfield breech-loading rifles; 14,000 ball cartridges, revolver, caliber .38; 10,000 carbine cartridges, caliber .45; 350 rounds of fixed ammunition for 3.2-inch breech-loading rifle.

The Ninth Regiment Infantry, Col. C. Bow Dougherty, arrived at Hazleton at 7.45 a. m., disembarked on the outskirts of the city, and was ordered by General Gobin into the city limits, where it was posted at Hazle Park.

The Thirteenth Regiment Infantry, from Scranton, Lackawanna County, and vicinity, Col. Henry A. Coursen, arrived immediately after the Ninth and was directed to proceed to Lattimer, the scene of the collision between the miners and the sheriff's deputies on the evening before, and which is a mining village located about 3 miles north of Hazleton.

The Twelfth Regiment Infantry, under Col. James B. Coryell, of Williamsport, Lycoming County, and adjoining counties, was immediately upon its arrival located east of Hazleton.

The Second Battalion of the Eighth Regiment Infantry, five companies, under the command of Maj. Emil C. Wagner, arrived shortly thereafter and was directed to proceed to Audenried, a few miles south of Hazleton, and to select a proper position commanding a region about Audenreid, and for the purpose of protecting a large magazine filled with dynamite.

The First Battalion, Eighth Regiment Infantry, Maj. E. C. Watts, arrived at noon and was sent to the position designated for the regiment at Audenried upon the arrival of the Second Battalion earlier in the morning.

Battery C, from Phœnixville, Chester County, and the Governor's Troop, from Harrisburg, Dauphin County, arrived at 3 p. m. The battery was divided, one-half being sent to the camp of the Eighth Regiment near Audenried; the other remaining in Hazleton near the yards of the Lehigh Valley Railroad, at which point the Governor's Troop was also directed to encamp, these yards being within two blocks of where the brigade headquarters had been established.

The Fourth Regiment Infantry, Col. D. B. Case, arrived about 4 p. m. in the afternoon of Saturday, and were directed to encamp adjoining the Eighth Regiment Infantry at Audenried.

It was decided to augment the cavalry force by ordering the First Troop, Philadelphia City Cavalry, attached to the First Brigade, on duty. This troop arrived in Hazleton on the evening of Saturday and were directed to encamp adjoining the Governor's Troop, near the stock yards of the Lehigh Valley Railroad.

The camp equipage was immediately distributed to the various commands and camps were located.

The entire section of country in and about Hazleton, comprising a large number of mining villages, was in a very high state of excitement. Meetings were being held at which inflammatory speeches were made. Preparations were also being made for the interment of those who were killed in the collision between the mob and the sheriff and his deputies on Fridaay evening, a large number of these funerals having been fixed for Sunday, and in which thousands of the people in the various communities intended participating.

The commander in chief, the major-general commanding the division, the adjutant-general, and the attorney-general were constantly on duty at the executive mansion and in close and constant communication with General Gobin at Hazleton, both by telegraph and telephone.

It was estimated that 10,000 miners and employees about mines were participating in the strike, and the dissatisfaction at that time seemed to be spreading into adjoining counties. The situation became so alarming that the sheriffs of Schuylkill and of Carbon counties, both of which adjoin Luzerne County, notified the governor of their inability to preserve order and protect property, and asked for support in the performance of their duties. This request was not complied with, it being believed that the number of troops already on duty would be able to meet any outbreak that might occur and hold it in check until the arrival of the First Brigade, which was being held in readiness in Philadelphia.

After the funerals of the persons who were killed in the collision between the mob and the sheriff and his deputies, and which funerals occurred on Sunday and Monday, the excitement abated in a measure. Meetings were being held, however, and fears were entertained of an outbreak at points at which troops were not at that time located. To meet this tension of affairs the Fourth Regiment Infantry was moved on Wednesday, September 13, from its camp at Audenried to Drifton, a distance of about 9 miles.

Capt. Alexis R. Paxton, Fifteenth United States Infantry, on duty at the headquarters of the National Guard of Pennsylvania, in his report to the War Department, states:

"The disposition of the troops in their camps in and about Hazleton had reference to the occupation of localities where trouble might be expected, and to military considerations. The Twelfth Regiment, which guarded the southern side of the city, was within easy supporting distance of the Eighth and Fourth, if required. In like manner the Ninth, at Hazle Park, could promply reinforce the Thirteenth at Lattimer, should occasion require. The cavalry was immediately at the hand of the commanding general for whatever emergency might occur. The tension of

public feeling at the time the troops arrived at Hazleton was very great, but their early appearance and prompt disposition had a highly beneficial effect upon all classes of the community. The funerals of the dead strikers were to take place principally upon the following Monday, and great crowds were expected to join in the funeral processions. It was therefore very important that the troops should be so distributed that the crowds of foreign miners who attended these funerals should realize that in or near all quarters of the community for miles about there was an ample military force to preserve order."

The Fourth Regiment at Drifton, 6 miles northeast of Hazleton; the Thirteenth at Lattimer, 4 miles north of Hazleton; the Ninth and the Twelfth on the outskirts of Hazleton; the cavalry and artillery on duty in the city, and the Eighth Regiment, 3 miles south of Hazleton, would show that the line of communications between these commands was over 9 miles in length, and the regions in which the disturbances occurred embraced a territory of at least 27 square miles.

The morning reports show that on the morning of the 12th of September there were 2,499 officers and men on duty, and that 91 per cent of the entire strength of the brigade had reported. The highest percentage present at any time was 94.5 per cent, and the total number on duty, 2,615 officers and men.

On September 24 Battery C was relieved from duty; on September 25 the Twelfth and Thirteenth regiments were relieved; on September 28 the Fourth was relieved from duty; on September 29 the Ninth Regiment, the Second Battalion of the Eighth Regiment, and the First Troop, Philadelphia City Cavalry, were relieved from duty.

During the entire tour of duty practice marches were indulged in; the cavalry patrolled the country in all directions, and every opportunity was taken advantage of to display the troops in force throughout the various mining towns and villages, where the greatest amount of discontent and unrest appeared to be. The impression created by the constant presence of large bodies of troops tended to prevent any demonstration in force by the strikers. This section of the State is one of the most populous mining districts within Pennsylvania. The population is made up largely of the foreign element, many of them being unable to speak or understand our language, and who under stress of great excitement are not amenable to argument or reason, and could only be held in check by the presence of a large armed force.

Very respectfully,

THOS. J. STEWART, *Adjutant-General.*

Mr. Sherman to the Governor of Pennsylvania.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 19, 1898.

Please advise me when the trial of Sheriff Martin and his deputies will take place. With the President's approval it is desired to have a representative of the Department of Justice attend the trial, but not to take part therein, in view of the international questions which may result.

SHERMAN.

The Governor of Pennsylvania to Mr. Sherman.

[Telegram.]

HARRISBURG, PA.
January 20, 1898.

Replying to your telegram received last evening, I am advised by District Attorney Thomas K. Martin, of Wilkesbarre, that the trial of Sheriff Martin will occur in Wilkesbarre in the first week of February term of court beginning Tuesday morning, February 1; entire first week set apart for trial. Sheriff Martin's attorney, Mr. Ferris, will be

assisted by Messrs. A. M. Palmer and John T. Lanahan, of Wilkesbarre; and C. W. Kline and Mr. Troutman, of Hazleton. The district attorney will be assisted by James Scarlet, of Danville; John M. Garman and Mr. McGahran, of Wilkesbarre.

DANIEL H. HASTINGS.

Mr. Sherman to Mr. Hengelmüller.

No. 209.] DEPARTMENT OF STATE,
Washington, January 20, 1898.

SIR: Referring to my note to you, No. 208, of the 8th instant, in relation to the circumstances under which several Austro-Hungarian subjects were killed and wounded at Lattimer, near Hazleton, Pa., on the 10th of September last, and in particular to my promise to communicate further with you on the subject so soon as I should be in possession of the reports and statements in regard to that occurrence, to be furnished to me by the governor of Pennsylvania, I have now the honor to advise you that I have received from his excellency, the governor, the papers in question, being a statement by Mr. Martin, the high sheriff of Luzerne County, and a report by Brig. Gen. J. P. S. Gobin, who commanded the Third Brigade of the National Guard of Pennsylvania at Hazleton during the riots, and also copy of the report of Gen. Thomas J. Stewart, adjutant-general of Pennsylvania, relating to the same subject.

By a collation of these three statements, which are mainly in substantial agreement, the circumstances of the occurrences near Hazleton appear to be as follows.

About the last of August or 1st of September the employees of one of the collieries near Hazleton ceased work because of some difficulty with the superintendent. The employees at other mines followed in sympathy, and the movement developed into large marching parties, which began to assemble and move upon the workings and drive the workmen from their places. The sheriff, whose office is at Wilkesbarre, was appealed to by the owners of the mines for protection from the interference. He went to Hazleton and summoned and swore in a large number of armed deputies to preserve the public peace. At different times prior to September 10 marching bodies attempted to drive the workers from several mines, and were turned aside or dispersed by the sheriff and his deputies. On September 10, a body of men, estimated at from 300 to 600, started from Harwood to visit Lattimer for the purpose of compelling the men there to cease work. They were met at West Hazleton by the sheriff, who, in the name of the law, commanded them to disperse. They refused and moved on. The sheriff summoned his deputies, and with them reached Lattimer in advance of the mob. As the mob approached, the sheriff, unattended, stepped forward to meet the ringleaders, announced the penalties attending such unlawful acts, and endeavored to persuade the riotous assemblage to turn back. He was surrounded by the mob, some members of which struck him down, the greater number going toward its destination. During the struggle which ensued between the sheriff and the mob, at which time he was entirely surrounded by the rioters, a number of the deputies fired into the mob, as it would seem, without having been commanded to do so, resulting in the killing or mortally wounding of 18 men. The rest of the mob then dispersed.

These statements, as will be perceived, suggest doubt as to the accuracy of the reports heretofore current that the assemblage of striking miners at Lattimer was peaceably dispersing when orders to fire upon them were given by the sheriff. The facts would rather appear to be that, upon the sheriff advancing unattended in order to meet the ringleaders, he was dangerously assaulted and that shots were fired, without command, by the deputies in the attempt to rescue him. However this may be, I deem it proper to suspend all judgment upon the merits of the question at issue pending the trial which is about to take place, in the course of which I may assume that the true facts of the occurrence will be elicited.

Following a precedent which has been set in some cases heretofore it is proposed to have a representative of the Federal Government present at the trial to watch the proceedings and report thereon, to the end of thoroughly investigating the matter with a view to such further treatment as may be just and proper.

Accept, etc.,

JOHN SHERMAN.

The Governor of Pennsylvania to Mr. Sherman.

COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, January 22, 1898.

SIR: I beg to acknowledge the receipt of your letter of 20th instant, relating to the killing and wounding of certain alleged Austro-Hungarian subjects in Luzerne County, Pa., on September 10, 1897. In accordance with your telegram of the 19th instant, I immediately wired you the date fixed for the trial of Sheriff Martin and his deputies. A copy of the telegram is hereto attached for identification.[1]

The government of this State has been and is anxious to furnish you with every possible information relating to the Hazleton riots. Every facility will be furnished your representative to fully inform himself with all the facts in the case to be tried in the Wilkesbarre courts.

I have read with much interest the correspondence between yourself and the Austrian minister, and I beg to express my appreciation and gratitude for the defense which you have made of our position relating to the furnishing of information.

I have, etc.

DANIEL H. HASTINGS,
Governor of Pennsylvania.

Mr. Hengelmüller to Mr. Sherman.

[Translation.]

No. 222.]
IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, January 24, 1898.

MR. SECRETARY OF STATE: I have had the honor to receive the two notes which you had the kindness, Mr. Secretary of State, to address to me on the 8th and 20th instant, relative to the occurrences which took place September 10, 1897, at Lattimer, near Hazleton, Pa.

[1] See ante.

In view of the information contained in the latter of these notes concerning the reports made to the Federal Government relative to those occurrences, I do not think proper to enter into a thorough discussion of that portion of the former note which has special reference to the statements made in my communication of December 30. I feel, however, that it is my duty to remark that my Government has not claimed the right to decide for itself the question whether its subjects who were injured in that catastrophe are, according to international law, entitled to an indemnity; and further, that it has had no intention to base its attitude on this subject solely upon the reports received by it. What it has asked, from the outset, of the Federal Government, has been a thorough investigation of the case, and such an investigation was unreservedly promised to it. The subsequent delay, and the final statement of the governor of Pennsylvania, which was communicated to me by your note of December 28, and in which he announced that he would not send the reports on the subject that were in his possession until after the termination of the trial, did indeed, lead us to the assumption that it was impossible for the Federal Government to hold the promised investigation. At this stage of the question, the Imperial and Royal Government felt compelled to declare to the Federal Government that it was not relieved, by this impossibility, of its responsibility to us. As, according to the reports which lay before us, the case was one that furnished ground for a claim for indemnity, and as we had no other information, and no other appeared to be obtainable, I was instructed to declare that we held the Federal Government responsible for the injury done to our countrymen, and that we asked of it a just and adequate indemnity.

This discussion belongs, however, to an earlier stage of the question, and seems to be rendered unnecessary, Mr. Secretary of State, by the information contained in your last note. The reports which, according to that note, have been received by the Federal Government from the adjutant-general of Pennsylvania, from General Gobin, who commanded the troops of the National Guard that were called out owing to the occurrences at Lattimer, and, finally, from the sheriff of Luzerne County, himself, present the occurrences in question, in many important particulars, in an aspect different from that in which they were presented in the reports received by us, which were sent as inclosures to my note of September 28. This difference in the presentation of the case would especially seem to call for a comparison and scrutiny, as accurate as possible, of the material on both sides, which is based both upon the statements of persons who participated in the incident and upon those of persons who took no part therein. In consideration, however, of the circumstance that the Federal Government, according to your note of January 20, Mr. Secretary of State, considers the question of the way in which all the occurrences actually took place as an open one, I think it proper for me now to refrain from any discussion of the merits of the case, and I take note of your declaration that the Federal Government suspends its decision during the pendency of the trial which is about to take place, and that it expects the facts of the case to be fully elucidated by that trial. I have the honor, at the same time, to express my warmest thanks to the Federal Government for the intention which it has expressed of sending a representative to be present at that trial, and to request you, Mr. Secretary of State, to convey this expression of gratitude to the proper quarter.

In the meantime I take the liberty to call special attention to the fact that, according to the reports transmitted to the governor of Pennsylvania, fire was opened on the workmen taking part in the march

by the sheriff's deputies, although they had received no order to that effect. This statement agrees with the account given in my memorandum of September 28, and I refer to it as a further proof of our oft-repeated assertion that the question of the accused sheriff's guilt, or of his innocence of the crime with which he is charged, is not synonymous with the question whether the victims of the catastrophe are entitled to indemnity.

I avail myself, etc. HENGELMÜLLER.

The Governor of Pennsylvania to Mr. Sherman.

COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, January 27, 1898.

SIR: I beg to acknowledge the receipt of your letter of yesterday informing me that Mr. Henry M. Hoyt, Assistant Attorney-General, will attend the trial of Sheriff Martin in behalf of the United States. I shall be pleased to have Mr. Hoyt call upon me at Harrisburg, and it will give me pleasure to provide him with the proper credentials at Wilkesbarre in order that he may have the fullest opportunity to observe the trial.

I have, etc., DANIEL H. HASTINGS.

Mr. Hoyt to Mr. Sherman.

DEPARTMENT OF JUSTICE,
Washington, D. C., January 27, 1898.

SIR: I have the honor to acknowledge the receipt of your letter of January 26, in which you inform me that, at your request, the Attorney-General has detailed me as representative of the Department of Justice to attend the trial of Sheriff Martin and his deputies for the unlawful killing of certain Austro-Hungarian subjects at Lattimer, Pa., on the 10th of September last, which trial is to take place at Wilkesbarre during the first week of February.

You inform me that my duty in the premises will be confined to watching the proceedings for the purpose of fully informing myself of the merits of the case, so as to enable me to make a full report of the facts to the Department of State, and you inclose a letter addressed to the governor of Pennsylvania, to whom I am to report in connection with this service, and direct me, upon the receipt of a letter from the governor to the court officials, to proceed from Harrisburg to Wilkesbarre.

I have the honor to say that I shall proceed upon this service as directed, and shall be prepared, after the trial in question, to report to the Department of State.

Very respectfully, HENRY M. HOYT,
Assistant Attorney-General.

Mr. Day to Mr. Hengelmüller.

No. 211.] DEPARTMENT OF STATE,
Washington, January 31, 1898.

SIR: Referring to the correspondence heretofore had with you in regard to the killing and wounding of certain Austro-Hungarian subjects at Lattimer, Pa., on the 10th of last September, I have now the honor to inform you that under the direction of the Attorney-General,

Mr. Henry M. Hoyt, Assistant Attorney-General of the United States, has been sent to Wilkesbarre, Pa., to attend the trial of Sheriff Martin and his deputies, which is set for next week. Mr. Hoyt has been instructed to make full report to the Department of the result of that hearing, as well as to furnish me with a statement of the facts as he shall gather them.

In this relation I may observe that, in your note No. 222 of the 24th instant, you seem, notwithstanding the explanation given in my note of January 8, to adhere to the misconception that the governor of Pennsylvania had declined to furnish this Department with the reports of the occurrence that were in his possession. As I had the honor to state in my aforesaid note of the 8th instant, I cheerfully deferred to the expression of the governor's belief, which I fully shared, that the premature publicity of those reports pending the trial of the inculpated officers would be inexpedient. At no time did his excellency refuse or decline to put those papers in my hands for such use as I might deem proper. It seems appropriate to revert to this in order that our future consideration of the matter may not be colored by any inaccurate assumption as to the precedent circumstances.

Accept, etc.,

WILLIAM R. DAY, *Acting Secretary.*

Mr. Hoyt to Mr. Day.

DEPARTMENT OF JUSTICE,
Washington, D. C., April 4, 1898.

DEAR SIR: I beg to acknowledge the receipt of your letter of April 2, requesting copy of my report on the trial of Sheriff Martin and his deputies, and I beg to say in reply that I shall place the report in your hands during the current week, and as early in the week as possible. Other matters seem to have required my more immediate attention here, and for this reason the report has been somewhat delayed. I regret extremely if this delay has caused you any embarrassment whatever.

Respectfully, yours,

HENRY M. HOYT,
Assistant Attorney-General.

Mr. Hoyt to Mr. Day.

DEPARTMENT OF JUSTICE,
Washington, D. C., April 11, 1898.

SIR: I have the honor to transmit to you herewith, in pursuance of your instructions, my report, with accompanying documents, of the trial of Sheriff Martin and his deputies at Wilkesbarre, Pa., on the charge of killing and wounding certain Austrian subjects and others at Lattimer, Pa., on September 10 last.

I have the honor to state further that I shall transmit to you in addition upon this subject, within a few days, a separate memorandum stating some of the underlying facts, and suggesting some of the principles of law affecting the occurrences in question, which it does not seem necessary to state or proper to suggest in the report itself.

I remain, etc.,

HENRY M. HOYT,
Assistant Attorney-General.

Mr. Hoyt to Mr. Day.

DEPARTMENT OF JUSTICE,
Washington, D. C., April 8, 1898.

SIR: I have the honor to report that in pursuance of your letter of instructions, dated January 28, 1898, having reference to the trial of the sheriff of Luzerne County, Pa., and his deputies, on the charge of killing and wounding certain Austro-Hungarian subjects, among others, at Lattimer, near Hazleton, Pa., on the 10th of September last, I proceeded to Harrisburg on January 29 and presented to the governor of Pennsylvania the letter of introduction which you gave me. The governor furnished me with a letter to the president judge of the courts of Luzerne County, to whom I presented myself on the 31st of January, at Wilkesbarre, the county seat of Luzerne County, and by whom I was courteously accorded then and afterwards full opportunity to inform myself of the course of proceedings.

The trial opened February 1 at the court-house at Wilkesbarre. The trial judge was Hon. Stanley Woodward, president judge of the court. The Commonwealth was represented by District Attorney Thomas R. Martin, and by Messrs. John McGahren and John M. Garman, all of Wilkesbarre; and James Scarlett, of Danville, Pa. The defense was represented by Messrs. Henry W. Palmer, formerly attorney-general of the Commonwealth of Pennsylvania; John T. Lenahan, Frank W. Wheaton, and George S. Ferris, of Wilkesbarre; and George H. Troutman and C. W. Kline, of Hazleton. The defendants were James Martin, sheriff, and 68 deputies, whose names are hereto attached on one of the blank forms of indictment in the case. A nolle prosequi was entered as to certain deputies at the beginning of the trial on the ground that the Commonwealth had no evidence to show that these individuals were present at Lattimer, or if present, that they were armed or were connected with the shooting.

The defendants had been brought before two of the judges of the county, sitting as committing magistrates, on September 20, 1897. After a large amount of testimony had been taken on this occasion, they were held under bail to await the action of the grand jury. At the meeting of the grand jury, on October 27, 1897, they were indicted as follows, viz: All the defendants were indicted jointly for murder, with a second count for manslaughter in the case of each man killed; they were also thus indicted jointly in a separate indictment for the felonious wounding of each man wounded, and they were all thus indicted jointly under a third indictment for murder, with a second count for manslaughter, of all the men killed. The indictment selected for trial was one for the murder and manslaughter of one of the victims, Michael, or Mike, Ceslak. This was regarded as a test case, and may dispose of all the indictments, but no conclusion on this point seems to have been reached as yet.

The selection of a jury was completed by the end of the second day. The names of the jurymen are hereto attached.

On February 3, after the arraignment of the defendants, Mr. McGahren opened the case for the prosecution. He stated the contention of the Commonwealth that the defendants are guilty of murder in the first degree; that it is not necessary to show who fired the first shot—all that were present armed, aiding, and abetting are guilty in the eyes of the law; that the strikers had grievances; that they held an orderly meeting and decided to march to Lattimer and ask the men there to assist them in asking their employers for justice; that they went there peaceably, unarmed and in a lawful way, and had the right to do so,

and then were shot down by the deputies, who continued to fire for five minutes at the fleeing men. The taking of testimony then began, and continued without intermission, except for the usual adjournments over Sundays and holidays, until March 4, 1898. One hundred and three witnesses were examined for the prosecution and 111 for the defense. The witnesses for the prosecution consisted of strikers who accompanied the march to Lattimer and were present at that place, of bystanders and eyewitnesses of the events leading up to the final conflict, and of various persons—clergymen and others—who saw and attended the dead and wounded after the fatal occurrence. It was not part of the evidence, but the fact appeared to be, from the employment of interpreters in various foreign languages and dialects—Italian, Hungarian, and Polish—and in other ways, that many of these witnesses were foreigners not naturalized, some of them were native-born citizens, and some naturalized citizens.

The story told by the witnesses for the prosecution, when connected, shows the occurrences to have been as follows:

On the evening of September 9, 1897, at Harwood, near Hazleton, a meeting of the strikers was held, at which it was decided to go the next day, peaceably and without any weapons, to Lattimer and ask the men there to go on strike, but not to use force nor to destroy property. At noon the next day about 250 men from Harwood and other points started from Harwood and marched to West Hazleton, receiving accessions on the way from Crystal Ridge and other surrounding villages. At West Hazleton the sheriff and his deputies met them and told them to disperse. There was some altercation there between the strikers and the sheriff's posse, and then the strikers took a road to Lattimer which passed along the outskirts of Hazleton. At the same time the deputies boarded the cars of a trolley line running from Hazleton to Lattimer and reached the latter place ahead of the strikers. The deputies lined up at Lattimer in front of a row of houses along and a short distance from the road running into Lattimer from the direction of Hazleton, and when the strikers arrived there the sheriff went forward alone and met them again, his deputies remaining on the side of the road behind him, and once more ordered them to disperse. He seized successively two of the strikers by the coat, and while he was engaged in a scuffle with them and with other strikers who gathered around him one or two shots were heard, but from what source the witnesses (or all but two or three of them) did not definitely say. Then the deputies began to shoot at the strikers, first some scattering shots and then a volley, and the strikers broke and fled. The shooting continued for several minutes while the fleeing strikers were endeavoring to get to cover up the slopes along the road. Many of the witnesses testified that the sheriff informed the strikers at West Hazleton and Lattimer who he was and produced a paper which he stated to be his proclamation, but did not read.

It appeared that the strikers were unarmed; that small clubs which they had previously carried were thrown away on the march between West Hazleton and Lattimer; that they were peaceable and orderly in their conduct on the march; were not riotous either at West Hazleton or Lattimer, and at neither place made an assault upon the sheriff or his deputies, or offered any violence or used threatening language to them.

When the crowd stopped before the sheriff at Lattimer, ten men or more gathered around him, and while he was parleying with them and endeavoring to pull to the side of the road the men whom he seized by the coat, the main body of strikers pushed slowly ahead, and at that point and moment the deputies began to fire.

Witnesses among the strikers testified that they had not stopped or beaten men on the road from Harwood to West Hazleton, and thence to Lattimer, nor compelled men to join their number against their wills; that there were 300 or more in their assemblage; that they only went to Lattimer to have a talk with the men there—to show themselves and induce the Lattimer men by peaceable means to join their strike for more wages. Witnesses also testified to violent language and threatening behavior on the part of the deputies at West Hazleton before the shooting, and again at or near Lattimer after the shooting. The testimony was cumulative that the strikers were peaceable and unarmed, and did not on the march nor at West Hazleton or Lattimer exhibit any such conduct as to justify the volley of the deputies.

Physicians and others testified as to the character and location of the wounds inflicted, and a number of the wounded were put on the stand and exhibited their wounds. Testimony was also offered as to the distance from the deputies of those strikers who were shot and fell while they were running away. On the whole, it appeared that in some instances balls or shots had entered the backs or back portions of the bodies of the killed and wounded, and that some of them had been struck and had fallen at a distance of several hundred feet (300 to 500 feet) from the line of deputies. Various deputies were identified as present, and there was some evidence that the first shot proceeded from the right of the line of deputies; that certain deputies stepped out of the ranks after the volley had been fired and continued firing at the fleeing men. On the whole, however, it appeared that the firing did not continue as long as one minute after the volley. It also appeared, without dispute, that the sheriff was armed with a revolver and the deputies for the most part with Winchester rifles; that the sheriff had drawn his revolver when the crowd surrounded him at Lattimer and had endeavored to discharge it, but without success, although there was some evidence, not well corroborated, however, that he had discharged his revolver there and shot or killed a man.

According to the indictments there were 19 men killed and 38 wounded. The names of the men killed are given on the form of one of the indictments accompanying this report, and the names of the men wounded on a separate paper. Because of the extreme variation in the spelling of Hungarian and Polish names, it is difficult in many cases to trace and identify any given name of the men killed or wounded, as appearing in the indictments and as drawn from other sources. From the best information obtainable, although these facts were not brought out at the trial, it appears that of the men killed 10 were Austrian subjects, and of the men wounded 11 were Austrian subjects, and that as to the balance of the men killed and wounded no authoritative knowledge of their citizenship has yet been ascertained. Lists in accordance with this classification are hereto attached, in which the variation of spelling referred to, as compared with the indictments, will be noticed.

On February 21 the Commonwealth rested. Mr. Ferris opened the case for the defense, claiming that the true story of Lattimer shows a savage assault upon the sheriff and an attack by the mob upon the band of deputies; that the first shots came from the mob as they were charging toward the line of deputies, and from one of their number in the rear of the deputies; that the conduct of the strikers fully justified the volley in order to repel a murderous assault upon the lives of the sheriff and his posse, who did their duty as faithful officers and defenders of the law.

The witnesses for the defense included residents of Harwood, Cranberry, Crystal Ridge, and other surrounding villages, among them many

women who were eyewitnesses of the occurrences preceding the final conflict of September 10. The sheriff and certain of the deputies were also placed upon the stand—mine laborers and mechanics, mine bosses and other officials, bystanders, and various spectators of the final conflict. It appeared, without positive proof, that many of these witnesses were American citizens and residents of long standing in the vicinity; and others, whether naturalized or not, were of English, German, or Irish origin, with a few of other nationalities.

Their story shows that for a week or more preceding the 10th of September the people of the region had been kept in a terror-stricken condition, owing to the fact that the employees of one of the mines near Harwood had gone on strike and had induced and compelled the men at other mines to follow them, and had been organizing and assembling marching parties from day to day which proceeded to various mines, colleries, and open workings, and throughout the villages and country generally; compelled men to cease work, drove the workmen away, stopped the engines, went into the houses of laborers and other residents, and by threats of violence compelled men against their wills to join them; carried and used clubs and other weapons, beating and chasing men who did not wish to join them, and driving them to the brush, shooting at them, and conducted themselves on numerous occasions throughout the week preceding September 10 in such a violent, threatening, and lawless manner, in both speech and deed, that the law-abiding and peaceable citizens and residents were alarmed and fearful for their safety and even for their lives.

It also appeared that the sheriff, being appealed to by owners of property for protection on behalf of themselves and their employees, went to Hazleton on September 5, duly constituted a large number of citizens as armed deputies, published and posted, in concert with the sheriffs of Carbon and Schuylkill counties, a proclamation against rioting, and instructed the deputies generally that it was their duty to maintain peace at all hazards, but not to take life unless his life or their lives were in danger.

It also appeared that the sheriff carefully cautioned his men to keep cool upon all occasions, especially when they met bodies of strikers, and that if his life or their lives were in danger at any time, and he was not able for any reason to give suitable commands, including the command to fire, they must proceed in such extremity according to their own discretion under the direction of the leaders whom he had selected.

The deputies were selected by the sheriff, in his legal discretion, with respect to their character as good citizens, and with no consideration of the question whether they were or were not employed by mining or other corporations in the neighborhood.

Between September 5 and 10 the sheriff and some or all of his deputies proceeded about the country as called upon, met on various occasions and at sundry points disorderly bands of strikers proceeding about to the collieries and mines intimidating and stopping the workmen, and successfully dispersed them without any more violent manifestations than some rough language and threats.

On September 10 the sheriff and his posse met the mob, consisting of 400 or 500 men, on their march from Harwood to Lattimer, at West Hazleton, read his proclamation, and commanded them to stop and disperse, arrested one man who refused to stop, passed through the strikers, who handled him somewhat roughly, but after some violent talk on the part of the strikers, refusing to heed his commands and disperse, he did nothing to prevent their march through the outskirts of Hazleton to Lattimer. At the latter place, after lining up the deputies on

the side of the road, so as to meet and stop the mob before they reached the breaker, the sheriff went forward and met them, commanded them to stop, asked what they were going to do, to which they replied "Stop Lattimer mines;" and then, upon the sheriff's proceeding to arrest one of them who spoke riotously, many men in the foremost ranks surged around him, struck him, knocked him down, and tried to take away his revolver which he held in his hand to enforce his commands. He did not intend to shoot unless he was compelled to, and as a matter of fact he did not shoot, although he tried to shoot one man who struck him a blow in the face that sent him to his knees. During this altercation and assault upon him, two of the strikers with revolvers endeavored to shoot him, and one with a knife struck at him.

During these proceedings the main body of strikers moved forward past the crowd around the sheriff and proceeded, according to many witnesses, pursuing their way toward the Lattimer breaker, and according to several witnesses they turned at that moment and moved violently and with shouts toward the deputies.

All of these events happened within a very brief space of time, and just at this point, when the sheriff's life was in danger and a threatening attack upon the line of deputies had begun, after one or two preliminary shots, the source of which could not be exactly located, though there was evidence showing that they proceeded from the rear of the line of deputies where three of the strikers were located beckoning the main body to come on to the assault upon the deputies, a portion of the line of deputies fired the volley described, but ceased firing within a half minute or thereabouts, and then the deputies, or many of them, proceeded with the sheriff to assist in caring for the wounded and dead.

Witnesses among the deputies and other witnesses testified as to the peril in which the sheriff and his posse stood, that the firing was not continued, that the deputies did not leave the line and step toward the fleeing men and continue to fire, and that they were not violent and threatening after the occurrence, but rendered service in caring for the killed and wounded.

It appeared from the story of the defence that the strikers at West Hazleton as well as Lattimer were violent in their actions and language, as they had been during the series of occurrences leading up to Lattimer, and that the deputies made no threats and acted coolly and without violence both at West Hazleton and after the shooting. It was not proved generally which among the deputies fired. Most of the deputies examined denied that they had fired; one or two, however, admitted it. It did not appear as to the man for whose death the indictment selected for trial was drawn by whom the shots which killed him were fired.

On Saturday, March 5, 1898, the points of law on behalf of the defendants were submitted to the court and argued by Mr. Wheaton for the defense and Mr. Scarlett for the prosecution. The said points are hereto appended as an addendum to the court's charge in the case. On March 7 and 8 Messrs. Scarlett for the prosecution, Palmer and Lanahan for the defense, and the district attorney closing the case, summed up to the jury, and upon the same day the court delivered its charge to the jury, a copy of which accompanies this report. After the delivery of the court's charge the jury retired, and at 10 o'clock the next morning (Wednesday, March 9) rendered a verdict of not guilty on the charge as contained in the indictment as to all the defendants.

The case was earnestly and thoroughly conducted for both the prosecution and defense. The trial, while arousing a great deal of interest throughout that part of the State of Pennsylvania and elsewhere, which

led to a large attendance upon the sessions of the court throughout the whole time occupied, was dignified and orderly. There was no evidence of feeling or prejudice on the part of the audience, and the opposing counsel, while keen and earnest in their conduct of the proceedings, fully submitted themselves to the control of the court and the proprieties of the situation. There is no question in my mind that the court ruled fairly as to the admission of evidence and upon the various points arising throughout the trial, nor can it be denied, I think, that the charge of the court was full, fair, and sound, and stated the law as settled by the course of Anglo-Saxon jurisprudence for several hundred years, under statutory as well as under common law, correctly and without failing to do entire justice to the respective contentions of the prosecution and the defense.

The jury was, in my judgment, a representative jury of this country, and was above the average in intelligence and fair-mindedness and in the careful attention which they gave to the proceedings throughout the entire trial.

I am clearly of the opinion that the case was in all respects soberly, properly, and fairly tried, that there was abundant evidence to support the verdict, and that it can not be successfully claimed that under all the circumstances involved the verdict was not a just and righteous one.

Referring to the question of the right of those wounded and the families of those killed to receive indemnity for damages because of the action of the sheriff and his deputies, I am unable to see, considering many clear determinations of the law, how any such claim can be successfully urged in view of the verdict; and I feel well assured that there is no good authority supporting the right to indemnity in the absence of any suit brought or determination rendered supporting such a right by civil proceedings for damages. It appears to me that the liability of the sheriff and his deputies for damages to those injured must previously be established by civil suit before any larger or other claim could be considered; and that inasmuch as the courts of this country, State and Federal, are freely open to all parties, native and foreign, and that foreigners may elect in such a case to proceed in the Federal courts or the State courts at their pleasure, I can perceive no reason why the foregoing considerations, which are very obvious at this stage of the Lattimer transactions, are not applicable to aliens as well as to citizens. The status as to citizenship of all those killed and wounded at Lattimer has not yet been definitely determined. It was not a question seeking or requiring determination during the trial. If it should be necessary to consider this question carefully no doubt you will give it the attention which it deserves.

In conclusion, after listening to the testimony involved in the proceedings, and after careful study and consideration given to the facts and questions involved, I am of the opinion that the sheriff and his deputies, the legal conservators of the peace, conducted themselves with patience, discretion, and forbearance through the events leading up to the Lattimer fatality; that the conflict there was inevitable (humanely speaking) and could not have been avoided if civil order were to be preserved and obedience to the law enforced; and that under all the circumstances the action of the sheriff and his posse, although fatal and lamentable in its results, was clearly justifiable.

Very respectfully,

HENRY M. HOYT,
Assistant Attorney-General.

In the Court of Quarter Sessions of the Peace in and for the county of Luzerne, Pennsylvania. Sessions 1898.

LUZERNE COUNTY, *ss:*

The grand inquest of the Commonwealth of Pennsylvania, inquiring for the county of Luzerne, upon their respective oaths and affirmations do present that

James Martin,	John Turner,	Curtis W. Doud,
Alfred E. Hess,	Calvin Pardee, jr.,	Joseph W. Stevens,
Leonard Babcock,	Edward Barton,	William Underwood,
Robert Tinner,	G. P. Bartholomew,	Robert H. Kay,
Amantes M. Eby,	John W. Crooks, jr.,	John E. Anderson,
Charles Houck,	Edward Turnbach,	Harry Polgrain,
Ario P. Platt, jr.,	Thomas H. Hall,	Anthony Moylo,
Ario Pardee Platt,	Thomas Marsden,	Thomas Brown,
T. Milner Morris,	Schuyler Ridgeway,	William H. Brown,
Frank D. Clark,	Samuel B. Price,	J. W. Bornheisen,
J. Potter Clark,	R. C. Warriner,	John L. Salem,
Alonzo Dodson,	William Young,	James Ferry,
Harry Zierdt,	Harry Deal,	Joseph L. Nichols,
Charles Beisel,	George Ferry,	Charles J. Haen,
John Zierdt,	George Trieble,	Frank Mumey,
Wallace Drum,	W. Isaac Ravert,	Samuel Ermold,
W. J. Douglass,	Thomas A. Harris,	Nick Michael,
John Dougherty,	Augustus W. Drake,	Peter H. James,
John J. Gallagher,	Conrad Zeigler,	James Osborne,
William Mulhall,	William W. Roth,	Joseph Henry Sobers,
George E. Ruble,	William Berryman,	Henry L. Manley,
Rodger A. M'Shea,	Edwin Balliett,	Richard C. Jones,
Samuel J. Gundry,	Louis Long,	A. S. Evert,
Fred A. Sloppy,	C. Wesley Hall,	Herbert S. Houck,
John Cook,	William J. Hill,	Stephen Jones,
William Costello,	Henry J. Pfaff,	George W. Fritzinger,
William Raught,	T. J. Williams,	Craig Anderson,
William Siewell,	William Kulp,	

yoemen, on the tenth day of September, in the year of our Lord one thousand eight hundred and ninety-seven, at the county aforesaid, and within the jurisdiction of this court, in and upon Martin Shorfranic, in the peace of the said Commonwealth then and there being, did make an assault, and him, the said Martin Shorfranic, with the deadly weapons aforesaid did unlawfully and feloniously shoot and wound and cause bodily injury dangerous to life, with the intent him, the said Martin Shorfranic, then and there feloniously, wilfully, of their malice aforethought, to kill and murder, contrary to the form of the act of the general assembly in such case made and provided and against the peace and dignity of the Commonwealth of Pennsylvania.

D. A. FELL, *District Attorney.*

List of men wounded at Lattimer embraced in indictments for felonious wounding.

Martin Shefronic,	John Keesloock,	John Postea,
Joseph Mackia,	Joseph Zespa,	Joseph Platock,
Bernard Runnel,	Anthony Mitchels,	John Paddock,
John Dolaney,	Frank Fodyns,	Andrew Urban,
John Yockwatz,	John Perkones,	Andrew Konas,
Caspar Wicneuski,	Frank Roman,	John Kulick,
John Michlish,	Andrew Slavonick,	Adolph Zelak,
Adam Lapinski,	Caspar Mozgo,	Andrew Vismont,
John Contra,	Caspar Dulass,	John Kushock,
Thomas Paris,	Andrew Meyer,	Joseph Zepa,
Andrew Zaboniek,	John Resha,	Stanley Korniski,
John Slavonick,	John Bocks,	Constant Mononk.
George Gasperick,	Matthew Chia,	

List from other sources than indictments of Austrians and Hungarians killed at Lattimer.

Michael Ceslak,	Andro Yurczik,	Platek Clemens,
Stefan Roskowjanski, alias Jurek,	Wojcich Brzostowsky,	Stanislaus Zagurski,
John Fota,	Anton Adam Zeminski,	Skreb Joan.
	Wojcich Zieba,	

List from other sources than indictments of wounded Austrians and Hungarians.

Fr. Fagyas,	Andrej Urban,	Tatvan Juszko,
Josep Mohki,	Andrej Hanczur,	John Pusztay,
John Dolny,	Thomas Parea,	Jos. Zapay.
Josep Platok,	Fr. Roman,	

List from other sources than indictments of killed whose citizenship has not been ascertained.

John Turnactik,	Anthony Grekos,	John Franko,
Fr. Kadel,	Georg Gamgok,	Andreas Natzkolski,
Miko Listak,	Fr. Seracoski,	And two not identified.

List from other sources than indictments of wounded whose citizenship has not been ascertained.

Stanley Komiski,	John Slabonik,	John Kleshok,
Anthony Mitscula,	Caspar Dulas,	John Postia,
Martin Storfranic,	Andrew Meyer,	John Contraw,
Matthew Chia,	John Kulik,	John Jackowatz,
Coust Manoulso,	Andrew Slabonick,	John Michlish,
Adam Laponski,	John Besha,	Caspar Wisjniewski,
John Bonko,	Caspar Mosgar,	Andrew Zismont.
Georg Gasparik,	Bernard Rumel,	

Names of the jurymen in the trial of Sheriff Martin and his deputies, Wilkesbarre, Luzerne County, Pa., February 1 to March 9, 1898.

No. 1. Eli Weaver, laborer, Hunlock Township.
No. 2. C. R. Shaw, carpenter, Ross Township.
No. 3. Aaron Follman, ropemaker, Wilkesbarre.
No. 4. Alfred Stevens, clerk, Wilkesbarre.
No. 5. A. H. Shields, carpenter, Wilkesbarre.
No. 6. Herman Gregory, farmer, Huntington Township.
No. 7. Adam Larvon, tinsmith, Sugarloaf Township.
No. 8. Jonas B. Oxrider, carpenter, Sugarloaf Township.
No. 9. D. M. Rood, farmer, Ross Township.
No. 10. C. C. Ransom, contractor, Plymouth.
No. 11. H. A. Wolfe, farmer, Ross Township.
No. 12. A. W. Washburn, carriage maker, Freeland borough.

COURT OF OYER AND TERMINER OF LUCERNE COUNTY

COMMONWEALTH V. MARTIN ET AL.

1. The law of murder, manslaughter, and justifiable homicide in self-defence.
2. The office of sheriff, its origin and history, and herein of the powers and duties of the sheriff, including his right to summon the power of the county or the posse comitatus.
3. The posse comitatus.
4. The nature of riot, and the law of riot.
5. A consideration of the criminal law in reference to the liability of all for the act of one, and its limitations.
6. How a posse comitatus, originally a legal and lawful organization, may become an unlawful assemblage by reason of a subsequent purpose to violate the law.

The charge of the court was delivered March 8, 1898, by Woodward, P. J.

GENTLEMEN OF THE JURY: We are now rapidly approaching the conclusion of this most prolonged and eventful trial, and looking forward to the repose and rest which to all of us will be most welcome after the arduous labor and intense solicitude which it has entailed. The strain, mental and physical, to which we have been

subjected, has been very great, but the burden imposed upon the jury and the weight of responsibility which will rest upon them until the end is reached and the verdict rendered is by far the greatest of all. And I wish at the very outset of my charge to say to you, gentlemen of the jury, what I know will be approved by the learned counsel engaged in the trial, as well as by all careful observers of its progress, that your patient attention, your dignified demeanor, and your constant devotion to your duties under circumstances the most trying have neither escaped our notice nor failed to excite our warmest commendation.

The obligation still resting upon the jury and upon the court is to continue faithful to the high trust imposed upon us respectively, and to exercise the same conscientious care in the performance of the duties remaining to us in the case as has been observed from the time you first took your seats as jurymen up to the present moment. We are to perform these duties as honest men, fearing God, before whom our oaths are recorded, and with perfect loyalty to the law, whose ministers we are.

The defendants, 58 in number, and including the sheriff of the county, stand charged with the murder of Mike Ceslack, on September 10, 1897, at Lattimer, in this county. The deceased died from a gunshot wound inflicted upon the right side of the forehead, fired, as is alleged, by one of the defendants; by which one, however, has not been shown from the evidence in the case. The indictment contains also a second count, charging the crime to be that of voluntary manslaughter. It becomes our duty, therefore, to define to you, gentlemen, the nature of the crimes charged in this indictment, which we now proceed to do.

Murder, as defined by Lord Coke, nearly three hundred years ago, "is where a person of sound memory and discretion unlawfully kills any reasonable creature in being and in the peace of the commonwealth with malice, prepense or aforethought, either express or implied." At common law the crime of murder embraced all cases where the killing was malicious, although the specific intention to take life was not established. Our Pennsylvania statute of 1794 is a departure from the common law, in that it divides the felony of murder into two grades or classes, known as murder in the first and murder in the second degree, the penalty in the one case being death and in the other imprisonment. This classification is based on the distinction that a deliberate intention to take life must be shown to establish the first, while to prove the second no such specific purpose to kill need be shown. The crucial test of murder is malice.

When it has been made clear by the evidence that a homicide has been committed, and that by the hand of the prisoner on trial for the offense, the first inquiry is this: Was the killing malicious? If it was not malicious, then, although it may have been criminal, it will not be murder. Malice as a legal term has a wider and more comprehensive significance than attaches to its ordinary use. It is an evil intent. In the contemplation of the criminal law an act is said to be malicious when it is wrongfully and intentionally done without just cause or excuse, or when it is a conscious violation of the law to the prejudice of another. It comprehends not only a particular hatred or ill will, but also every case where there is a wicked disposition, hardness of heart, cruelty, recklessness of consequences, or a mind regardless of social obligation and duty, although injury to a particular person may not have been intended. All homicide or unlawful killing is presumed to be malicious—that is, murder of some grade. But the presumption which the law makes in all cases of unlawful killing is that it was murder in the second degree and not in the first. The presumption rises no higher than this without proof. When therefore the Commonwealth asks of a jury a conviction of murder in the first degree, she is bound to satisfy them by evidence, and beyond reasonable doubt, that there was in the mind of the accused when he struck the blow or fired the fatal shot an intention to take life. This proof of purpose and intent, however, need not be direct, express, and positive. It may be inferred by the jury from the facts and circumstances of the case. All murder not of the first is necessarily of the second degree. Murder in the second degree includes all unlawful and malicious killing evincing depravity of heart, but where no intention to kill has been established by the evidence to the satisfaction of the jury and beyond a reasonable doubt.

Manslaughter is the unlawful killing of another without malice, express or implied. Homicide, which would otherwise be murder, is not murder, but manslaughter, if the act by which death is caused is done in the heat of passion caused by provocation without time to cool. Where the killing is without malice, though it be unlawful, it is but manslaughter, for even where the intent to kill is unquestionable, still the killing must be malicious to constitute murder.

As the case on trial, in one aspect of it, may raise the question of justifiable homicide, because homicide in self-defense, I proceed to charge you briefly on that subject. And in doing so I adopt the language of Judge King, an eminent jurist of our own State: "A man may repel force by force in the defense of his person, habitation, or property against one or many who manifestly intend and endeavor, by violence or surprise, to commit a known felony on either. In such a case he is not obliged to retreat, but may pursue his adversary till he finds himself out of danger, and, if in

a conflict between them, he happeneth to kill, such killing is justifiable. The right of self-defense in cases of this kind is founded on a law of nature, and is not, nor can be, superseded by any law of society. Where a known felony is attempted upon a person, be it to rob or murder, the party assaulted may repel force by force; and even his servant attendant on him, or any other person present, may interpose for preventing mischief, and if death ensues, the party so interposing will be justified. Here the law of self-defense plainly coincides with the dictates of reason."

Having now stated to you the law of Pennsylvania in reference to the nature of the crime charged in the indictment, we come naturally to the consideration of the character of the evidence upon which the Commonwealth relies for a conviction of the defendants. And, briefly stated, the theory of the prosecution is this: The defendants constituted an organization known as the sheriff's posse, but, although thus known, they were not such a posse comitatus as the law contemplates, for the reason, first, that the circumstances and conditions of the case were not such as to justify the sheriff in calling out the posse; second, that even if the case called for action by the sheriff, his method of summoning the deputies was not in accordance with the law; third, that in any event, the action of the sheriff and his posse on September 10, 1897, was not justifiable, but was unnecessary and criminal, and therefore that the killing of the deceased by any one of the members of the posse was in point of law a malicious murder, for which all are equally responsible. I think that these three statements embrace the whole claim of the Commonwealth on the most important branch of this case, in the most condensed form of presentation which can be fairly made.

It therefore now becomes our duty, gentlemen of the jury, to draw your attention to this question: Was there in what is known as the Hazleton region, just prior to September 10, 1897, such a state of disorder and such a danger of riot, involving destruction of life and property, as to justify the action of the sheriff in calling out the posse comitatus? The answer to this question must be made by you in the light of the whole of the vast amount of testimony which has been taken in your hearing, and which must have impressed your minds in one way or the other, and which, in all its aspects, has been so thoroughly and powerfully presented to your consideration by the learned counsel. But before you reach a final decision in your own minds on this question it will be your duty to refer yourselves to certain views of the case founded on the law applicable to the facts; and first among these will be a careful consideration of the nature of the office of sheriff under our form of government, with a view of ascertaining what power and authority is vested in him, and what ought to be the method and manner of exercising it. In other words, what are the powers and what are the duties of the sheriff of a county?

The office of sheriff is recognized in the earliest annals of the English law. It is much older than Magna Charta, and the exact time of its creation is involved in much obscurity. But the place and function of the sheriff is easily determined. He has been for all times the chief officer of his bailiwick. Under all the systems of government which have recognized the law as the supreme rule of action it has been found absolutely necessary to vest in some one person the ultimate power to preserve the peace, to quell disorder, and to suppress riot. And this person is the sheriff. And his power is largely a discretionary one. In a time of great emergency or in a crisis of unusual danger the limits under which his discretion may be exercised have been held by the courts to be without fixed limits. For this reason the military arm of the Government is never raised to suppress civil disorder until the authority of the sheriff has been exhausted in an unsuccessful effort to maintain the peace. The sheriff may avail himself of the services of military organizations. He may order them into his posse, not as soldiers, but as citizens, trained and disciplined for effective service in critical emergencies. The posse comitatus signifies the whole power of the county, and all able-bodied male persons over the age of 15 may be summoned to act as members of it. To disobey the summons of the sheriff is to be guilty of a misdemeanor, and may subject the offender to the punishment of fine and imprisonment. The nature of the posse comitatus and its power is defined by the English statute, Henry V, ch. 8, paragraph 2, where it is said "that the King's liege people, not being clergymen, women, persons decrepit, or infants under the age of 15, being sufficient to travel, shall be assistance to such justices upon reasonable warning, to ride with them in aid to resist riots, routs, and assemblies, on pain of imprisonment, and to make fine and ransom to the King." Under this statute the English courts have held (see 1 Hawk., c. 65, paragraphs 11 and 12) "that those who thus attend the justices in order to suppress a riot may take with them such weapons as shall be necessary to enable them to effectually do it, and that they may justify beating, wounding, or even killing such rioters as shall resist or refuse to surrender themselves." We conclude our charge on this particular branch of this case with a quotation from Lord Coke, which is as follows:

"The sheriff is the custodian of the life of the Republic; because he is, in his county, the principal conservator of the peace. He defends the county against riot, rebellion, or invasion, and to this end may require the assistance of all persons in it

who are more than 15 years of age, and who when thus assembled under the sheriff's command are called the posse comitatus. To refuse to the sheriff the aid which he requires is an offense punishable with fine and imprisonment."

Having thus called your attention to the nature of the sheriff's office and his right to assemble the power of the county, and asked you to consider the law on these subjects in connection with the inquiry as to whether James Martin did or did not do his duty in the original summons of the posse comitatus, we now come to the question which may be thus stated, and which bears directly upon the transaction laid in the indictment: Was there or was there not, on the 10th of September, 1897, at and in the neighborhood of Lattimer, a state of disorder either amounting in itself to a riot or threatening to result in producing a riot? On this question the views of the Commonwealth and of the defendants, as represented here by learned counsel, are wide apart. And this makes it the duty of the court to instruct you on what may be called the law of riot.

We have a statute in Pennsylvania, passed in 1705, entitled "An act against riots and rioters." It reads as follows: "If any persons to the number of three shall meet together with clubs, stones, or any other hurtful weapons to the terror of any of the peaceable people or inhabitants of this province, and shall commit or design to commit violence or injury upon the person or goods of any of the said inhabitants, and shall be convicted thereof, such persons shall be reputed and punished as rioters according to the law of England; and such act or terror or violence or design of violence shall be deemed and accounted a riot." And the definition in the English law is this:

"Where three or more actually do an unlawful act of violence, either with or without a common cause of quarrel, or even do a lawful act in a violent and tumultuous manner." A riot is further defined as follows: "A tumultuous disturbance of the peace by three persons or more assembling together of their own authority with an intent mutually to assist one another against anyone who shall oppose them in the execution of some enterprise of a private nature, and afterwards executing the same in a violent and turbulent manner, to the terror of the people, whether the act intended were of itself lawful or unlawful."

It is not my purpose in this charge to enter upon any extended discussion of what are known as strikes, or the right of laboring men to form themselves into organized bodies for the purpose of securing better compensation for their labor. I shall content myself with a brief statement of the law as I find it to be in the statute, and the adjudicated cases. And we say to you, gentlemen, that there is no law, either by statutory enactment or by any decision of our courts, to prevent laboring men from stopping work, and going upon a strike whenever, in their opinion, it is for their interest so to do. Nor is there any law which makes it a conspiracy for working men, in any department of human industry, to combine together and by mutual agreement to refuse employment until there has been brought about a satisfactory adjustment between their employers and themselves upon the points at issue. The liberty of contract is not to be infringed either by the employed or by the employer. As the employer has no right to compel a man to work who does not wish to work, so, also, is it true that the employee has no right to compel his fellow-workman to quit work if he wishes to work. The distinction between the right to strike and the right to compel others to strike is a natural and palpable one, and is approved by the instinctive law of right and wrong, as well as by the statutes and the decisions of the courts. And the compulsion denounced by the law is not alone that which consists in actual physical force, applied by one set of men upon another. It may consist in a course of action tending to overawe, or frighten or stampede a body of men who are anxious to work, as well as in laying a violent hand upon the individual workmen and forcing them by main strength to abandon their employment and unite in a strike. Perhaps the most recent decision of our own supreme court on this subject is that of Newman et al. *v.* Commonwealth (5 Central Reporter, 497), where it was said that "if the jury believed from the evidence that large bodies of men were collected about the coal works of J. S. Neel and other coal operators * * * by previous arrangement and concerted action with the intention of intimidating the miners working by the presence of great numbers of persons opposed to the course pursued by said working miners, such combination would be unlawful, and all persons engaged would be guilty of conspiracy." Other decisions to the same effect might be quoted, but we do not consider it necessary to refer to them.

We have thus endeavored, gentlemen, to present to your minds, as briefly as possible, the law of riot in general, as well as the view of that law as applicable to strikes. It will be your province to apply these rules of the law to the facts of this case as you find them to be after a full and fair consideration of the whole volume of the testimony. Your conclusion upon the questions already presented are of the most vital consequence in the ultimate disposition of the main question in this case, viz: Are the defendants guilty or not guilty of either of the offenses charged in the indictment? This will become evident to you as we take the next step in the case.

The defendants, as we again remind you, are all and jointly indicted for the killing of the deceased. The Commonwealth, in the absence of any proof as to who fired the fatal shot, asks for the conviction of all the defendants on the ground that the action of the sheriff's posse was a criminal action; that the original call for the posse was unnecessary, or even if justifiable, that the subsequent action, and especially the shooting on September 10, can not be justified under the evidence, and that therefore the act of any member of the posse was the act of all the members of it, for which each and every one is equally responsible in the contemplation of the law. This raises another question of law, upon which we now proceed to instruct you; and we say to you that the law is: That where several persons take part in the execution of a criminal purpose all are equally liable for the acts of each, and for the incidental and probable consequences of the joint purpose. An English text writer states the rule in this way: "Although if many came upon an unlawful design and one of the company kill the adverse party in pursuance of that design, all are principals; yet if many come upon a lawful account and one of the company kill another of an adverse party without any particular abetment of the rest to this act of homicide, they are not all guilty that are of the company, but only those that gave the stroke or actually abetted them to do it."

The question whether the purpose of the sheriff and his posse on the 10th of September, 1897, was a criminal one can not be fairly answered without a comprehensive review of all the facts and occurrences which led up to, and culminated in, the final volley fired by the deputies on that day, and which resulted in the death of the person named in the indictment. The events of the week preceding the 10th are so knit together in the fabric of the case that they can not be considered as entirely independent and separate transactions, but must be regarded as constituting together the history of the case. If the sheriff became satisfied, after careful examination of the situation in and about Hazleton, that the public peace was threatened, that the people were terrorized, and that there was danger of riot if the demonstrations of the men engaged in the strike were allowed to proceed, he had the right as the chief officer of the county to summon a posse to assist him in the preservation of order and in the prevention of riot. For it can not be doubted that the duty of a sheriff is to prevent the danger of disorder as well as to suppress a riot which has become flagrant and destructive. Leaving out of view all the facts on this branch of the case which are controverted, and in reference to which the witnesses differ, it is certainly true that both at West Hazleton and at Lattimer the great body of the strikers failed to obey the sheriff when he ordered them to disperse and insisted on pushing on. Nor can it be doubted that the sheriff had the right, in the exercise of the discretion vested in him by the law, to issue the order. And if it was the right of the sheriff to command the crowd to disperse, then it was the duty of the crowd to obey his command. The right to give the order implies the duty of obedience to the order, and disobedience of it is evidence of a riotous purpose. If I push on when the sheriff orders me to stop, I do so at my peril. Of course this obligation of obedience to the authority of the peace officer of the county is not confined to laboring men. It extends to and embraces all the inhabitants of the county, rich and poor, high and low. A company composed of the most wealthy and most prominent men of a community, if marching upon a public highway at a time or under circumstances which, in the judgment and discretion of the sheriff, rendered such a demonstration dangerous to the public peace, would be bound to disperse if ordered to do so. And compliance with the order should be prompt and complete. If you are satisfied, gentlemen, from the evidence that the purpose of the sheriff and of the posse was to preserve order and prevent a riot, then it would follow that their intent and object was not a criminal or unlawful one, and the rule of the law which makes the act of one the act of all has no application to the facts of this case. If, on the contrary, you are convinced by the evidence that the sheriff was not actuated by a desire and intention to preserve the peace, but that he summoned his posse with the idea of inflicting upon the body of men known in the case as strikers wanton and unnecessary outrage and injury, without reference to their action and conduct—if, in short, his purpose was a base, malicious, and wicked one, then, so far as he was concerned, if they understood his motive and acted with the same intent, the fact of a criminal and unlawful combination would be established, and then all the defendants might be convicted, although the shot which took the life of the deceased was fired by a single one of the defendants. The act of any one would, in that event, be the act of all. If under all the evidence in the case you are not satisfied beyond a reasonable doubt that the sheriff and his posse were impelled by a criminal or unlawful purpose, then the doctrine of the law which the Commonwealth invokes—that where there are many defendants the criminal act of one of them is, under certain circumstances, to be regarded as the criminal act of all—has, as we have already said, no place in this case.

It is claimed by the Commonwealth that after the firing of the volley some one of the defendants left the line of the deputies and continued to shoot at the strikers as they fled to the rear. Some of the witnesses for the prosecution swore that such was

the case. But this was strenuously denied by all the witnesses for the defense who were on the ground, and there is no undisputed evidence identifying any one of the defendants as the party implicated in any such movement. We say to you that if the purpose of the posse and of the sheriff was originally a lawful purpose, and one of the deputies, in disobedience of the sheriff's order in reference to firing, did continue to fire after all necessity for so doing had ceased, then if such person could be identified as the slayer of the deceased he ought to be convicted of one or the other of the offenses charged in this indictment, as the jury might decide.

In every criminal trial there are two rights which belong to the accused, and which attach to him at every stage of it, and in every view of it. These are the presumption of innocence, and the benefit of the reasonable doubt. Under English and American law, and as one of its features which distinguish it from what seems to have been the system of trial in a foreign country, where a criminal case of great interest has proceeded very recently, a person accused of crime is presumed to be innocent. This presumption must be overcome by proof, and by proof which will leave in the minds of the jury no reasonable doubt of guilt. In trials for murder, as in all others of a criminal nature, the defendants are entitled to the benefit of what is known as a reasonable doubt—that is, the feeling of uncertainty as to the guilt of the accused which remains in the mind of an honest man after a full, fair, and conscientious consideration of all the evidence.

I have endeavored in all that has been said up to this point to direct your attention to the principles and rules of law, which it will be your duty to keep constantly in view as you approach the determination of this case. It is the province of the court to expound the law, but it is the duty of the jury to apply the law to the facts as, from the evidence of the case, you find them to be. Wherever I have alluded to the events which preceded, and, as it is alleged, led up to the final scene at Lattimer, I have made the effort to base my statements upon the testimony which is undisputed, rather than upon that which is controverted, or, in plainer words, upon that about which the witnesses disagree.

After a careful examination of all the testimony, I am prepared to say that the most, if not the only, material questions in respect to which the witnesses differ in their statements as to the occurrences at Lattimer are: First, as to the number of men who surrounded the sheriff after his effort to arrest one of the strikers; second, as to the firing—was it continued after the ranks of the strikers had broken and were in retreat, or did it cease when the volley was fired? It is alleged by the Commonwealth that those of the killed and wounded who were shot in the back received their wounds while in the act of running away, and from shots delivered after the main volley had been fired. It is claimed by the defendants that the evidence shows that the firing ended with the volley while the strikers, or some of them at least, were still advancing toward the line of the deputies, and that those of the strikers who received wounds in the back were among those who surrounded the sheriff when he made the arrest and was pushed from the main road to the ditch on one side of it. The orders of the sheriff were not to fire unless he gave the word, or unless his own life was in danger and he was so situated as not to be able to issue an order, or unless the deputies themselves were in danger of losing their own lives by an assault made upon them. The settlement of these disputed points by the jury may be important, as will appear when we come to pass upon the legal points submitted by the counsel for the defense, and for the jury upon the question, whether the posse comitatus, originally a legally constituted body, did or did not become an unlawful assemblage by reason of any subsequent determination to disregard the law and commit crime.

We now say to you that the testimony of the sheriff himself as to what occurred at Lattimer after he went forward to meet the strikers is not in any material particular that we can discover contradicted by the evidence on the part of the Commonwealth. We therefore reproduce a portion of it as taken from the stenographic report, omitting nothing that seems to be material to the main question involved in the case.

"We were running along the bank, and we heard the strikers say, 'Come on, you s—— of b——, we are not afraid of you.' We ran down the bank, and one or two called me a s—— of b——. I read the proclamation. I arrested one man and handed him over to the deputies. They pushed right on by me. Then I pulled out my revolver and asked them to stop again. They didn't seem to have any system. They were very angry and loud. Some had clubs. I argued with them, saying I was the sheriff, and it was my duty to stop them. They were pushing on, and I called four or five of the deputies to come down, and in response Deputies Cook, Platt, and Ely came down. They pushed the crowd back with their guns. A number tried to throw stones and to hit me.

"I again advised the crowd to go home, as they might get hurt. Four men seemed to be leaders, one of whom was Egla. They talked about wages, and I said I couldn't give them wages; 'I would give you wages if I could.' Time and again they said

they would go to Lattimer. Some said, 'I am not a citizen, and you can not do anything to me.' This angered me to some extent, and I did use some strong language. They held a meeting, and it seemed some wanted to go home. I was told they had started for Lattimer, and to that I said I didn't want to have any more trouble that day. I was tired and weary of marching around. But we finally agreed to go to Lattimer.

"At Farley's the strikers stopped to hold a consultation. They marched on to Lattimer. We started on, and at Lattimer I said, 'This will be a good place to stop them.' The deputies formed in a horseshoe, but I ordered them to stand on the side of the road. I spoke to them again; ordered them to keep cool. I would meet them alone. I can not describe how I felt. I thought something was going to happen. One of the deputies asked if he could go with me. I said no, one was enough to lose his life. I got to the middle of the road. One young fellow in the crowd said 's—— of b——, no good; go ahead.' I tried to arrest him, but failed. The crowd surged around me and I thought everybody in that crowd was punching me. One man gave me a terrific blow on the side of the head. I tried to shoot that man, but my pistol would not go off. Then the firing began.

"Q. You say you were on your knees when the firing began?—A. Yes.

"Q. State what you saw.—A. I saw two men with revolvers and one with a knife, who made a lunge at me.

"Q. Were any shot near when you were on your knees?—A. Yes; two or three.

"Q. What did you do when you got up from your knees?—A. I raised my arms.

"Q. What did you do next?—A. I ordered doctors and cars for the wounded. Then I ordered water and bandages.

"Q. Go on.—A. Well, I gave general orders for some of the deputies to stand by their guns, as some of the crowd had not yet dispersed. The crowd had run about 600 yards and stopped. Then, shortly after, they went away.

"Q. You remained to care for the wounded?—A. I did.

"Q. You did not fire your revolver on that occasion?—A. No; it would not go off.

"Q. Is this the revolver?—A. It is.

"Q. Is it loaded?—A. Yes.

"Q. Why would it not go off that day?—A. Can't say; it may have become useless because of the sweat that got on it."

What remains to be said upon the law of this case will be submitted in response to the written points submitted by the defendants.

The judge read and passed upon these points one by one, as follows:

1. Affirmed.
2. Affirmed as to the first specification. I decline to affirm the second, as it is too broad.
3. Affirmed.
4. Affirmed, with this qualification, that he does not have to require them to bring arms, but he may require them to do so.
5. Affirmed, with the qualification that "if they conspired," not "they conspired."
6. Affirmed.
7. Affirmed as to the original meaning of the posse; beyond that not affirmed.
8. This is a fact for the jury to decide; I decline to affirm it.
9. I decline to affirm it.
10. Affirmed.
11. Affirmed.
12. This is too broad; I decline to affirm it.
13. (*a*) Affirmed. (*b*) I decline to affirm. (*c*) Affirmed.
14. Affirmed.
15. Affirmed.
16. I decline to affirm it, as to do so would be to take the case entirely from the jury. If the jury believe the facts as stated in the trial they can affirm it as a point of law.

In conclusion, gentlemen, you will say by your verdict whether the defendants, or any of them, are guilty or not guilty. If you find all, or any of them, guilty of murder, you will also say whether of murder in the first degree, or of murder in the second degree, or of manslaughter. If you determine to acquit them both of murder and manslaughter, then you will render a general verdict of not guilty. The duty of the court has now been performed and the case is in your hands.

Thomas R. Martin, district attorney; John McGahren, John M. Garman, James Scarlet, P. F. Laughran, for Commonwealth.

Hon. H. W. Palmer, Hon. C. W. Kline, John T. Lenahan, George H. Troutman, George S. Ferris, F. W. Wheaton, George Urquhart, for defendants.

DEFENDANTS' POINTS.

Counsel for defendants respectfully request the court to charge the jury as follows:

1. The sheriff is the chief conservator of the public peace within his bailiwick, and is bound, ex officio, to the performance of this duty. For this purpose he may command the posse comitatus, or power of the county, and every male over 15 years is bound to obey this call under pain of fine and imprisonment.

2. In exercising his authority to call out his posse, it is the exclusive duty of the sheriff to determine whether the occasion which demands such action exists. If it is made to appear to him that tumult or riot is threatened, he may make the call. In the determination of this fact he exercises a judicial power, and his judgment can not be examined into and reviewed in ulterior proceedings against him in the light of subsequent events.

3. No particular formality is required on the part of the sheriff in calling out the posse, and no formal method of deputation of the members of the posse need be proven.

4. The sheriff must command every man he summons to bring his arms, and whether commanded or not every man summoned on the sheriff's posse has the right to come armed.

5. The sheriff's posse are a lawful assemblage without such positive proof as shall satisfy the mind, beyond a reasonable doubt, that they conspired and combined to do some unlawful act inconsistent with the acts which they were called upon to perform in the line of their duty.

6. Evidence that each one, or particular ones, acted illegally or maliciously is not proof of a conspiracy.

7. There is no evidence in this case which would warrant a finding that the defendants were an unlawful assemblage.

8. The strikers, including Mike Ceslak, the deceased, were an unlawful assemblage; a body of rioters.

9. The question of whether it was necessary to resort to the extreme means of firing on the strikers in order to disperse them, was one of judgment which can not be questioned even though it shall appear that the firing was not necessary, if the judgment was honestly formed and executed.

10. If the jury shall find that the prisoners had reason to believe that the strikers were about to assault them, and that they were in danger of loss of life, or of grievous bodily harm, or of being overpowered, then they had the right to defend themselves by the use of force sufficient to repel the assault.

11. If the jury find that the prisoners honestly believed that they were in danger of being assaulted by the strikers, and of suffering loss of life or grievous bodily harm, or of being overpowered, they had the right to use force sufficient to repel the assault, and they can not be found guilty of any offense under this indictment, even if the jury find that such a belief was unfounded.

12. The evidence, if believed, establishes the fact that at the time Mike Ceslak was killed the prisoners were acting as the posse of the sheriff and under his orders. As such they had the right to use all necessary force, even to the taking of life, to disperse the assembly of strikers, if they refused to disperse after being warned to do so.

13. If any deputy willfully, knowingly, and maliciously continued firing after the necessity for firing had ceased, and did, by such firing, kill Mike Ceslak, he may be found guilty under the indictment; but to convict anyone, the jury must be satisfied beyond a reasonable doubt:

(*a*) That some person did so fire, and be able to identify the person.

(*b*) That he did it willfully and maliciously, intending to kill.

(*c*) That Mike Ceslak was killed by such person.

14. As the testimony does not disclose the identity of any person who fired in the manner described, a conviction of any of the prisoners would not be warranted.

15. Before any of the prisoners can be convicted, the jury must be satisfied beyond a reasonable doubt:

(*a*) That some one of them had special malice toward the deceased or general malice toward the whole body of strikers and intended unlawfully to kill some one of them without caring which one.

(*b*) That such malicious-disposed person did in fact fire and kill Mike Ceslak.

(*c*) That the evidence clearly identifies that particular person.

16. That it appears from the evidence, substantially without dispute, that the prisoners were lawfully aiding the sheriff as a posse, duly appointed, at the time Mike Ceslak was killed and that their purpose was to disperse an unlawful assemblage of which the deceased was one; that there was no conspiracy among them to do an unlawful act or to do a lawful act in an unlawful way. Therefore the act of one can not be imputed to the others. Each one is to be held accountable only for what he himself did. The evidence failing to identify the person who shot Mike Ceslak, there can be no conviction under the indictment.

Mr. Day to Mr. Hengelmüller.

No. 216.] DEPARTMENT OF STATE,
Washington, April 16, 1898.

SIR: I have the honor to transmit herewith copy of the report made to this Department by Hon. Henry M. Hoyt, Assistant Attorney-General of the United States, of the trial of Sheriff Martin and his deputies, at Wilkesbarre, Pa., on the charge of killing and wounding certain Austrian subjects and others at Lattimer, Pa., on September 10, 1897.

I avail myself, etc.,

WILLIAM R. DAY.

Mr. Hoyt to Mr. Day.

DEPARTMENT OF JUSTICE,
Washington, D. C., April 19, 1898.

MY DEAR SIR: I send herewith a separate memorandum on the Lattimer Case in accordance with your suggestion. I fear my consideration of the underlying facts may have outrun the limits of the inquiry; but, if so, the paper is so arranged that the questions of public law involved are embraced separately under Part III and, if you wish, the memorandum can be recast and substantially restricted to that portion. Awaiting any indication of your wishes in the matter, I remain,

Yours, very respectfully, HENRY M. HOYT,
Assistant Attorney-General.

[Inclosure.]

Memorandum to Department of State on facts in Commonwealth v. James Martin, sheriff, et al., court of oyer and terminer, Luzerne County, Pa., February–March, 1898.—"Lattimer Case."

In considering the questions involved in this case it will be well to state some of the underlying facts and to discuss the principles of criminal law and of public law and the precedents under the latter, in order to reach a correct determination as to the proper attitude of the United States regarding the claim for indemnity presented by the Austrian Government.

I.

UNDERLYING FACTS—THE STRIKE.

The strike in the Hazleton coal regions, in consequence of which the sheriff called out his posse, and the fatal conflict at Lattimer took place, originated at the Audenried mines of the Lehigh and Wilkesbarre Coal Company from a trivial controversy between the local superintendent of the coal company and the mule drivers as to extra pay for overtime. This occurred in the first two or three days of September, 1897. A day or two after the dissatisfied men assembled their fellow-workers and formally organized the Lehigh and Wilkesbarre strike at Audenried. The colliers of other operators and companies were soon involved, and walking delegates appeared, formulated the grievances, and ordered a general strike.

The grievances were that the men were not paid higher wages; that they were charged too much for powder; and "the company store," including in the latter, complaints against the "company doctor" and the "company priest."

Thereupon the marching and tumults began as detailed in the Lattimer trial. Employees of some of the companies and firms really had no grievances, but were compelled to quit work, and, being idle, determined that all collieries in the region should be in the same predicament.

As to the grievances.—The wages paid at the time were practically the same as had been paid for a number of years (there had been no reduction), and the operators claimed that there was nothing at the time to warrant a demand for increased wages. Because of the depressed condition of the trade, the demand for an increase in wages is claimed to have been unreasonable. The difficulty here rested not so much in the per diem wages as in the fact that, on account of the light demand for anthracite coal, the mine operators were compelled to restrict the output, and their employees were therefore placed on short time and were able to work only a few days in each week. The employers, of course, state that they had no control over this condition of affairs, and would have been glad if the market had enabled them to work full time and dispose of their product. In other words, the proper conclusion seems to be that the wages would probably have been fair if work could have been regular, but for the past few years interruptions have been so frequent and mining so fitful as to put the average mine laborer on a very low basis of living.

Similarly, the price for powder is said not to have been changed substantially for the past ten years. It is urged that it is entirely immaterial to the miner, who seems to be the only person affected, what the price of powder is. Wages in that region are upon a sliding scale, established many years ago when the price of powder was the same as to-day. The car price of coal for the miner was contracted for with reference to the then price per keg of powder, and this price has never been departed from. Wages are fixed with reference to the price per keg of powder upon the basis of the number of cars of coal that can be blasted out per keg. For example, the price for powder being always the same, the car price for coal varies, increasing with the hardness of the vein or other blasting difficulty, and the net result to the miner is derived by deducting the fixed powder price from the car price, the result being uniformity of net wages to the miner. If the price of powder were reduced, there would follow necessarily a reduction in the car price for coal, so that the results to the miner would be the same. As it would be extremely difficu't to reduce the car price for coal in view of the exigencies of the trade, it is claimed to be more expedient to maintain the powder price, and that the system works no harm to the miner. Furthermore, the operators say that they supply the powder themselves for the protection both of the men and the mines, from the point of view of the quality necessary, and that they only charge such an advance on the cost price as is reasonable, to pay for the expense of safe handling. They claim that experience shows that the men can not safely buy powder whenever they choose, and that inferior powders lead to excessive smoke, poisonous gases, imperfect and unexpected explosion of charges, and other intolerable evils.

As to the company stores.—Some of them are of great benefit to the communities in which they are, and others are of great disadvantage as a means of oppression; it depends entirely upon how the particular store is managed. Therefore it could not be stated that a

grievance founded upon the company's store was well founded without knowing the facts of the special case. In the Hazleton region it seems that the larger corporations and individual operators do not maintain company stores. On behalf of the stores it is argued that they benefit by selling good articles at fair prices to men who can not wait until pay day; that no man is compelled to trade at the store, and that the complaint comes from rival interests—the saloons, itinerant hucksters, etc., who wish the business. But on the other hand, company stores have existed and probably now exist that are fairly the subject of criticism, and it is a well-known fact that the store system is made oppressive and vexatious by some operators in many ways which are obvious and in common knowledge. It would probably be of ultimate advantage to all interests if all the company stores were abolished, the good with the bad.

Thoughtful observers, therefore, conclude that the strikers in the Lehigh region, mostly foreigners, had no well founded grievances growing out of low wages, high powder, or company stores which justified them in the general strike which was brought about, although it is likely, as to the company store charge, that there may have been individual operators in the region where a strike based upon that ground would be founded upon a real grievance.

As to the people and their race affiliations.—Almost all of the people among the strikers were of foreign birth and were of the Slavonic and allied races. As a class they are ignorant and from our point of view uncivilized. Compared with such people as our own, they represent a status of civilization to find which generally we should have to go back several centuries. Their manner of life, their standard of living, their domestic relations, and moral sanctions are all crude and defective in comparison with any proper standards. They live huddled together in dwellings which are kept in an untidy and slovenly condition, and in that respect are mere hovels. They are turbulent by disposition, and while not intemperate perhaps by steady habit, indulge in orgies of intemperance on occasions, which very often result in affrays and murders; although it must be added that upon these occasions their criminal conduct is almost exclusively confined to themselves and does not break out in aggressions upon other portions of the communities where they live. The marriage relation is regarded from a lax point of view among them, and if any mishap befalls the husband, as by accidents in the mines, so that he is disabled, the wife is very apt to repudiate him, and in this respect the fate of unfortunates is somewhat like that of wounded animals. These statements are borne out within the writer's knowledge from experience of the region and from reliable information; and recent articles in the Century Magazine (April, 1898, "A Pennsylvania colliery village;" (1) "A polyglot community," by Henry Edward Rood; (2) "An artist's impressions of the colliery religion," by Jay Hambidge) confirm the statements, and in the writer's opinion do not overstate the case. At the same time it must be said that our own citizens who come close to them, like the physicians, report them to be affectionate toward their children, attached in a certain emotional way to their churches, grateful for any service rendered them, and loyal to those who help them or show them kindness.

Notwithstanding these facts, which almost necessarily result when a lower race of people is brought into contact with a higher and different civilization, I believe that they are being and will be successfully amalgamated, and on the whole as rapidly and satisfactorily as any of the previous great race migrations to this country. Consequently, their

case does not appear to me to require the application of any stricter immigration laws so long as those who are distinctly of the criminal and defective classes are barred out by the rigid enforcement of the existing laws. It seems to be the case that their violent traits are being softened in a marked degree and that their general improvement is steady, though perhaps not rapid. This is believed by thoughtful observers throughout the Pennsylvania coal regions. They are also said to be thrifty as a people, and to show a strong desire to become citizens (though this statement meets some denial); to own their own homes, to send their children to school, and to share in the advance and prosperity of this country.

Closing this general statement of their temperament, it may be said that the hope of the future, as always, rests with the children. The spiritual qualities which are claimed by enlightened observers to exist as a race trait in the Slavic strain appear most hopefully in the children. They are said to be vigorous, physically and mentally, and sound in their moral endowment. If this is so, and there appears to be no reason to doubt it, it is a case where the sins of the fathers are not such as to weigh fatally in the heredity of the children. They avail themselves largely of the public-school system, and are said to exhibit particularly bright minds as compared with the children of other races. Their proper training to achieve their right development as future citizens rests mainly with ourselves.

The majority of the Slavonic people in the Hazleton region, including most, if not all, of those killed and wounded at Lattimer, came to this country from territory within the present empire and kingdom of Austria-Hungary. They embrace the Magyar, the superior native stock of Hungary, appearing to be of western rather than of eastern origin, and the Slavs or Slavak, mainly from the northern districts of Hungary, who are of the Slavonic race, and originally came into Hungary from the east. The majority of the Hungarians in the Hazleton region are of the latter class, but they are all called Huns in common parlance, which term is also extended, but ignorantly, to the other race elements there now to be mentioned. There are a few Lithuanians. The Lithuanian comes from Lithuania, in Russia, and is a Russia Pole. There are also many Austrian Poles; they come mostly from Gallicia, which fell to Austria in the last partition of Poland. There are some German Poles and Germans from the contiguous territories of Bohemia and Moravia and from Prussia. The larger number of such people about Hazleton appear to be Huns of the Slavic stock and Poles of the same stock, now under Austrian dominion. The language and dialects spoken follow these distinctions. The Magyar, which stock has few representatives here, is not much spoken, although it is the classical and official Hungarian tongue. The Magyar and Slavak are distinct peoples. They can not understand each other and differ in appearance and in physical and mental make-up. Many of the witnesses examined spoke through sundry interpreters in these various tongues. It should be added that there are numerous Italians in the district, but none seem to have been included among the men killed and wounded. There were a few Italian witnesses. They come from Lombardy and Naples. There are some Italians in the region who are Tyroleans. They come from that part of the Austrian Tyrol which fell to Austria as the result of the last war with Italy. These people are Italians in race and language, but Austrian in nationality.

In their religious relations there seems to be a division without much regard to race lines between Protestants of the Lutheran faith and

Catholics, the latter perhaps predominating. Some of the Catholics are of the Greek Church and some of the Roman, but the latter appear to be what are called "Uniats," which term indicates the historical admission into the administration of the Roman Church about a century ago of a section of the Greek Catholic Church, under which the latter was permitted to retain many distinguishing features of the Greek creed and ecclesiastical system. Some of the Hungarian Catholics are "Uniats" or of the Roman Church. There are some inhabitants of ancient Poland (Gallicia) who are Greek Catholics. These are of the "Little Russia" race and speak the "Little Russia" dialect.

As to citizenship and naturalization.—It is stated that all these peoples wish to become citizens of the United States, and that many individuals have become naturalized, particularly among the Poles; that few of them return to their own country, except the Magyars, who are more apt to go back. On the other hand, it is confidently stated by some people that the general tendency of all these foreigners is to stay here for a few years without becoming naturalized (or, if they do become citizens, without meaning much by it or attaching much importance to it) to amass by the utmost frugality and narrow way of living what is to them a competence, and then to return to their native countries.

There appears to be more ignorance among the Lithuanians or Russian Poles than in any other strain. There are few of such Poles, however, and few Jews among any of the races; probably 90 per cent of them being strongly anti-Semetic. The naturalization records in Luzerne County do not show, apparently, that any of the men killed and wounded, nor, so far as examined, any of the witnesses of these foreign origins, have been naturalized. This is not, of course, conclusive, because they may have been naturalized elsewhere, and some allowance must be made for the interminable variation in the spelling of names, by which, for instance, the name Ceslak becomes Czeslach and Cheslock (although this particular name is easily traced), and the termination "Kawitch" becomes "Cavage" and "Kiewicz." If, however, it becomes necessary as a result of the trial to pursue investigation on this line, it is suggested that it could be learned through a detective, and by careful examination of the naturalization records there and in contiguous counties, and by the voting registry lists in the various election precincts what the status as to citizenship of the men killed and wounded was. Furthermore, light will be thrown on this subject by the corporation records kept under an act of Pennsylvania, approved June 15, 1897 (P. L. 1897, p. 166), by which the employment of alien labor is regulated and a per capita tax imposed in respect thereof and records required to be kept. The constitutionality of this act has been assailed and is not yet determined, but many of the coal companies in the Hazleton district have kept the naturalization record therein provided for. It is also the fact that most of the people killed and wounded come from the village of Harwood, near Hazleton, and the inquiry concerning their status as citizens or foreign subjects would therefore be within narrow limits.

The conclusion to be drawn from the foregoing consequently is that the men killed and wounded were of Hungarian or Polish origin in most instances; that they probably were or originally had been Austrian subjects, but that since these people, when arriving here, may or may not have sought naturalization, the status of any individual as a foreign subject, in case a claim for identity is made, should be affirmatively established.

There is probably no doubt that while, owing to their turbulent character and the reckless temperament developed by the hard conditions and precarious circumstances under which they live, there were leaders among these strikers who deliberately fomented disturbances and not only sympathized with hostility to the more prosperous classes of the community and to the interests of capital, but were ready to lift their hands in positive attack against these interests, a great mass of them were duped and misled, owing to their ignorance, to their unfamiliarity with our system of law and government, and to the pernicious efforts among them of members of the class of political agitators and organizers. For instance, two remarks made by strikers at West Hazleton to the sheriff, brought out in the testimony, show the ignorance and the recklessness born of it under the inspiration of which they spoke and acted. One man said to the sheriff: "I am no citizen, so you can't do nothing to me. You can't stop me." And another said to him, pointing to his own breast: "Me no citizen. You shoot me here; you kill me; my wife and children get lots of money."

Another fact to be noticed is that there was no apparent indication that the conduct of the trial and its result was not fully acquiesced in by all classes in the community. When the tragedy first happened, and before all the facts that led up to it and all the circumstances connected with it were known, the feeling even of the more responsible and reliable elements of the community held the sheriff and his men up to stringent criticism, and much indignation was aroused. But subsequently, as the facts became known (and they were not fully known until the evidence at the trial brought them out), the public sentiment underwent a complete change, and the feeling that the sheriff and his deputies had acted justifiably and should be supported became the dominant opinion of the entire region.

This suggests the question as to the trial of the remaining indictments and the change of venue. I do not believe, however, that a change of venue to any other county of eastern Pennsylvania, or for the matter of that to any county in Pennsylvania, would result otherwise than in acquittal. The editorials of the significant newspapers of the country, which were followed by me quite thoroughly, fully support the view that the conflict was unavoidable, and that the sheriff was properly vindicated.

II.

THE CRIMINAL LAW INVOLVED.

In viewing the principles of criminal law applicable to the case, we can not do better than follow the course of the luminous and admirable charge of the court to the jury. The judge defines murder under the common law, quoting Coke's definition, and under the statute law of Pennsylvania creating the division into murder of the first and second degree, shows the distinction between manslaughter and murder and the limits of the doctrine of self-defense. He states the contention of the prosecution that the circumstances did not demand the calling out of the sheriff and his posse, and that the latter were not properly organized or legally constituted, and that in any event the killing was unnecessary and unjustifiable, from which the prosecution deduced the argument that the killing of the deceased by any member of the posse was a malicious murder for which all were responsible. Was there such a disorder in the region, the judge asks, as to justify the sheriff? This question is to be answered in the light of the whole testi-

mony, at which point the court discusses the nature of the office of the sheriff, his powers and duties. He is the chief peace officer of the county, and his power is largely discretionary. In times of emergency its limits are not fixed. The military arm of the Government awaits his action, and, indeed, he may call the militia into his service as members of a posse, not, however, as soldiers, but as citizens. The posse must obey him. The court then points out that the respective views of the prosecution and defense as to the facts of disorder are wide apart. Thence he discusses the law of riot in Pennsylvania and defines riot under the common law and under the law of Pennsylvania. In effect a state of riot exists which is obnoxious to the law and subject to punishment when three or more persons do an unlawful act of violence or do a lawful act in a violent and tumultuous manner. He does not discuss strikes, but states the law upon the subject briefly as found in statutes and adjudicated cases. There is no law against going on strike or against employees combining together and refusing their employment until a dispute with their employer is settled. The liberty of contract is not to be infringed, either by employer or employed. Employers can not compel their men to work, and on the other hand it is equally true that employees can not compel a workman to quit work if he wishes to work. Further, the compulsion denounced is not only physical force, but overawing and intimidating conduct of any kind. The jury must apply these principles to the facts, and the conclusion on this branch of the case is of vital importance in disposing ultimately of the main question, namely, are the defendants guilty of the charge in the indictment? If the calling out of the posse was unnecessary, and the consequent action unjustifiable, the act of one is the act of all, and all are equally responsible with the man who fired the fatal shot, because where several take part in the execution of a criminal purpose all are equally liable for the acts of each; but the question whether the purpose of the sheriff and his posse was criminal can not be fairly answered without a comprehensive review of all the occurrences leading up to the final volley. If the sheriff becomes satisfied that the public peace is threatened and that people are terrorized, it is his duty to act. It is the duty of the sheriff to prevent disorder just as much as to suppress a riot which has become flagrant and destructive. Leaving out the controverted facts, it is certainly true that the strikers failed to obey the sheriff at West Hazleton and Lattimer, and insisted on pushing on. The sheriff had the right to issue the order to the strikers to disperse, and the right to give the order implies the corresponding duty of obedience by all, rich and poor alike. If the jury is satisfied that the intent of the sheriff was to preserve order, then his action was not criminal. If, on the contrary, they are satisfied that his purpose was not to preserve peace, but was base and malicious, then the unlawful or malicious act of one of the deputies is the act of all. Yet if, under all the evidence, they are not satisfied of a malicious purpose beyond reasonable doubt, then the doctrine that the act of one is the act of all has no place in the case. Finally, if the original purpose was lawful, but if one or more of the deputies continued to fire after the necessity ceased, then if such slayer or slayers are identified they ought to be convicted of one or other of the offenses charged, as the jury may decide; but it is to be observed that two rights attached to the accused in every view and at every stage of the proceedings, namely, the presumption of innocence and the benefit of reasonable doubt. (End of abstract of court's charge.)

The law of Pennsylvania upon the subject of a sheriff's duty in the

face of a mob is clearly shown in the charge of Judge Jones to the grand jury of Philadelphia County in the case in re Riots of 1884. (2 Pa. Law Journal Reports, 138.) The principles of this case have been followed since in later cases, in Pennsylvania and elsewhere, in which it has been pointed out that there are two kinds of riot, one an overt act or acts done in addition to the riotous assembling together; and second, where no acts are done or are necessary, but the assembling in terrorem populi constitutes the offense; that it is not enough to show error in judgment on the part of the sheriff, but there must be malicious and willful error; that the sheriff has not only the right, but is bound to keep the peace, and that while executive power is always liable to be dangerous to liberty, on the other hand, without it a government dissolves in anarchy.

My conclusion, from review of the facts and law, is that the sheriff and his posse followed violent, turbulent bands of strikers about the Hazleton region for a week, meeting them with tact and patience, dispersing and repressing them without any conflict and almost without altercation, and that, although in any such case it can not properly be said that forbearance ceases to be virtue, the limits of forbearance had been reached at Lattimer, and the culmination of disorder and riot could not have been suppressed without the conflict that occurred and the consequent loss of life, unless the sheriff and his men had yielded and retreated or had become the victims of infuriated men whom they were unavailingly seeking to repel without an appeal to arms. If the case were less strong than this I can see no escape from the following statement:

The sheriff is, and from time immemorial has been, an officer of large powers and wide discretion. His powers are executive in one aspect, and in another largely judicial. He is not required to wait to be moved to their exercise upon the action or command of a court or a superior executive officer or the military authorities. He determines in the necessarily large discretion assigned him when the circumstances are such, or such an emergency has arisen, as to demand his action, and it is for him also to say when it is necessary that the action shall be extreme. The ultimate protection against unjustifiable action resides here, as it does in any similar case, in the judgment, sense, and self-control of the official, founded, as these qualities are, upon the final power of relf-restraint and self-government in the community. The underlying sanctions and restraints affecting both the official and the people are moral and instinctive, and consequently they evade any further analysis or legal definition.

The jury, as stated, was a representative and intelligent jury of the people. I do not believe that they were swayed by prejudice or passion. Their verdict seemed to have been reached after due deliberation with promptness and without dissent. Their verdict, of course, means that the sheriff and his men, under all the circumstances, were fully justified in what they did, and I can not see why this does not entirely settle the matter.

These last considerations have an intimate bearing upon the question of public law next to be discussed. It is sufficient here merely to refer again to the contention in the report itself, namely, that irrespective of further criminal trials on this issue, and before the question of indemnity can properly be considered, in my judgment the right to damages ought to be established, or the effort to establish it ought to be made by a civil suit or suits for damages in the common pleas court of Luzerne County, to be brought against the sheriff and his deputies.

III.

THE PRINCIPLES OF PUBLIC LAW APPLICABLE.

May indemnity from the United States properly be claimed by foreign Governments in behalf of the widows and next of kin of aliens killed and wounded at Lattimer?

The Lattimer Case clearly does not fall within the class of cases of which the Spanish incident at New Orleans in 1851 is a striking example. In that case a riotous mob attacked and sacked the Spanish consulate at New Orleans and the shops of sundry Spanish residents, in consequence of which the lives of Spaniards seem to have been endangered and considerable property belonging to them was destroyed. The circumstances leading to the attack—the summary execution in Cuba of a number of American citizens who had accompanied the insurrectionary expedition of Lopez to that island—explain, while they do not justify, the vindictive passion and violence of the mob. The special rights and immunities of a consul entered into this case, and the United States accorded to Spain, as a matter of grace, indemnity for the redress of his injuries and the indignity to the nation which he represented. It was recognized that a consul's privileges, being under the protection of the Government to which he is accredited, are greater and are to be more scrupulously regarded, because of his public character, than those of an ordinary alien resident for commercial purposes. Mr. Webster, in his note as Secretary of State to the Spanish minister in this case (6 Webster's Works, p. 507, et seq.), announced the following principles as bearing on the case:

> The assembling of mobs happens in all countries; popular violences occasionally break out everywhere, setting law at defiance, trampling on the rights of citizens and private men, and sometimes on those of public officers and the agents of foreign Governments especially entitled to protection. In these cases the public faith and national honor require not only that such outrages should be disavowed, but also that the perpetrators of them should be punished wherever it is possible to bring them to justice; and, further, that full satisfaction should be made in cases in which a duty to that effect rests with the Government, according to the general principles of law, public faith, and the obligation of treaties. * * * But while this Government has manifested a willingness and determination to perform every duty which one friendly nation has a right to expect from another in cases of this kind, it supposes that the rights of a Spanish consul, a public officer residing here under the protection of the United States Government, are quite different from those of the Spanish subjects who have come into the country to mingle with our own citizens and here to pursue their private business and objects. The former may claim special indemnity; the latter are entitled to such protection as is afforded to our own citizens. While, therefore, the losses of individuals, private Spanish subjects, are greatly to be regretted, * * * these private individuals, * * * coming voluntarily to reside in the United States, have certainly no cause of complaint if they are protected by the same laws and the same administration of law as native-born citizens of this country. They have, in fact, some advantages over citizens of the State in which they happen to be, inasmuch as they are enabled, until they become citizens themselves, to prosecute for any injuries done to their persons or property in the courts of the United States or the State courts, at their election.

(See also reference to the foregoing case in letter from Mr. Bayard, Secretary of State, to the Chinese minister, February 18, 1886, 1 Wheat. Int. Law Dig., 2d ed., pp. 474, 484.)

These views have been held and applied by the United States in many other instances of foreigners residing here, and per contra of American citizens residing in foreign countries.

In suggesting to the Chinese ambassador that the President would recommend to Congress the granting of an indemnity (which was afterwards granted) for the slaughter of inoffensive resident Chinese aliens

in the then Territory of Wyoming by a mob largely composed of other aliens, and for accompanying destruction of property, Mr. Bayard affirmed these doctrines and pointed out the peculiar form of our Government by reason of which such crimes and injuries are within the jurisdiction and punitive processes of the courts of sovereign States, and not of the Federal courts; and that while in the case of a Territory the local government is in certain respects subject to Federal control, the ordinary proceedings for the punishment of crime and redress of injuries is through the Territorial tribunals. Denying the existence of any personal or peculiar responsibility in respect to the Chinese in our midst, and calling attention further to the difficulty of carrying the safeguards of law and order to remote and uncivilized communities, where the ordinary bonds of control and restraint are relaxed, and to the circumstance that those who resort to such districts do so voluntarily and must be assumed to have accepted the risks encountered, Mr. Bayard, however, recognized the case as one of gross outrage and as presenting a failure of justice. As indicated, the Government admitted the claim as strongly appealing to its sovereign grace. (Mr. Bayard, Secretary of State, to the Chinese minister, supra; see also pp. 477, 482, with special reference to the standing and rights of aliens before our courts, pp. 483, 485, 486; see also quotation from special message of President Cleveland, March 2, 1886, pp. 470 et seq.)

Similarly, in the case of the Italian subjects at New Orleans killed by unknown persons, acting perhaps rather as a vigilance committee of citizens than as an ordinary mob, who broke the jail in which the Italians were confined or detained after their trial and acquittal on the charge of murder, although the acquittal of the Italians, who were assassins of the order of the Mafia or some allied secret organization, was as palpable a failure of justice as the acquittal of their slayers, the United States granted a moderate indemnity to the Italian Government on behalf of the families of those who were proved to have been Italian subjects. (Foreign Relations, 1891, pp. 727, 728; see also a review and discussion of the New Orleans Case by James Bryce, M. P., Littell's Living Age, No. 2449, June 6, 1891, p. 579.) In this case also the United States contended that ordinarily the recourse of alien residents here to our courts was sufficient protection without the interposition of their Government, and that the interposition of their Government would not be justifiable.

In cases of the massacre of American citizens abroad or of riotous attacks upon them or destruction of or injury to their property, this Government has been accused of ignoring these principles and as demanding as a matter of right reparation and redress from the sovereignty in whose domains such occurrences took place. (Hall's Int. Law, pp. 227, 228, note 1.) But such cases have arisen in countries where there was no effective punitive or civil procedure, as in nations of high civilization, open to foreigners as well as to natives; or where the Governments were unwilling or unable to secure a retributive or reparatory justice upon the application of private initiative, so that their judicial proceedings were either actually oppressive or futile; or where there was the additional reason that the injury consisted of attacks or aggressions upon a detachment of the naval or military forces of the United States temporarily ashore in the port of a friendly nation; or, finally, where the riot was understood to have been instigated by authorities charged with the duty of preserving the public peace. (Mr. Fish, Secretary of State, to Mr. Partridge, 2 Wheat. Int. Law Dig., 602; Mr. Evarts, Secretary of State, to Mr. Bacon, ib., p. 696, passim;

ib., pp. 642, 646; ib., p. 439 et seq.; assault on seamen of the *Baltimore* at Valparaiso, Foreign Relations, 1891, p. 194, passim.)

The case in our diplomatic history which comes nearest the present one in its main features is the Tunstall Case, the facts of which were that process of execution having issued from the courts of Lincoln County, N. Mex., against personal property of the partner of an English subject, a domiciled resident in New Mexico, a deputy sheriff proceeded to the Englishman's ranch in order to attach certain live stock covered by the writ. He did not, however, then attach the property, and departed for the purpose of assembling a numerous posse, with which he returned to the ranch. Mr. Tunstall meanwhile had driven the stock away from the ranch, going in the direction of the county town. The deputy sheriff deputized one of his posse, with 18 others acting under his orders, to follow Mr. Tunstall and seize the stock. After pursuit this party overtook Mr. Tunstall, and, it was claimed, opened fire upon him. He retreated, but was shot and killed within a short distance. It further appeared that of the three members of the posse who saw the shooting (two of whom were probably guilty of it) two were afterwards killed and the survivor did not seem to have been brought to justice. The claim made by the English Government was that the sheriff, acting through his deputy and he in turn through the subdeputized leader of the pursuing party, was accountable for a murder committed in the execution of a process of law, and that the father of the murdered man, having a pecuniary interest in the life of his son, had a right to recover indemnity from the Government of the United States. The murder occurred in 1878.

In the note of Mr. Bayard, Secretary of State, to Mr. West (2 Wheat. Int. Law Dig., p. 679, passim) the following language is used:

> Where a foreigner claiming to be injured has redress by appeal to the courts in the processes of the English common law, a diplomatic demand for indemnity will not be granted by the Government of the country in which the injury is claimed to have been received. * * * Numerous cases of this kind where the plaintiff was a foreigner and the defendant an officer by whom he was assaulted or falsely imprisoned or maliciously prosecuted are reported in the English books, and in no one of these cases can it be alleged that justice was not meted to the foreign plaintiff as freely as if he had been a British subject. It is with some pride, also, that it may be declared by this Department that throughout the United States the same impartial justice is administered. Even beyond this, in its scrupulous protection of the rights of foreigners, has our peculiar jurisprudence gone. A citizen of one of our States * * * is in ordinary cases limited to the State courts for redress. A foreigner suing in such State is given the election between the State courts and the district courts of the United States. The practical result of this fair dealing is even more marked in this country than in England. There are reported in our books multitudes of cases in which local officers of justice have been sued by foreigners in our courts for false imprisonment or for malicious prosecution or for assault, and this must needs be the case in communities like ours, in which a large proportion of the population consists of foreigners unfamiliar with our laws. * * * The principle is therefore to be regarded as adjudicated and established by the highest international and domestic authority in accordance with the enunciation above given. * * * To accept the position of the British Government in this matter would, moreover, lead to utter confusion in the constituted arrangements of our system, which, like that of England, sedulously maintains the executive, judicial, and legislative departments distinct from each other. The claim now put forward, if allowed, would usurp judicial functions by the executive and legislative branches, and would substitute a government of will for a government of law. Private loss and injury ensue from temporary disorders and breaches of the peace under any government.

Referring to the mob at Pittsburg in 1878, the note proceeds:

> No person who lost his property, nor the relatives of any who lost his life—and many lives were lost—ever pretended to hold the United States Government responsible. Under no aspect of the case is there any right under our law to redress such injuries as Mr. Tunstall suffered which is not as open to a foreigner lawfully within the United States as to any one of our own citizens. There is no discrimination between them in the forum in which all such claims are to be heard and decided,

and that sole forum is provided in the courts of justice. * * * After a full review of all the facts and circumstances of the case, I am constrained to inform you that this Government can not admit any liability as attaching to it in the premises, either directly toward the representatives of the murdered man, or internationally toward Her Majesty's Government demanding in their behalf.

The existing treaties with Austria throw no special light on the Lattimer Case. By Article I of the treaty of 1829 (Treaties and Conventions between the United States and other powers, 1776–1887, p. 23) it is provided that the citizens of the respective contracting powers shall mutually enjoy "the same security, protection, and privileges as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing." And the Governments of Austria-Hungary and the United States, by Article I of the treaty of 1870 (ib., p. 37) reciprocally agree that their respective citizens who have resided under the dominion of the other Government uninterruptedly at least five years, and who, during such residence, have become naturalized citizens in the country of residence, shall be held and treated as United States citizens and citizens of the Austro-Hungarian monarchy, respectively, but that the declaration of an intention to become a citizen of one or the other country has not with either party the effect of naturalization. Article IV of this treaty provides that emigrants from either State, who are to be held as citizens of the other State, shall not on return to their original country be held to resume their former citizenship unless of their own accord they reacquire it and renounce the citizenship obtained by naturalization.

It may also be observed that under the treaty of 1829, Article XI, page 26, the Emperor of Austria reserves the right to prevent the emigration of his subjects.

It may be said, in view of the Thrasher Case (Ex. Doc., 1851–52, vol. 3, No. 10, pp. 1–7) that, without any formal domiciliation, a foreigner who comes to a country to settle permanently or for an indefinite time is not entitled to interposition of his Government if he is treated unjustly to the same extent or in the same sense as one who clearly does not change his position, and who therefore owes no more than a local or temporary allegiance to the country of residence. The chief point to be considered is the animus manendi, and a person residing in a foreign country is presumed to be there animo manendi; and if he commits a violation of the municipal law in the country of residence, a fortiori the interposition of his Government is not justfiable.

Quoting again from the Tunstall Case (p. 691):

> He had entered upon what appears to have have been a permanent residence in New Mexico, and had engaged in a business conditioned on such permanency. If, as we must infer from this, when there is no evidence to the contrary, he was then domiciled in New Mexico, he was not, even as far as concerns the administration of the judicial function there, a foreigner, and on this issue alone his representatives can not appeal to the Government of his established domicile through a foreign sovereign for redress.

Before proceeding to the final consideration of the Lattimer Case upon its own facts, it may be well to quote from the article of Mr. Bryce referred to the following succinct statement of the principles and difficulties involved in questions arising on the status and treatment of aliens:

> We may now sum up the conclusions to which the foregoing discussion has led us. They are these:
>
> 1. A foreign Government is prima facie entitled to redress for injuries lawlessly inflicted on its subjects, even if no treaty grants this right, and a fortiori if a treaty does in fact secure it.
>
> 2. This redress may be civil by way of pecuniary compensation, or criminal by the punishment of the offenders.

3. The civil form of redress presents no great difficulty. Primarily it may be had by way of civil action against the wrong doers; but if that is refused, or proves insufficient, the Government, in this instance Congress, may grant compensation, and to any extent it pleases.

4. The criminal form is more important, because it affords better security for the protection of alien residents in future. Redress in this form—that is, punishment, can be given, not by the Executive or legislature, but only by prosecution to conviction of the offenders under the ordinary law.

5. If punishment fails to be awarded, the defects of judicial procedure, or the perverseness of those who administer it locally, will be no answer to the complaint of a foreign Government, and if the denial of justice is palpable, and the case serious, a foreign Government will be entitled to treat such denial as a grave breach of international rights, possibly even as a casus belli.

6. This complication may arise in any country where the Executive can not interfere with the ordinary process of law. It is, however, specially apt to arise in the United States, because—

(*a*) The Federal Government has, apparently, at present, no power to institute a prosecution for the lynching of aliens in a State.

(*b*) The Federal Government, even if it has this power, or if (as appears to be possible) it obtains this power by appropriate legislation, can not transfer the trial from the district where the offense was committed to some other district, still less create a special tribunal.

7. The Federal Government of the United States is in the further difficulty of not being able to interfere with the police of a State for the protection of aliens.

8. These difficulties are not, however, inherent in every Federal Government eo nomine. They arise out of the actual provisions of the United States Federal Constitution, and might have been avoided by a different drafting of that Constitution.

The Lattimer Case is clearly within the general principles laid down in international law and acted upon by the Department of State on the subject of aggressions toward and injuries to aliens and their property, even when resulting in their death. The basis upon which the law appears to rest is that, inasmuch as the courts of a civilized country are open for civil and criminal redress, and the machinery of justice to these ends is voluntarily and promptly set in motion by autonomous communities, and inasmuch as the means of redress in the election between State or Territorial and Federal courts is broader in the case of aliens than of citizens, no international right or claim is properly at issue. Much stronger, surely, is the case when, as here, upon a prompt examination, indictment, and arraignment, and upon a careful and orderly trial and solemn review of the facts by the court and the jury under full testimony taken, in a settled and long-established portion of the country, an intelligent and impartially selected jury determines in effect by their verdict that those killed and wounded composed part of a riotous and lawless assemblage engaged in breaking the law and refusing obedience to the sheriff when repeatedly commanded to disperse by him, and that the consequent action of the sheriff and his posse was justifiable. Furthermore, as pointed out briefly in the report on the subject, even conceding for argument's sake (which can by no means otherwise be conceded) that the action of the sheriff outran good judgment and sound discretion, and was consequently illegal; that the occasion did not justify his intervention with force, and that the killing was not only deplorable, but unnecessary, nevertheless, civil proceedings in the courts for damages on behalf of the sufferers should be brought and should appear to result in a failure of justice before a claim upon the Government may properly be presented.

In view of these considerations, it is impossible to admit that an appeal for reparation lies, so to speak, from the verdict of the jury to the high tribunal of the sovereign grace of the nation.

Respectfully submitted.

HENRY M. HOYT,
Assistant Attorney-General.

WASHINGTON, D. C., *April 19, 1898.*

Mr. Hengelmüller to Mr. Day.

[Translation.]

No. 1186.] IMPERIAL AND ROYAL
AUSTRO-HUNGARIAN LEGATION,
Washington, April 26, 1898.

Mr. SECRETARY OF STATE: I have had the honor to receive your note of the 15th instant, No. 216, as an inclosure to which you had the kindness to transmit to me the report of the Assistant Attorney-General concerning the trial of Sheriff Martin and his deputies at Wilkesbarre.

I see, by a careful examination of the latter document, that the representative of the Federal Government expresses the opinion that there is no ground for a claim for indemnity for the Austrian and Hungarian subjects who were killed or injured at Lattimer, or for their surviving relatives, and that he bases his conclusion mainly upon the following considerations:

1. That the case was tried in all respects soberly, properly, and fairly, and the verdict of the jury was a just and righteous one.

2. That the testimony on the subject and the study and consideration of the facts and questions involved have led him to the conclusion that the sheriff and his deputies conducted themselves, throughout the events which led up to the fatality, with patience and forbearance; that the conflict was inevitable, if order was to be preserved and law enforced, and that, under the circumstances, the action of the sheriff and his posse, although lamentable in its results, was clearly justifiable.

3. That there is no good authority to support the right to indemnity in the absence of any suit brought or civil decision rendered, and that the liability of the sheriff and his deputies for damages to those injured must be established by a civil suit before any larger or other claim can be considered.

As to the first point, I have the honor to call your attention to the fact that my Government, which from the outset has reserved the right to present a claim for indemnity to the Federal Government on account of the occurrences at Lattimer, has repeatedly, and especially by my note of the 30th of December last, stated that it can not consider the question of the guilt or innocence of Sheriff Martin as synonymous with the question whether its subjects are entitled to an indemnity, and that it can not make the presentation of a claim for indemnity contingent upon the result of the verdict at Wilkesbarre.

As to the second point, I have the honor to inform you, Mr. Secretary of State, that the reports made to me by the counsel of this legation concerning the result of the trial, lead to an opinion concerning the action of Sheriff Martin which is quite different from the conclusions reached by the Assistant Attorney-General. I shall soon take the liberty again to discuss this point in detail, it being decisive as regards the question now before us, and to transmit the documentary evidence. I will here merely state that the very assertion of Sheriff Martin clearly shows the lack of any sufficient ground for the destruction of so many human lives, and causes his own action and that of his deputies to appear at least precipitate and inconsiderate.

As regards the third point, the reference of a claim for indemnity by one Government against another to civil process seems to me to be an absolute innovation in international law. I am not aware that the Federal Government, in cases in which its citizens have suffered injury through the action or failure to act of the authorities of another State,

and in which it has claimed an indemnity therefor from the Government of that State, has made the presentation of its claims contingent upon a civil suit against those authorities before the courts of that State.

I have, in the meantime, transmitted the report of the Assistant Attorney-General to the Imperial and Royal Government, and after receiving its answer I shall have the honor to resume the discussion of this matter.

I avail myself, etc.,

HENGELMÜLLER.

Mr. Tower to Mr. Day.

No. 70.] LEGATION OF THE UNITED STATES,
Vienna, June 1, 1898.

SIR: I have the honor to recall to your attention my dispatch No. 34, of the 31st of December, 1897, in which I reported to the Department of State a conversation which I had had on the previous day with the Count Goluchowski, Austro-Hungarian minister of foreign affairs, in relation to the killing and wounding of certain Austrian and Hungarian subjects during the strike which took place at Hazleton, in Pennsylvania, upon the occasion when the sheriff of Luzerne County and his deputies fired against a riotous assemblage of people at Lattimer on the 10th of September, 1897. I presented therein the views expressed to me by the minister of foreign affairs, and I reported the replies which I had thought proper on that occasion to address to him, in view of the fact that I had received no instructions from the Department of State to treat directly with the Government of Austria-Hungary upon this subject, all the correspondence between the two Governments prior to that time having been carried on in Washington.

In answer to the minister of foreign affairs, who informed me of the complaint made by the Austro-Hungarian envoy in Washington that, although he had presented the claims of these people or their families to the Department of State, he had been unable to secure recognition for them, I said that, in so far as I understood the case, it related to the maintenance of public order under the laws of the State of Pennsylvania, and that the sheriff had acted in his official capacity when he gave the command to fire upon a body of men assembled in a riotous manner, who, in spite of his summons to disperse, had persisted in conduct which threatened the peace of the Commonwealth.

I said further, in reply to statements of eyewitnesses quoted in the dispatches of the Austro-Hungarian envoy in Washington from American newspapers, which set forth that the subjects of this Empire who had been killed or wounded were entirely peaceable and in no way concerned in or threatening a breach of public order, that I believed the action of the sheriff was about to be examined into by a court of competent jurisdiction in Pennsylvania, and that I felt certain no claims for damages could properly be entertained pending the decision of the court as to whether the sheriff was or was not completely justifiable in the steps he had taken as a public official.

My action was approved of by the Secretary of State in his dispatch No. 66 of the 20th of January, 1898, in which he inclosed to me for my information copies of the correspondence relating to this subject

between the Department of State and the Austro-Hungarian envoy in Washington up to that time. I learned in a subsequent interview with the Count Goluchowski that copies of this correspondence had been transmitted to him, also, by the Austro-Hungarian envoy.

No further steps have been taken by me nor any further communication relating to this matter made to me until yesterday, when I received a note requesting me to call at the ministry of foreign affairs in order to discuss a question of importance to the interests of the United States and Austria-Hungary.

Upon presenting myself there, accordingly, I was met by the Count Welsersheimb, first chief of section of that ministry, who informed me that he wished to see me in connection with the Hazleton riots and the claims for damages arising therefrom as the result of the killing and wounding of certain Austrian and Hungarian subjects who were in the assemblage fired upon by the sheriff and his posse last September. The killing and wounding of these people, said the Count Welsersheimb, has produced an exceedingly painful impression in Austria-Hungary, where the accounts of it have been widely read and the various reports from American sources republished in the newspapers of the Empire, and the Imperial and Royal Government is solicitous that the subject may be brought once more to the serious attention of the Government of the United States. The Austro-Hungarian Government desires earnestly that the Government of the United States may entertain the claims for indemnity, which it believes itself to be in a position justly to present on behalf of the wounded men and of the families of those who were killed in Pennsylvania. The Count Welsersheimb informed me that the Austro-Hungarian envoy in Washington had complained that he could not obtain the satisfaction which he has hitherto sought in this matter at the Department of State, and that, in view of the fact that this important negotiation had not progressed as had been hoped that it would, and as the Imperial and Royal Government is exceedingly desirous that it should, the ministry of foreign affairs had decided to ask me to take up the question, in order that it might be presented directly to the Department of State from the standpoint adopted by the Austro-Hungarian ministry of foreign affairs.

I replied to the Count Welsersheimb, as I had previously done in this connection to the Count Goluchowski, that although I had received no special instructions to treat in regard to the claims of Austrian and Hungarian subjects arising out of the sheriff's action at Lattimer, and I was not officially informed as to the decision which the Government of the United States may have arrived at in relation to the validity or inadmissibility of such claims, I should cheerfully accede to his request, and should convey to the honorable Secretary of State such communications as the Austro-Hungarian ministry of foreign affairs might wish to make through me, to the end that possible differences of opinion might be adjusted and the traditional relations of friendship and cordiality between the Government of the United States of America and that of His Imperial and Royal Majesty strengthened and maintained.

I called the attention of Count Welsersheimb to the fact, however, that since the former conversation which I had had with the minister of foreign affairs the question of the legality of the sheriff's action upon the occasion of the shooting at Lattimer had been examined into in due form of law; that the sheriff himself and 68 of his deputies had been indicted by the grand jury of Luzerne County, Pa., in the month of October, 1897; that the defendants were indicted jointly for murder, with a second count for manslaughter in the case of each man killed.

They were also indicted jointly, in a separate indictment, for the felonious wounding of each man; and they were all indicted jointly, under a third indictment for murder, with a second count for manslaughter of all the men killed; that the indictment selected for trial was one for murder and manslaughter of one Michael Ceslak, which was regarded as a test case, and that the trial was duly held at the court-house in the city of Wilkesbarre, the county seat of Luzerne County, Pa., before the Hon. Stanley Woodward, president judge of the courts of said county, and a jury, in the months of February and March, 1898; that after a full and fair trial, during which the whole testimony of the prosecution was presented by 103 witnesses, consisting of strikers who accompanied the march to Lattimer and were present at that place, of bystanders and eyewitnesses, of clergymen and others who saw and attended the dead and wounded after the firing had taken place; and, after the testimony of 111 witnesses for the defense, the jury rendered a verdict of not guilty on the charge, as contained in the indictment, as to all defendants.

The Count Welsersheimb informed me that he was aware of these facts, and that he had in his possession a copy of the official report of Henry M. Hoyt, esq., Assistant Attorney-General of the United States, who followed the trial at Wilkesbarre on behalf of the Department of State, which had been transmitted to the ministry of foreign affairs by the Austro-Hungarian envoy at Washington.

I then called his attention particularly to the statement of Mr. Hoyt made in that report that—

> The case was earnestly and thoroughly conducted for both the prosecution and defense. The trial was dignified and orderly. There was no evidence of feeling or prejudice on the part of the audience, and opposing counsel, while keen and earnest in their conduct of proceedings, fully submitted themselves to the control of the court and the proprieties of the situation. I am clearly of the opinion that the case was in all respects soberly, properly, and fairly tried; that there was abundant evidence to support the verdict, and that it can not be successfully claimed that, under all the circumstances involved, the verdict was not a just and righteous one.

On the other hand, however, the Count Welsersheimb exhibited to me a report, also transmitted by the Austro-Hungarian envoy in Washington, made by Robert D. Coxe, esq., of Philadelphia, who followed the trial of the sheriff and his deputies at Wilkesbarre on behalf of the Austro-Hungarian Government. This paper is dated on the 22d of April, 1898.

Mr. Coxe opens his report by the statement in the first sentence: "The trial resulted in a miscarriage of justice." Continuing, he says:

> Of the 109 witnesses called by the prosecution a very large majority were actual eyewitnesses of the occurrence at Lattimer on the 10th of September, 1897. Their great number entirely precludes the possibility of their having told a prearranged story to the jury. It is a remarkably consistent narrative that each witness relates. Had the Commonwealth confined itself to a moderate though legally sufficient amount of proof, it might have eventually left room for a just doubt as to the actual merits of the important issue. This was indeed in substance the tactics adopted by the other side, and the Commonwealth's liberal contribution to the history of the affair presents a suggestive contrast to the meager testimony offered by the defense as to what transpired at Lattimer September 10, 1897.

It would accordingly appear to be Mr. Coxe's opinion that the prosecution proved too much.

Arguing further, he observes:

> It is true that the defense called a host of witnesses. A large proportion of these were, however, offered solely for the purpose of showing a condition of affairs previous to the shooting, in justification of the summoning of the posse comitatus. This part of the defense entirely failed to fill the measure of proof necessary to establish such a justification.

Mr. Coxe declares that he does not believe it possible for any impartial person, uninfluenced by local passion or prejudice, to realize from all this mass of testimony that in the Hazleton region during the week ending September 10, 1897—

> The community was in terrorem publici, which condition of the population of the neighborhood is an essential prerequisite to the summoning of a posse comitatus. It is highly probable, indeed, and there is fair ground for argument favorable to the prosecution based upon such probability, that the mere presence of the posse comitatus in the neighborhood of Hazleton for the week preceding the occurrence at Lattimer unduly excited the population and gave birth to those very apprehensions. Certainly the evidence is insufficient to establish a legal warrant for the formation of the posse comitatus on September 6. Therefore the summary organization of the posse comitatus was a precipitate and premature performance. It was a palpable device, in the interest of the coal operators, to thwart the lawful schemes of the employees under the color of law.

Turning to the subject of the witnesses called by the defense to testify to the Lattimer shooting, Mr. Coxe declares:

> The most important of these were the sheriff and deputies themselves. It is not to be overlooked that but seven of the posse comitatus, including the sheriff, were put upon the witness stand, and that all of them but one—Haen—denied having fired at the strikers. When it is considered that the sole defense interposed was justification created by the presence of a dangerous mob of rioters, it is difficult to explain, on any theory consistent with the innocence of the deputies, why the fact of the shooting, impliedly admitted by the very character of the defense, should not have been testified to by some of these witnesses. Its careful exclusion by the counsel for the defense finds its obvious and only adequate explanation in the consciousness of guilt. The preponderance of evidence as to the true character of the Lattimer affair is, then, unquestionably that of the Commonwealth.

Referring to the question whether the strikers were armed, he concludes:

> No threatening display or use was made of any weapons by the main body of the strikers on September 10, or, indeed, at any other time; and giving the testimony for the defense on this subject the widest possible range and indulgence—all that may with any approach to accuracy be asserted—is that two or three of this large assemblage of strikers did, on the occasion in question, indulge in an alarming manifestation of weapons. Conceding so much, and it is the very utmost the evidence permits, there still remains an absolute absence of provocation for the wholesale destruction of human life which attended the encounter of the sheriff and his deputies with the miners on September 10. Mr. Martin was the principal defendant, and, of course, the most important witness for the defense, and, as observed, the merits of the defense depend, in very great measure, upon the efficacy of his testiony. It is there shown, it is believed, that by the sheriff's own carefully considered and rehearsed testimony a substantial provocation for the shooting by the deputies fails to be disclosed.

I did not consider myself, of course, either authorized or empowered to dispute the merits of this case with the learned counsel employed by the Austro-Hungarian Government, with whose conclusions I do not in the least agree. Though I ventured to suggest to the Count Welsersheimb caution in placing reliance, after the verdict, upon arguments as to questions of fact which under our procedure are properly, and in this instance no doubt were fully, submitted to the court and jury during the pendency of the trial.

In terminating his report Mr. Coxe advises his clients that—

> There is no question that the verdict of the jury met with general acceptance throughout the country. The opinion has been almost universally expressed that the killing of the miners at Lattimer had a salutary effect, even though, as was commonly conceded might be the fact, there was no legal justification for the firing by the deputies. The state of mind which is crystallized in this opinion, no doubt, entered into the jury box. This indicates how impossible it is to secure local justice for those who suffered, directly and indirectly, by the Lattimer affair, or to obtain punishment for those who, without sufficient warrant, assumed to interpret

and summarily execute the law. For this failure of justice on the part of the duly constituted authorities of the Commonwealth of Pennsylvania a responsibility attaches to the Government of the United States for the deaths and personal injuries of subjects of a foreign power in consequence of such denial and miscarriage of justice.

The claim of the Austrian Government against the United States is materially strengthened by the circumstance that the action of the sheriff and his deputies at Lattimer on September 10, 1897, was by no means of effect to restore order and obedience to law. So far from that result, it precipitated a condition of affairs in the Hazleton region infinitely worse than that which, according to the testimony in the case of the Commonwealth v. Martin, existed previous to that date. There was thereby rendered imperatively necessary the immediate calling out of the State troops, whose presence was required to restore that peace and order which the unjustifiable shooting at Lattimer had destroyed, and the expense of whose transportation and maintenance entailed a charge upon the State of Pennsylvania of over $150,000. In the light of this remarkable sequel to the occurrence at Lattimer, it is impossible to adopt the conclusion that it was either inevitable as a lawful necessity or as a means to the end of enforcing obedience to the law.

It is but fair for me to say, as a matter of private opinion gained by observation in this case, that I do not believe that the Austro-Hungarian Government, which would be far from willing to concede that a verdict and judgment rendered after fair and open trial before a duly constituted tribunal in accordance with the established law of the Empire, and carried on within its jurisdiction, was "a miscarriage of justice, has been seriously influenced by the report of its counsel in Philadelphia. Upon my inquiry of the Count Welsersheimb as to what specific representations the imperial and royal ministry of foreign affairs wished me to make to the Department of State of the United States of America, he replied that there were two, to wit:

(1) "That the claims for indemnity on behalf of the Austrian and Hungarian subjects killed and wounded at Lattimer ought not to be concluded by the trial for murder and manslaughter and the acquittal of the sheriff and his deputies in Luzerne County, Pa.;" and that,

(2) "The injured parties in interest should not be put to the remedy indicated by Mr. Hoyt in his report to the Department of State, as follows: 'It appears to me that the liability of the sheriff and his deputies for damages to those injured must previously be established by civil suit before any larger or other claim could be considered; and that, inasmuch as the courts of this country, State and Federal, are freely open to all parties, native and foreign, and that foreigners may elect in such cases to proceed in the Federal courts or the State courts at their pleasure, I can perceive no reason why the foregoing considerations, which are very obvious at this stage of the Lattimer transactions, are not applicable to aliens as well as to citizens.'"

The position here assumed by the Austro-Hungarian ministry of foreign affairs is that such questions ought still to remain the subject of international negotiation.

I declared to the Count Welsersheimb my willingness to present this view to the Government of the United States. But, at the same time, I called his attention to the fact that the United States Government has already established the doctrine that in the case of its own citizens who have chosen to resort to other countries and to reside there such citizens must comply with the laws which prevail in the country of their residence.

I quoted to him the report of Mr. Webster, Secretary of State, to the President in 1851 (Whart., Int. Law Dig., III, par. 230), who says:

Our citizens who resort to countries where the trial by jury is not known, and who may there be charged with crime, frequently imagine, when the laws of those countries are administered in the forms customary therein, that they are deprived of

the rights to which they are entitled, and therefore may expect the interference of their own Government. But it must be remembered, in all such cases, that they have of their own free will elected a residence out of their native land and preferred to live elsewhere and under another Government and in a country in which different laws prevail. Having made this election, they must necessarily abide its consequences. No man can carry the ægis of his national American liberty into a foreign country and expect to hold it up for his exemption from the dominion and authority of the laws and the soverign power of that country, unless he is authorized to do so by virtue of treaty stipulations.

And I reminded him further of the obligations to which the American Government holds its own citizens responsible in foreign countries by quoting to him the language of Mr. Marcy, Secretary of State, to Mr. Jackson, United States chargé d'affaires in Vienna, in a case which arose in 1855 in Austria itself. (Whart., Int. Law Dig., III, par. 230.) The Secretary of State declares, in that case, that the system of proceedings in criminal cases in the Austrian Government has many features which differ from our own, and "has not always provided the safeguards which our laws provide for the security of the accused; but it is not within the competence of one independent power to reform the jurisprudence of others, nor has it the right to regard as an injury the application of the judicial system and established mode of proceedings in foreign countries to its citizens when fairly brought under their operation. All we can ask of Austria, and this we can demand as a right, is that in her proceedings against American citizens, prosecuted for offenses committed within her jurisdiction, she should give them the full and fair benefit of her system, and deal with them as she does with her own subjects or those of other foreign powers. She can not be asked to modify her mode of proceedings to suit our views. It can not be expected that any Government would go so far as to yield to a pretension of a foreign power to revise and review the proceedings of its courts, under the claim of an international right to correct errors therein, either in respect to the application of principles of law or the appreciation of facts as evidence in cases where the citizens of such foreign power have been convicted. It certainly could not be expected that such a claim would be allowed before the party making it had first presented a clear case, prima facie of willful denial of justice or a deliberate perversion of judicial forms for the purpose of oppression."

This, I reminded the Count Welsersheimb, is the principle adopted by the Government of the United States in regard to its own citizens who may become criminally liable within the jurisdiction of other sovereign States, and this is the principle which it applies to the subjects of other powers criminally liable within its own jurisdiction.

He replied that the Government of Austria-Hungary desires to treat this question in the most friendly spirit with the Government of the United States, always having due regard to the established principles of justice and equity in both countries; but that it feels itself obliged by the interests of its own subjects to urge upon the Department of State, with all reasonable force under the circumstances, the claims for indemnity of such Austrians and Hungarians as may have been wounded in the occurrence last September in Pennsylvania, and of the families of such of them as may then have been killed.

He wishes me to inform the Department of State that the Government of the Emperor trusts that the Government of the United States will be moved by considerations of charity and humanity toward those people to give a benevolent hearing to their appeal; and he besought me to convey its most earnest desire that upon this broad and liberal

basis something may be done by which they may finally obtain the relief they have been seeking.

I promised him that I should convey this sentiment to the Government of the United States as he requested.

I have the honor, etc.,

CHARLEMAGNE TOWER,
United States Minister.

Mr. Coxe to Department of State, June 20, 1898.

In the court of oyer and terminer, Luzerne County, Pa.—Commonwealth of Pennsylvania *v.* James Martin and others—Trial of James Martin, sheriff, and others for the murder of Mike Ceslak.

OBSERVATIONS ON THE TESTIMONY.

It may be assumed that the prosecution made out a prima facie case. One hundred and twelve witnesses were called by the Commonwealth, the majority of whom were eyewitnesses, and, in the absence of any defense, it would unquestionably have been the duty of the jury to have convicted the defendants, or at least enough of them, including the sheriff, to have supported a claim for compensation on behalf of the victims of the Lattimer shootings September 10, 1897, and their representatives. A detailed consideration of the evidence for the prosecution is not, therefore, necessary for present purposes.

The Commonwealth's Case consumed nearly sixteen days of the trial, and on the sixteenth day the defense was opened. It is with reference to that defense that the following criticisms are presented.

The examination of witnesses for the prosecution was concluded on that day, the following witnesses being examined:

James Henahan, Michael Demshok.

Whereupon the defendants proceeded to present their case.

The following witnesses for the defense were then examined:

Catharine Weisenborn, Mrs. Glace, Mrs. Rose Gillespie, Mrs. Rose Gillespie (recalled), Mrs. Catharine Brenna, Mrs. Michael Gallagher, Mrs. Charles Mullen, Joseph Schulz.

THE DEFENDANTS' CASE.

The first seven witnesses produced by the defendants were called to show the spirit and demeanor of the strikers on September 10 at Harwood, as well as of the McAdoo men in particular, prior to that date. The admission of the testimony as to the McAdoo strikers was strenuously resisted by the counsel for the prosecution, but it was allowed by the court for the reason that it might be of service to establish the justification for the calling out of the posse comitatus by the sheriff.

Catharine Weisenborn's evidence only showed that a few of the strikers endeavored to compel others to join them, but there is nothing in her statement to indicate that there was real force or actual violence. She said that 50 out of 200 or 300 strikers had clubs. Her husband is an employee of Pardee & Co.

Mrs. Glace's testimony was simply to the effect that there were a few disorderly but entirely harmless performances by a few of the McAdoo men; but no inference can be deduced from her evidence that there

was riotous conduct on the part of the main body of the men. Her husband also is an employee of Pardee & Co.

Mrs. Rose Gillespie only showed that certain small parties of the strikers at Harwood on September 10 were not more than ordinarily demonstrative, and were not violating the law or committing any breach of the peace. She is a widow.

Mrs. Catharine Brennan's testimony proved no objectionable behavior by the McAdoo men. She mentioned a few isolated acts of turbulence on their part, but nothing whatever that indicated a general state of lawlessness. She receives free coal from Pardee & Co. because of her husband's death from accident in their mines.

Mrs. M. Gallagher did not testify to any very serious acts of the strikers. She mentioned one or two unimportant acts, not amounting to anything like criminal violence. Her husband also works for Pardee & Co.

Mrs. Charles Mullen's testimony is absolutely unimportant. There is nothing in it to the discredit of the strikers. Her husband also is an employee of Pardee & Co.

Joseph Schulz's testimony is to be similarly characterized. Its only item worthy of notice is a curious and doubtful statement of Martin Lochers, a witness for the prosecution, made to Schulz on September 6, to the effect that if Schulz did not go with the strikers "his death is there." Joseph Schulz also is an employee of Pardee & Co.

Although the admission by the court of the testimony as to the McAdoo strikers may have been, technically speaking, unimpeachable, it had the effect, undoubtedly, of prejudicing the minds of the jury against the case of the strikers. It was beyond question introduced by the defense for this purpose alone.

SEVENTEENTH DAY OF THE TRIAL, FEBRUARY 22, 1898.

The examination of witnesses for the defense was resumed, the following witnesses being examined:

Mrs. James Edmundson, James Edmundson, Peter Wolfe, John Boyle, James McGraw, Charles Mullen, John Ripple, Mrs. John Boner, Mrs. Anna C. Greeby, Michael Dogostena, Margaretha Ragons, Thomas M. Nellis, Mrs. O'Donnell, Elizabeth Mumey, Samuel Gerlack, Mrs. Steck, Johanna Carmosa, Jacob Berger, August Steck.

There were 19 witnesses called for the defense. They testified as to the conduct of the strikers at McAdoo on September 3 and their behavior and acts on September 9 and 10. A careful analysis of it shows it to fall far short of the requirements of the defense, as set forth in the opening address by their counsel, Mr. Ferris. Some of it seems, perhaps, to indicate in a slight degree a necessity for the calling out of the posse comitatus. As to this part of the testimony, as well as the rest of it, it is, however, in fairness to be observed that all these witnesses are obviously controlled by their interests and their strong prejudices. They are employees of Pardee & Co. and of a different race from the strikers, partaking of the hatred of the Hungarian, which undoubtedly exists to such an extent as to color testimony. Some of the witnesses swore also that the strikers carried clubs and revolvers on September 10, and there is a suspicious unanimity in their testimony about two pistols, or, as one witness has it, two guns, but these statements were so materially qualified on cross-examination that it is an unavoidable deduction that the main body was unarmed, although there may have been isolated cases of strikers carrying weapons.

Mrs. Edmundson mentioned some acts of violence by the McAdoo men on September 3. As far as the Lattimer procession is concerned, her evidence only shows an unimportant squabble between herself and the men, in which she was as violent as they were. She was able to get her husband from them without any difficulty. It is plain that she was in no dread of the strikers. Her husband works for Pardee & Co.

James Edmundson only said that but five or six of the McAdoo men had clubs; and that was all he testified to concerning them. The Lattimer crowd tried to force him to go along, but he was easily rescued by his wife. No riot or violence is to be inferred from his testimony.

Peter Wolfe merely swore that 3 or 4 men followed him on September 10, calling him an "Irish —— ——." They showed him no violence and did him no harm.

John Boyle gave a brief account of the McAdoo men, September 3, coming armed with gas pipes and miners' needles. He told nothing whatever to the prejudice of the Lattimer procession.

James McGraw testified that 2 men ran after him and shot after him, but didn't say why they shot or that he had any previous talk with them. It is evident that he did not tell the whole story. He works for Pardee & Co.

Charles Mullen works for Pardee & Co. He said that after the crowd of 100 or 200 strikers going to Lattimer had passed 2 men ran after some af the people and shot. He didn't know whether they shot at him or not. This does not affect the main body at all and it is, in substance, his entire testimony.

John Ripple also works for Pardee & Co. He testified to threats of 4 men armed with clubs, 2 with guns (he is the only witness who has spoken of guns), on September 9. These men were not identified at all and no connection with the strikers whatever was shown. As to the crowd that went to Lattimer on the 10th of September, his evidence is absolutely unimportant. It is apparent that the witness is an exceedingly timid person, as all his testimony is about his apprehensions, although no warrant for them is shown.

Mrs. John Boner's testimony is of very little importance as far as the McAdoo men are concerned, except that they carried clubs and pieces of iron. But she mentioned no act of disorder or violence. Her son works for Pardee & Co., as does her husband also.

Mrs. A. C. Grebey is an old woman of 82 years. She related a remarkable story of a man saying to her "this time America, but in four years Hungarian country." She testified to some having clubs, and two men with pistols. It is not a fair inference from her testimony that all the strikers were armed. Her sons work for Pardee & Co.

M. Dagostena's evidence is not very important. Men came after him with clubs to compel him to join them, and when he said he was sick they let him go. He also is an employee of Pardee & Co. His cross-examination shows that he knew very little of what the strikers did on September 10 at Harwood.

Margaret Ragon's testimony is very unimportant. It related to conduct of the strikers at Harwood on September 10.

Thomas M. Nellis only testified as to the Humboldt men on September 6. He spoke of their saying "everybody must stop work." He also is an employee of Pardee & Co.

Mrs. O'Donnell simply repeated the story told by Mrs. Edmundson as to the strikers seizing Mr. Edmundson and his wife rescuing him.

Elizabeth Muney made general statements concerning the Lattimer strikers acting in a disorderly manner. Her husband also works for

Pardee & Co. Like that of the preceding witnesses, her testimony is vague, inexact, and palpably exaggerated. As an illustration, on cross-examination she admitted that she only saw 1 man with a revolver out of the 200 that went through Cranberry.

Samuel Gerlack also works for Pardee & Co. He testified as to the McAdoo men on September 3. He said 300 of them were armed with clubs. They stopped an engine and crew and threw stones. They stopped him and some of his men, September 9, at Cranberry. On September 10 they stopped and chased his men, and committed some acts of disorder, but no damage was done to persons or property. The sheriff and deputies were present, but nothing that he related as having occurred could not readily have been prevented by the sheriff and deputies.

Mrs. Steck described some disorderly conduct of the strikers at Cranberry, September 10. She said they were armed with clubs and revolvers. She heard two shots fired.

Johanna Carmosa saw the strikers at Cranberry on September 10. She said that they had clubs and that one of them used threatening language. She saw one shot fired, but there was no damage to persons or property.

J. Berger is an employee of Pardee & Co. He gave a bombastic, extravagant statement, full of irrelevant and immaterial remarks, and bearing many indications of being largely an effort of the imagination. He made the incredible statement that he saw a man 900 feet distant draw a pistol and fire it. He flatly contradicted himself in the matter of glasses, testifying in his examination in chief that he did not need them to see at a distance and on his cross-examination that he did.

A. Steck only said generally that on September 10 a good many of the strikers had clubs and revolvers, but mentioned no acts of violence or disorder.

EIGHTEENTH DAY OF THE TRIAL, FEBRUARY 23, 1898.

The examination of witnesses for the defense was resumed, the following witnesses being examined:

Michael Brennan, August Winters, Ludwig Louder, Robert Hillhouse, George Ermold, Laurence Ermold, Robert Depugh, John Shevelle, Mrs. Anne Krego, George Manster, Emma Rotga, Herman Loss, Mrs. Emma Steck, Phillimena Hoffman, S. J. Williams, A. B. Deremer, Mrs. Anna Reese, William Steibey, Dr. M. A. Robinson, Mrs. Carrie Haas, John Mumey, Gustav Jacz, Joseph Ermold, John Beach, sheriff's proclamation, Rev. W. S. Hamlin, Condy O'Donnell, W. H. Snyder.

All of these witnesses, with one or two exceptions, are employees of Pardee & Co. They testified to the acts of the McAdoo strikers on September 3, those of the strikers of the 6th, 7th, and 9th, and also to the conduct of the men who went to Lattimer on September 10. The greater part of this testimony concerns the McAdoo men on September 3, and there is nothing of importance or of service in determining the question whether there was justification for the killing of Ceslak and others at Lattimer on September 10. And eliminating the evidence of the Silver Brook episode of September 3 as having occurred in an adjoining county and consequently of no concern to the sheriff of Luzerne County, there is scarcely any testimony which, impartially considered, affords a warrant for the summoning of the posse comitatus. Up to this point, therefore, the defense is obviously weak.

Michael Brennan swore that 6 of the strikers on September 10, at Cranberry, left the main body and pursued him with clubs and he ran

into the brush. He heard two shots. His testimony only shows isolated acts, for which it would be unfair to hold the main body responsible, particularly as he was a half mile distant. He is an employee of Pardee & Co.

August Winters testified to acts of disorder of the McAdoo men on September 3, and of others on September 9. While he swore they had clubs he mentioned no other weapons, nor did he say that any real violence to persons or property was committed. He saw nothing of the strikers on September 10. He is an employee of Pardee & Co.

L. Louder was stopped work for about one hour at Cranberry by 30 to 40 men on September 9. Afterwards he resumed work without molestation. On September 10, 30 to 40 men told him not to work. He went to work, however, without hindrance. He gave no evidence of violence or lawlessness, except the striking him with a stone by one man, not identified. He, too, is an employee of Pardee & Co.

R. Hillhouse told of his being stopped on September 9 and of a trifling altercation between himself and an unidentified body of men, after which he was allowed to go to work. He is an employee of Pardee & Co.

George Ermold saw some strikers on September 9, who allowed him, without objection, to go to work, but he gave some unimportant testimony as to maltreatment of his boy by 4 or 5 of the strikers on September 9, at Cranberry. The witness is a brother of one of the defendants, who was released before the trial.

L. Ermold, son of the preceding witness, told of his being not very seriously assaulted by a few of the strikers, when he was following his father, at Cranberry, September 9.

Robert Depugh only swore that 50 to 60 men stopped him on September 9, but he gave no testimony as to violence to persons or property. He is an employee of Pardee & Co.

John Shevelle's testimony was of distinct advantage to the prosecution. It only referred to Crystal Ridge, September 8. He said that the sheriff requested a body of 300 to turn back and "they scattered around."

Mrs. A. Krego swore that some of the strikers at Cranberry, September 10, had clubs, and that she heard one shot. Her husband works for Pardee & Co.

George Mansten only spoke of 3 young men meeting him, September 9, and telling him he need not go any farther. There were 60 to 75 in the main body. He swore to no violence or disorder at any time. He works for Pardee & Co.

E. Rotga, in response to improper leading questions as to whether the strikers carried clubs on September 10, said yes. Her testimony is of no value, her answers being invariably embodied in the question put to her. Her husband also works for Pardee & Co.

H. Loss told of 3 men chasing him into the brush September 10. All had clubs. He heard one shot fired. He works for Pardee & Co.

Mrs. E. Steck testified to some trifling acts of disorder on the part of a crowd of strikers, but mentioned no date.

P. Hoffman testified to strikers coming to Cranberry with clubs, but gave no date. She said they shot at John Krego's son twice. This alleged shooting is uncorroborated, and it is evident that it is a surmise, as, by her cross-examination, it appears John Krego was some distance in the brush at the time.

S. J. Williams swore to disorderly acts of McAdoo strikers September 3. On September 9 they dispersed at the sheriff's request. He

said he did not know what they did September 8. On September 9 the witness "persuaded" the strikers to let him go to work. On the morning of September 10 he was approached by a young man who told him he had better not go to the office. Nevertheless, he went to work until 1 p. m. After that the strikers came, and, he said, with clubs, but he swore to no acts of violence or injury to persons or property. He testified, also, that the sheriff, with 4 or 5 deputies, stopped 75 to 100 strikers on September 7, and without trouble. Whatever value to the defense an analysis of his examination might manifest was materially lessened by his very skillful cross-examination by Mr. Scarlett, of counsel for the prosecution. This witness also works for Pardee & Co.

A. B. Deremer gave a brief account of the performances of 25 to 30 men at Crystal Ridge September 3, as also of the slight disorder September 7, and the prompt disbandment of the strikers at the sheriff's request. On September 10 he saw 2 men only, with clubs, assaulting a man. He works for Pardee & Co.

Mrs. A. Reese's testimony is quite unimportant; she saw 2 men chased, but did not know by whom.

W. Steibey saw 4 or 5 strikers at Crystal Ridge September 10, and saw 2 men with clubs beating another man. He works for Pardee & Co.

Dr. M. A. Robinson testified as to certain injuries received by the men referred to by the last witness and as to the character of the road from West Hazleton to Lattimer.

Mrs. Carrie Haas said that the strikers on September 10 tried to "persuade" the men away. She was at a meeting in Cranberry on September 9, where the talk was in Polish. She heard some of the Poles say they would not let the English and the Germans get ahead of them; that there were 3 Poles to 1 Englishman, and if the English would not do as they said they would crush them. The introduction of this evidence was resisted by the prosecution, but was admitted by the court on the ground that it tended to throw light on the question of justification for calling out the posse comitatus. It is believed that this action of the court extended beyond the limits of a sound discretion, and indicates the bias of the judge's mind. The meeting referred to by the witness was an unorganized one and was made up of squads, so the witness swore, and no action was had on the proposition. The remark was made by one person outside of the meeting, and its admission as evidence, under the circumstances disclosed by the witness herself, was wholly irregular, and calculated to prejudice the minds of the jury against the prosecution.

John Mumey gave a vague account of the strikers chasing him and firing two shots after him September 10.

G. Jacz's story is absolutely trivial and unimportant.

J. Ermold said that the strikers did not molest or interfere with him as an engineer of mine locomotive September 9. On the morning of September 10, 15 or 20 of them ordered him to go back, but witness and the night watchman displayed revolvers and the strikers let him go to his work. On the afternoon of September 10 he saw nobody chasing anyone and heard no shots fired, except two over among the old houses at Cranberry. He is an employee of Pardee & Co.

John Beach was obviously reserved as the important witness of the day, and yet, despite the length at which he was examined, there is very little in his testimony that supports the plea of justification. This witness is an outside foreman of C. Pardee & Co. He said the McAdoo men on September 3 were all armed with various weapons; there were

some threats and some disorderly conduct on the part of detachments of the strikers, but there was no injury to persons or property, and upon the persuasion of the witness they dispersed. On September 6 some 20 to 25 strikers came and endeavored to unhitch a mule team from a wagon, but desisted in compliance with the persuasion of the witness. There were some threatening words, but no injury to persons or property.

At this point the sheriff's proclamation of September 6, 1897, was offered in evidence by the defense, under objection by the prosecution, because no part of the justification set out by the defense, there being no proof of riot up to the time. Its introduction was unquestionably of considerable value to the defense.

As to September 10, witness saw about 150 to 200 men at Harwood, a majority with clubs. There were no threats or violence or injury to persons or property.

This witness is a brother-in-law of defendant Turnbach and father-in-law of another defendant, McShea.

His cross examination brought out the fact that he had said to the strikers, "You had better not go to Lattimer, as bullets will be flying around there."

His cross examination resulted in a material qualification of much of his testimony for the defense.

Rev. W. S. Hamlin's testimony is unimportant and irrelevant. He was obliged to join the strikers at Silver Brook on September 7, and who upon persuasion immediately released him. They were not in any way identified as the Lattimer strikers of September 10, and the court should have directed his testimony to have been stricken out.

C. O'Donnell saw some strikers on September 10, at Crystal Ridge, with clubs, but he specified no particular acts except that a few of them chased some men. There were no threats or violence or injury to persons or property. He also works for Pardee & Co.

William H. Snyder testified to the disorder at Silver Brook referred to by Rev. W. S. Hamlin. His testimony should also have been stricken out, as the Silver Brook strikers have not been identified with the Lattimer strikers of September 10 by the defense; and Silver Brook not being in Luzerne County, such disorder as existed there did not justify the calling out of the posse comitatus.

NINETEENTH DAY OF THE TRIAL, FEBRUARY 21, 1898.

The examination of witnesses for the defense was resumed, the following witnesses being examined:

Daniel Heller, William H. Gardener, August Hulzheiser, Peter Renker, Rudolph Heinzel, Robert Airey, James Long, Charles Weikranyz, Henry Eby, Richard Dunn, Frank Sherry, W. J. Hayes, Anthony Billet, Paul Dinhafer, Oliver Smith, Dennis McGovern, John Strutler, John McGlynn, Edward Walter, Charles Spangler, David McFarland, Adam Weir, John McFadden, William Kelshaw, David Nattress, William Kauffman, Joseph Barsheftsy, Dennis McGinley, John Peteit, George Banda, Samuel Bartlett, Thomas Nesbitt, John G. Scott.

These 33 witnesses were almost without exception employees of the various coal companies, and testified in general to occurrences on September 2, 3, and 7 at various places—McAdoo, Silver Brook, Jeanesville, Ebervale, Beaver Brook, and Yorktown. One man spoke of two unimportant disturbances at Crystal Ridge on September 10. There was no identification of any of the participants in the acts of the strikers

mentioned by the different witnesses with the Lattimer strikers of September 10. A careful, dispassionate estimate of the entire evidence presented on this day of the trial affords no warrant for the belief that a calling out of the posse comitatus was necessary. A few witnesses do indeed specify some performances of the strikers that were violent, so far as injury to property was concerned, but there is nothing in any of the testimony that occasions the conviction that at any time during the disturbances described by these particular witnesses life was at all in danger. Various witnesses refer to their fears, but no facts are presented that justify such fears on the part of reasonable people, nor is there sufficient proof of the state of public terror, which is the legal warrant for a posse comitatus. Up to this point in the trial there appears, therefore, not the slightest pretense of the justification interposed as a defense for the killing at Lattimer on September 10.

D. Heller detailed some evidence at Silver Brook on September 2, in the adjoining county of Schuylkill. The strikers forced the witness along some distance, but he readily escaped home again. There was no violence to persons or property.

W. H. Gardiner testified to similar disorder at Silver Brook on September 2. On September 7 strikers whom he could not identify fired three shots at him. No connection was shown with the Lattimer strikers.

August Hulzheiser is employed at Silver Brook colliery. On September 7 he was forced to go with the strikers to McAdoo. He testified to no acts of injury to persons or property or to any real disorder.

P. Renker only referred to the strikers at Silver Brook on September 3 compelling him to accompany them a little way. One man made a threatening speech. There was no damage to persons or property. He could not identify any one of the strikers.

R. Heinzel spoke of occurrences at Silver Brook September 2. He really saw nothing out of the way on that day. On September 7 some strikers grabbed him and threw him in a ditch and pulled him in the ranks. They then clubbed him, "but everything else was all right," he said. He said families were frightened. He could not identify any of the strikers. He admitted that the strikers did not leave anybody on guard at the breaker between September 2 and September 10 to keep the men from going to work.

R. Airey saw the strikers from McAdoo at Silver Brook on September 2. They forced him to join the ranks and march to near Hazleton. They had clubs, and he swore they threw them away after carrying them a little way. There was no injury to persons or property.

James Long is the superintendent of Silver Brook colliery. He detailed disorderly proceedings on the part of 800 to 900 strikers at Silver Brook September 2. They smashed windows, and one man with a club struck witness with a club on his shoulder. On September 7, at Silver Brook, also, he witnessed some trifling acts of disorder, inseparable apparently from a large body of 300 strikers, but not amounting to a breach of the peace. There was really nothing more serious than the forcing along of Rev. Mr. Hamlin for a very short distance, and whose story has already been told, and the capture of the night watchman and his immediate release without difficulty. It was only on September 2 and 7 that there were any strikers at Silver Brook. There was a suspension of work during that time there because of want of cars. This especially appears by this witness's testimony. The occurrences related by him were in an adjoining county, and in no way were they, or the actors in them, identified with the march to Lattimer on

September 10. Impartially considered, this testimony, in itself, presents no proof of justification for the summoning of the posse comitatus.

Charles Weikranz is employed a Silver Brook. He testified as to trivial acts of some men at Silver Brook September 2, but he failed to identify any of them. On September 7, at Silver Brook, some strikers ran after him and he ran into the brush and one man hit him on the arm with a club, but the witness readily escaped.

Henry Eby testified to the acts of some 15 to 20 strikers at Beaver Brook with clubs and iron bolts. They got on his engine after it had stopped and ordered the witness to run the engine away. They committed no injury to persons or property. He could not identify any of them. On September 9, he said—but was uncertain as to the date—he had an altercation with a striker, in which the strikers pulled out a revolver and threatened to shoot. They then went about their business. He could not identify this particular striker.

Richard Dunn has been a hoisting engineer for the Beaver Brook Company for nineteen years. He told of a body of 15 to 20 stopping him from hoisting coal on September 2, none of whom he was able to identify.

Frank Sherry is a fruit dealer at Hazleton. He told a vague story, and was not certain as to the date, of men at McAdoo grabbing his wagon and getting his peaches. They carried stones and clubs. He absolutely failed to identify any of the men.

W. H. Hayes is an outside foreman of the Lehigh Valley Railroad Company at Audenried. A large part of his testimony is about his own and other people's apprehensions, and which he admitted was hearsay, but without detailing facts or circumstances in their justification. Upon cross-examination, however, he said that he "faced the strikers without terror or fear."

A. Billet's testimony is of more value to the prosecution than to the defense. He swore to some turbulence, but to no more than it is the common experience to find attending every large body of undisciplined marching men.

P. Dinhoefer testified to trifling disturbances by some unidentified strikers at Yorktown on September 2. Upon September 3 they forced him, apparently without any great opposition on his part, to go along with them. He went about a half mile and readily escaped. Neither he nor anyone else was hurt.

Oliver Smith has worked for Pardee & Co. for fourteen years. Since January 1, 1898, he has been inside foreman at Crystal Ridge. Before that date he was an ordinary laborer. He related no very serious acts of disorder at Crystal Ridge on September 10. All the actors were strangers to him.

D. McGovern told of a number of men knocking his tooth out on a day in September at Yorktown. He did not identify his assailants, nor mention the particular day. He is a miner.

John Strutler's testimony was of no value to the defense. Indeed, his cross-examination showed clearly that, as far as he saw or knew, the strikers at Yorktown on September 2 were an orderly assemblage. With this witness, as with so many others, a very objectionable method of leading the witness was employed by the counsel for the defense. For example, the question was constantly asked, "Did they have clubs?" and then, upon objection by counsel for the prosecution, an equally objectionable form was substituted, such as "What, if anything, did they have in their hands?"

Edward Walter works at Yorktown for the Lehigh Valley Railroad Company. He saw a crowd there early in September, but specified no

date. He indicated no disorder or violence whatever. He only fixed the date, September 3, subsequently in response to a leading question by counsel for defense.

Charles Spangler is in the employment of the Lehigh Valley Railroad Company. He testified to certain not very disorderly performances on the part of the strikers on the two days in September not specified, at Stony Brook.

David McFarland is superintendent of coal mines at Jeanesville for the Lehigh Valley Railroad Company. He gave a detailed account of disorderly proceedings, lasting for only fifteen minutes, however, at Jeanesville, on September 3, although no one was injured, nor was any property destroyed. On September 7, according to his story, carefully weighed and sifted by the cross-examination, the strikers did nothing that was unlawful or improper. Like other witnesses, he spoke of fears and apprehensions, but presented no facts to justify their existence.

Adam Weir is manager of a store at Jeanesville. He testified to a body of 500 to 600 strikers coming to Jeanesville on September 3 and asking him to go along with them. He declined and they passed on. As with the other witnesses, in response to a leading question, "What did they carry?" he said, "Pick handles and clubs." His cross-examination made it very clear that they were acting in a lawful manner in every respect, and that his statement that they were all armed was at least an exaggeration.

John McFadden is a boss at Jeanesville. He said the strikers, on September 3, ordered the men to leave No. 4 colliery there, and forced the witness to go with them to Hazleton crossing. There he left them. He said "he believed" he was forced to go. There was no real violence to persons or property. His cross-examination brought out the fact that the particular strikers were anything but a formidable, terror-exciting body.

William Kelshaw is an Englishman. He is a trackman at Jeanesville for the Lehigh Valley Railroad Company. Two of the strikers on September 3 took two of his tools and tried to get him to go along, but he refused and did not go. He went home and was saved by his dog from a striker. His story about the dog and the strikers is at least a remarkable one. Nothing is found in such testimony as this that indicates a necessity for a posse comitatus.

D. Nattress could not fix the date on which he saw strikers at Jeanesville in September. He is an old man of 80; the strikers tried to seize him, but he ran away. He said the majority had clubs, and by a remarkable coincidence he saw one mining needle in the great crowd. He said there was no injury to persons or property.

William Kauffman is a boss for the Lehigh Valley Railroad Company. He said the strikers at Jeanesville, September 3, were all armed with clubs. They seemed to have had little difficulty in securing his company. He went as far as Hazleton and then left them without any trouble. He said that on a report that there were policemen at Hazleton the remark was made among the strikers that "they were not afraid; they were all right," putting their hands to their hip pockets.

Joseph Barshefsky is a Pole. His testimony does not advantage the defense. He voluntarily joined the strikers at Jeanesville on September 3.

Dennis McGinley is a conductor on the Lehigh Valley Railroad. On September 3 a party tried to hold him up with his train. They stoned him, and one man threatened him with a mining needle. He swore that he caught a number of stones in his hands, but he was contradicted

and discredited as to this, and consequently in his entire narrative, by the witness immediately following.

John Peteit was the engineer of McGinley's train and repeated part of McGinley's story, but flatly contradicted him in the matter of McGinley catching the stones in his hands.

George Bawa was the brakeman of McGinley's train. He said it was slate and coal and not stones the men threw at McGinley. He denied also that McGinley caught the stones.

S. Bartlett is a carpenter and works for the Audenried Coal Company. He specified acts of disorder and lawlessness by 200 strikers at McAdoo, September 3, and Ebervale, September 7. He did not identify them with the Lattimer strikers of September 10.

Thomas Nesbitt was clerk and coal shipper at Ebervale. He desribed some acts of disorder and violence at Ebervale on September 7. Nobody was injured; windows were smashed. He only knew one man in the crowd.

John G. Scott is superintendent for Ebervale, and repeated in substance the story of Thomas Nesbitt. He, also, only knew one man in the crowd.

TWENTIETH DAY OF THE TRIAL, FEBRUARY 25, 1898.

The examination of witnesses for the defense was resumed, the following witnesses being examined: George Denerche, John Shellenberger, Enoch Howell, Otto Rakling, Rev. Mr. Herbst, John Graham, John J. Fidler, M. J. Oswald, Edward Meyers, Milton Setser, Elliott Oberender, John Wagner, Charles Mulherin, Frederick P. Zerbey, Frederick P. Zerbey (recalled for cross examination), Matilda Faust.

Nearly all these witnesses testified to occurrences at Kyle's strippings, Hazleton, Harwood, Cranberry and Drifton on September 3, 6, and 10.

Setser is the sheriff of Carbon County, and told how a very serious disturbance at Drifton was quelled without violence or bloodshed.

The testimony of John Wagner is of va ue also on this point. Indeed, as is presently set forth, it is palpable from a great part of this day's proceedings that, reasoning from a fair comparison of the Lattimer emergency and the other situations here described, there was no more of a crisis on September 10 than on previous days.

George Denerche told of some men at Kyle's strippings, on September 6, telling him he should not go to work, and of 3 drunken men in the evening assaulting him. These people were unidentified. The testimony was therefore irrelevant and valueless, so far at least as the defense is concerned.

John Shellenberger is foreman of steam shovel at Hazleton mine No. 1. September 3 the strikers were all armed with clubs. They compelled the witness to go to Harwood with them, where there was a meeting, at which it was agreed to go to Lattimer, but not on that day. He testified to no real disorder or violence.

Enoch Howell is a mine laborer. On September 3 he saw strikers with clubs, and he made this important statement: "They did not act any way rough with me and I did not see them act any way rough with anybody else."

Otto Rakling is a driver boy, 16 years old. On September 3, two men with clubs forced him to go to Harwood. The other men had clubs, and he said one man had a miner's needle.

Rev. Mr. Herbst only said that of the strikers at West Hazleton on September 10, after they passed the deputies, some had long sticks and some had short, and that they were determined.

John Graham's testimony is of no importance. He drove through a party of strikers early in September at Yorktown. He could not fix the date at all nor could he say how many there were. A man who got on his wagon was hit in the mouth by a striker.

John J. Fidler is a cigar manufacturer. He saw a body of strikers at Cranberry, September 10. Many of them had sticks and were very demonstrative. One man, about 100 yards behind the main body, had a gun. It was the only gun there. Witness was driving in a buggy with a Mr. Thomas. Neither was disturbed or molested in any way.

M. J. Oswald is a hotel keeper at West Hazleton. He saw strikers at Old Cranberry, September 10. He heard two shots fired. One man had a gun. He did not see the man with the gun afterwards and did not know him.

Edward Meyers is a constable at West Hazleton. He testified to some acts of disorder at West Hazleton, September 10. Although this witness testified through an interpreter, it is remarkable that he was able to remember and repeat an English speech by the sheriff to the strikers. He saw a man shot, but did not arrest him because, he said, he had no warrant. (As a matter of law, a constable who witnesses the commission of a crime has a right to arrest without a warrant.)

Milton Stetser was sheriff of Carbon County in September, 1897. He had a consultation with Sheriff Martin at Hazleton, September 6. The witness received formal notice from property owners on September 8 and 9 to protect their property. On September 8 he took a body of deputies from Mauchchunk to Beaver Meadows. The county line between Luzerne and Carbon runs through Beaver Meadows. He met Sheriff Martin there with some of his deputies. About 400 or 500 strikers came there unarmed, but quite a lot carried clubs. They rushed for the breaker and were stopped by the sheriff and the deputies. Afterwards one of the strikers shot at them. This was on September 9. He left on September 10 because he had a dispatch from Governor Hastings that troops were called out. The witness was asked whether Sheriff Martin and he had a consultation on September 9 as to how their deputies should act. This was objected to by the prosecution, but the question was admitted by the court after argument. It is believed that its admission was improper. Some of the reasons for this belief are presented in the arguments of counsel for the prosecution (p. 1666 et seq. of stenographer's notes of testimony). Its admission assumes that the legal warrant for the posse comitatus had been established. This, however, as already intimated, is far from being done. Besides, determination to do no harm on September 9 has nothing whatever to do with a possible determination to do harm on September 10.

The witness further said that when the man shot at him he gave an order to his deputies to shoot. He also made this significant remark: "They were determined in the start, before we got them started; but after we got them started there was no more trouble."

Elliott Oberender is the agent for Coxe's mines at Drifton. He "expected" trouble and sent for the sheriff, who came on September 8, and swore in some deputies. Much of this witness's evidence is pure hearsay. He gave no real facts as to disorder. He told of a crowd of 1,500 to 2,000 men at Beaver Meadows. The works there were stopped. As to the preliminary acts at this time, he said, on cross-examination, that he spoke from hearsay (p. 1690). The crowd had clubs and were demonstrative. He argued with them for about twenty minutes, and they all went away. There was no injury to persons or property. He proceeded to repeat Sheriff Martin's instructions to the deputies sworn

in at Drifton about keeping cool, and that he hoped there would be no occasion for shooting; that the deputies were to take their instructions from the witness. As to this, his evidence is incompetent, because the sheriff has no power to delegate such duties. Besides, as already observed, a determination to keep cool on September 9 affords no justification for failing to do so on September 10. The witness said that the deputies at Drifton were selected by the superintendent for the sheriff. All that the sheriff did was to swear them in and ask the ages of a few. This was also an illegal act on the part of the sheriff. He can not delegate the duty of selecting a posse comitatus.

John Wagner was one of the posse comitatus at Drifton. Sheriff Martin, on September 8, gave instructions to keep cool and not to hurt anybody unless they destroyed property and the deputies found themselves or their lives in danger. The witness made the probably exaggerated statement that, on September 8, the town of Beaver Meadows was in possession of the strikers. Most of his testimony, too, is hearsay. He said there were about 1,500. He had a talk with the leaders, and, with the assistance of Oberender and Rowland, persuaded the men to disperse. The strikers did no injury to persons or property, although they had clubs and needles. He said he talked to them in a gentlemanly sort of way. According to his testimony, on two separate occasions an assemblage as turbulent and determined as were the Lattimer men on September 10, according to the most unfriendly accounts, were dispersed without a shot being fired or anybody being injured on either side.

Charles Mulherin said that the Lattimer strikers at West Hazleton, on September 10, had clubs. He is a weighmaster in the employ of the Lehigh Valley Coal Company.

Frederick P. Zerbey is the superintendent of the Lehigh Valley Coal Company at Hazleton. The substance of his highly colored story is that a crowd of strikers, with clubs and sticks, came to the breaker at Hazleton on September 3, made a demonstration for about twenty minutes, and then left without injuring any person or property. On September 8 he saw Sheriff Martin with one deputy stop a crowd in the streets of Hazleton. This witness's account of the occurrences at West Hazleton on September 10 seems to indicate that the strikers' attitude gave the sheriff and deputies no just cause to interfere with them. If this be so, there is a fair inference that disappointment on the part of the deputies developed their temper by the time they again encountered the strikers at Lattimer.

Matilda Faust spoke of 50 strikers at Lattimer September 7, but mentioned no acts of violence to persons or property. She said they were afraid on the night of September 10 to stay at home and went to Ebervale.

TWENTY-FIRST DAY OF THE TRIAL, FEBRUARY 26, 1898.

The examination of witnesses for the defense was resumed, the following witnesses being examined:

George Weisenborn, John L. Simons, John Krapf, Mrs. Elizabeth Harvey, Mrs. Annie G. Goodwin, Mrs. Madge Kilmer, Genevieve Wakling.

The evidence presented on this day does not at all support the positions taken by the defense. Their most important witness was Mrs. Elizabeth Harvey, the only witness of the Lattimer shooting examined. Her examination in chief, presently to be commented on at length, falls short of the purpose for which she was apparently called, while her

cross-examination presents forcibly and convincingly the undoubted explanation of the way the shooting at Lattimer originated. In this respect her testimony is in the highest degree important.

George Weisenborn is a blacksmith at Harwood. He told of 70 or 80 Harwood strikers, with clubs and gas pipes, on September 6, at Harwood trying to compel a teamster to unhitch mules from a coal cart. The witness persuaded them to desist. They threatened no one and no harm was done to anything or anybody. He said that F. Kubitsky did not have his drill sharpened by the witness between September 3 and September 10, but he admitted on cross-examination that this might readily have been done by one or two other blacksmiths there at the time.

John L. Simons's testimony was of very little, if any, importance. He saw 40 to 50 men drive other men from a breaker at Hazleton on September 3. They were, he heard, McAdoo men. On September 10 he saw 3 or 4 men with clubs, whom he could not identify and knew nothing of their destination, crossing the street at Hazleton.

John Krapf lives at Cranberry and spoke of some people with sticks chasing other people at Cranberry, September 3. They were McAdoo men. Mentioned no injury to persons or property. Like so many other witnesses, he spoke of his fears, without relating any circumstances to warrant them. Indeed, he admitted that when he went to West Hazleton, several days after September 10, because he was afraid, he left his family home to look out for themselves.

Mrs. Elizabeth Harvey is the wife of the physician at Lattimer. She saw the shooting on September 10, and described so much of it as she had witnessed. About 100 feet up the road the sheriff stepped toward the strikers and halted them. They talked a few minutes and then marched on. Then the firing commenced. The sheriff was tussling with two men. While he was tussling the rest of the strikers rushed toward the deputies. The witness did not know how far the strikers were from the deputies when they fired and could give no idea. An intelligent reading of her testimony conveys the impression that the firing preceded the rush of the miners toward the deputies. This is not the story told by other witnesses for the defense. A probable account of the exact nature of the shooting on September 10 is found in this witness's statement on cross-examination that the people in the rear of the procession forced those in front forward. This is extremely material and important. On this point she swore: "Those from the rear rank kept crowding on the front men. These front men were then driven on toward Lattimer by those behind, and when they came about opposite the deputies they were fired upon, and they started to run after the volley backward as they came. The shots struck the men when they were running" (p. 1748).

The bias for the defense of the witness is manifested in her admission that up to January, 1898, her husband was paid primarily by the Pardee Coal Company for services rendered to the miners, who naturally make up the bulk of his patients, the amounts of his bills being subsequently deducted from the miners' wages by the company.

Mrs. Annie G. Goodwin's husband is a stable boss for Mr. Pardee. They live at Lattimer. She described the performance of about 100 strikers who came from Ebervale, September 7. Half of them had willow sticks. They appear to have been ordinarily boisterous. But she said she was terrified, and, like so many other witnesses for the defense, she presented no circumstances of sufficient seriousness to justify her fears, unless she was an exceptionally timid and nervous

woman. It would appear from her cross-examination that such was her temperament.

Mrs. Madge Kilmer detailed some disorderly conduct of unidentified strikers at Lattimer, September 7. They were there about fifteen minutes, and did no harm to persons or property. As to September 10, her testimony was unimportant. She only heard the shooting, which she said only lasted "about a second."

Genevieve Wakling's husband is engineer at Lattimer and an employee of Pardee & Co. for six years. She told of a striker at Lattimer, September 7, saying "Lattimer chased us to-day, but the s—— of b—— would not chase us to-morrow." They did not get to the breaker, and nobody chased them, so that the remark, if made, was insensible. She, too, spoke of her fears, but they were based upon obviously exaggerated reports to the effect that "the strikers were coming to blow up every man, woman, and child at Lattimer."

TWENTY-SECOND DAY OF THE TRIAL, FEBRUARY 28, 1898.

The examination of witnesses for the defense was resumed, the following witnesses being examined: Cora Heimbach, Stephen Druckenmiller, William Wolff, George Mauey, Mrs. Catharine Craig, W. W. Smith, Oliver Liebensberger, William A. Evans, Coroner Frank McKee, Benjamin Norris, John Kuntz, M. D., John D. Landmesser.

Two features of this day's testimony for the defense are especially worthy of particular notice. One is the evidence as to the state of terror among the people. On this, as well as on previous occasions, the defendants' witnesses have spoken of their great fear after the shooting. This is palpably irrelevant and seriously prejudicial to the prosecution. If it proved anything it is that these people only feared danger as the legitimate consequence of the deputies' acts in shooting the strikers at Lattimer. There can be no escape from this conclusion in the mind of any unprejudiced individual.

Again, observe the evidence as to the clubs and sticks alleged to have been carried by the strikers on September 10. Nothing in the testimony on this point bears out the pretense that they were extensively furnished with such weapons. Of a character with the rest of the evidence on this subject is that of W. W. Smith, who began by saying generally "the crowd had clubs." This he was forced to qualify, after being repeatedly urged to explain on his cross-examination, by saying that "he should suppose there were 50 sticks of all kinds," and finally he admitted that he "would rather not say, because he did not count them."

A very important witness in the estimation, apparently, of the counsel for the defense was Mrs. Catharine Craig. As it is presently made very clear, she was in the end so seriously discredited on her cross-examination that such value as her testimony might have had for the defense was altogether destroyed.

It is a very suggestive commentary on the character of these proceedings that at the end of the twenty-second day of a trial for homicide, in which a very strong prima facie case was made out on the part of the prosecution, no really substantial proof of the justification set up as a defense has been offered either by way of suggestion during the cross-examination of the Commonwealth's witnesses or in the testimony of the witness for the defense itself.

Cora Heimbach is 18 years old. Her father is a blacksmith in the employ of Pardee & Co. She told of going for her brother to Miss Coyle's school at Lattimer on September 10 and taking him home,

having told Miss Coyle that the strikers were coming. Her family all left before the shooting, because they were afraid the strikers would return and blow up the place. This is plainly an afterthought. It can not be too emphatically urged that there has been no evidence of facts or circumstances presented to justify such an extravagant and irrational fear. Indeed, her cross-examination made it abundantly plain that whatever fears existed were exclusively because of the shooting, and this is candidly admitted by other witnesses who have preceded and followed her.

Stephen Druckenmiller is a coal dealer at Hazleton and gets his coal from the Lehigh Valley Coal Company. He went with Constable Jones to Lattimer September 10 and saw the shooting, in a buggy with Jones. When the strikers came the deputies were lined up along the fence. One ran in an alley, without a coat; beckoned the strikers to come on. Sheriff Martin came out and cried "Halt." The strikers did not stop, and passed the sheriff on the left-hand side, about 10 to 15 feet. The witness heard a shot and then two, and "then the whole thing went off." The man that appeared to the witness to beckon to the strikers was not a deputy. He said the strikers had clubs, but on cross-examination this was materially qualified as "sticks," and then, again, he was compelled to admit that there were not more than 25 sticks in the whole body of men, which he said was about 500 in number. He saw no weapons among the dead, although he had unusual opportunities for observing them, and was a witness, too, for the defense.

William Wolff was the conductor of a trolley car September 10. He saw the strikers at Harleigh. Some had clubs. Turnbach, one of the deputies, got on his car at Farley's Hotel. He did not remember any remark by Turnbach on the car, but on cross-examination he recalled that Welsh was on the car. At Lattimer the men were passing toward the deputies and heard a shot and then a volley. That was all he said. Like the preceding witness, and like Mr. Smith, he corrected his statement about the clubs by saying that quite a few had sticks, probably 30 to 40, "some pretty good sticks and some small sticks," but he could not remember seeing any at all at Lattimer among the 400 or 500 there.

George Mauey was at Lattimer and heard the shooting, but described it differently from the other witnesses. There was one shot and then two, then a volley, and then a few scattering shots. He saw the dead and wounded and identified a number of the deputies as being present after the shooting. He mentioned occurrences at Hazleton mines on September 3 and at Crystal Ridge September 7. At Hazleton the McAdoo men, to the number of 25 or 30, chased men away from the breaker, and at Crystal Ridge on September 7 the sheriff and deputies met a body of men, which witness understood were from McAdoo, and with considerable difficulty and "persuasive force" prevailed on them, after fifteen or twenty minutes, to disperse. He mentioned no real violence or injury to persons or property. He said that at Crystal Ridge, of the McAdoo men, 1 out of 5 had clubs.

Mrs. Catharine Craig is the wife of a machinist in the employ of Pardee & Co., at Lattimer. She saw the sheriff on September 10 trying to stop the crowd. They surrounded him and shoved him over the road and rushed past him. It is certain that she saw nothing after this for several minutes at least, and it is an important hiatus in her testimony, for she ran into the house from the gate with her boys, and did not look again until one of the boys called her attention to the proceedings on the road. Then she said she saw the sheriff and men were still tussling. The men pushed him, and they were coming to the deputies.

Then she heard, not saw, the shots. This last statement of hers is especially noteworthy as a test of the accuracy of her story. It is difficult to understand how, if she saw all she pretended to have seen, she could of all things have failed to see the shooting. She was most seriously discredited on her cross-examination by her admission that she had previously said to Mr. Loughran, one of the counsel for the prosecution, that she did not know anything about the shooting.

W. W. Smith was burgess of West Hazleton in September, 1897. He told of 50 strikers on September 3, apparently the McAdoo men, repeatedly referred to, and to whose performances have been given undue and unjust prominence to the serious disadvantage of the prosecution. One man was hurt, not seriously. There were 3 special policemen who had been sworn in a year before. There has been only one occasion for their services, during September 3, and that was on the occasion he testified to. The witness also saw the strikers at West Hazelton, September 10. The deputies pressed them back with their guns, and told them to go back home. The strikers soon after that filed around to the left of the town. Witness told the chief of police, Jones, to persuade the strikers to go back. The crowd had clubs. This he qualified on his cross-examination, after being repeatedly pressed, by saying that he should suppose there were 50 sticks of all kinds, and finally he confessed that he would rather not say, because he did not count them.

Oliver Liebensberger is a building contractor at Hazleton. He described the shooting at Lattimer. He made no reference to the strikers being armed at all, and said that the sheriff's pistol was the only weapon he saw. Although he was quite near, being but 12 to 15 feet behind the deputies, he pretended that he did not know who fired the first shot. When the sheriff confronted the strikers those behind shouted to "go ahead." One man in the second or third row made a rush toward the sheriff. Then, the witness said, he did not see the sheriff until the affair was over, although he flatly contradicted himself directly by saying that the strikers had pushed the sheriff in the gutter; and the witness indulged in a palpable effort of the imagination by adding that "it looked as if they were beating him." His account, so far as he speaks from his own observation, is readily reconciliable with what is doubtless the true version of the shooting, namely, that which was elicited from Mrs. Harvey on her cross-examination on February 26. This witness further said that he went to Lattimer to see the strikers take the guns from the deputies. This suggests a reasonable theory, that this apprehension, although groundless, may explain the justification of the shooting. Such a baseless rumor doubtless reached the ears of the inexperienced deputies. In the end this witness would not deny that he had previously told Mr. Kropp and others that the shooting was an outrage.

William A. Evans is a reporter for the Hazleton Sentinel. He described a trifling affair at Hazleton, September 10. He followed the deputies to Lattimer. The sheriff was there a short while with the strikers and then he made a grab with his left hand over to the second or third row and yanked a man toward him. The 40 or 50 strikers grabbed him and pulled him toward the right of the way the witness was facing. The men behind pressed forward and came running toward the deputies, and while all this was going on the shooting occurred. This was not at all inconsistent with the theory supported by Mrs. Harvey's testimony on February 26, just referred to; he said he saw no weapons on the strikers, yet twenty minutes after the shooting was

over he found a revolver on the ground between 3 dead men. This is far from conclusive evidence. The revolver might too easily have been dropped there by a deputy, as it is in evidence that some of them left arms on the ground. It is very significant that this witness did not report the finding of the revolver to his newspaper, and that he had sent in two reports to the paper before he saw the revolver at all. He admitted that while he was away telephoning to his paper for fifteen or twenty minutes the dead and wounded were changed and people had been on the ground. In fact, as to the revolver, his story was completely discredited by his cross-examination. He also said that when the firing began the sheriff was in the center of the road, yet he had previously testified that the sheriff was on the right of the road at that time. After the shooting dead men were found within 10 or 15 feet of the line of the deputies, and the other strikers left the road and ran for the deputies. The first part of this statement bears the stamp of improbability, as, according to his story, the firing was so prompt that it was simply impossible for the strikers to get so near. It has not been pretended by anyone else, counsel included, that the entire body of strikers ran toward the deputies. All the other evidence and the circumstances disprove this part of the witness's testimony. The witness identified a number of the deputies as being present at the shooting.

Coroner E. McKee identified the pistol referred to by witness, Evans. The inquest over the dead of Lattimer was held at Hazleton about two weeks after the shooting.

Benjamin Norris was a motorman of the car that took the killed and wounded from Lattimer. He found an unloaded revolver in the inside pocket of a coat that had been lying under a dead man. It was a striker. Some of the deputies carried the body into the car. It was twenty minutes or half an hour after the shooting. A number of people and a great many deputies were there.

The witness also swore that Bœtticher, a witness for the Commonwealth, told him he was well paid for what he had to say.

As to the revolver story, it is uncorroborated; and the lapse of time between the shooting and its alleged discovery, as well as the fact a number of people were on the ground meantime, deputies included, and as it was not proven to be the man's coat or even that of a striker, deprive the testimony of that importance which is essential to proof on the point that the strikers carried deadly weapons on September 10. At all events, it was unloaded, and there was no proof of its empty barrels being the result of their discharge during the affair or immediately previous to it.

Concerning the Bœtticher matter, it is simply to be said that the statement is incredible. Bœtticher's testimony was not cumulative among a host of witnesses; and it is a notorious fact that the prosecution was without funds to squander, even if it be unwarrantably assumed that they had undertaken to purchase testimony.

John Kuntz, M. D., was called to prove that two men, perhaps inaccurately designated as "Hungarians or Polanders," were professionally treated by him in the lockup at Hazleton between 2 and 3 p. m., September 10. One had a scalp wound and the other, who claimed to have a broken arm, was uninjured. It is not apparent that this testimony is material. It was, it would seem, introduced to show that the men were those referred to by some of the Commonwealth's witnesses as being injured by the deputies at West Hazleton. In the absence of anything like identification, this evidence, viewed in its most favorable light, is worthless.

John Landmesser told of meeting the strikers at Harleigh on September 10, and of his volunteering advice to them as to their duty and the duty of the sheriff, to which the strikers only replied scornfully. Then the witness stopped talking, as he said it was no use. Some, he said, had clubs, some sticks, and some canes. Leaving out of consideration this vague reference to weapons, it is difficult to see the materiality of such evidence on the trial of defendants for murder whose plea is justification. For aught to the contrary that this testimony discloses, the strikers were strictly observing the law when the witness met them and intruded his unsolicited opinions upon them.

TWENTY-THIRD DAY OF THE TRIAL, MARCH 1, 1898.

The examination of witnesses for the defense was resumed, the following witnesses being examined:

Louis Meis, Alfred Kulp, William H. Taylor, Harry Dryfuss, jr., Thomas A. Harris, George Thomason, Samuel Ennis, Daniel Ferry (recalled for further cross-examination), Oliver Liebensberger (recalled for further direct examination), Thomas Hall, William Shoemaker, James Martin (defendant, cross-examination).

The majority of the witnesses examined on this day were called to impeach the credibility of certain of the prosecution's witnesses. To what extent this was successful is indicated in reference to the particular witness, which presently follow. As to this, it is to be observed that it is remarkable that in a trial for murder where the sole defense is justification so little evidence on the subject has been presented and so much time consumed in attempts at contradicting witnesses in trifling matters unconnected with the issue and not discrediting the mass of evidence, even though the effort should have been effectual in eliminating the particular testimony.

The principal and most important witness is defendant, Sheriff Martin. An extended summary and characterization of his testimony is embodied in the observations on the testimony taken on March 2, 1898, his cross-examination being extended over until that day.

The testimony of L. Meis is not important. His examination in chief was completely neutralized by his cross examination.

That of A. Kulp may be similarly characterized.

W. H. Taylor exhibited photographs of the strikers at McAdoo, September 3.

H. Dryfuss, jr., exhibited photographs of Lattimer, September 10.

Thomas A. Harris is the bookkeeper and paymaster for C. Pardee & Co. He described disturbance of 50 to 75 strikers at Lattimer, September 7. He was a deputy at Lattimer with a loaded gun on September 10. He was approaching the deputies when he heard the shooting. When he reached there after the shooting he found the majority of them standing in line. He saw dead and wounded and indicated their positions on the map. He was originally indicted, but there was a nolle prosequi as to him. He was subsequently recalled to locate the road at Lattimer where the breakers were situated. No. 3 is the one to which the strikers were going on September 10.

George Thomason is the superintendent of the Lehigh Traction Company, of which Mr. Kline, one of the counsel for the defense, is president. Thomason saw the strikers at West Hazleton, September 10. They were violent and dangerous. The deputies were lined up before them. He had charge of the car which took the deputies part of the way to Lattimer, as far as Farley's Hotel. There, he said, the strikers had clubs. He saw the shooting. He said the deputies did

not push the strikers with their guns. The sheriff, himself, subsequently said they did.

Samuel Ennis is the official court stenographer. He took the testimony in the preliminary hearing before the two judges sitting as committing magistrates. He prepared a correct manuscript of it. This was produced for the purpose of contradicting various witnesses of the prosecution by attempting to show that they had sworn differently at the preliminary hearing than they did at the trial. There were read extracts from this particular testimony taken by this witness at the preliminary hearing of the following witnesses for the Commonwealth: Guscott, Holman, Marinko, Yeager, Eagler, Novatry, Shefronik, Sevarko No. 1, Recek, Czia, Angelo, Locker, Bonin, Sevarko No. 2.

There were some discrepancies shown between their evidence at the preliminary hearing and that given on the trial, but not enough to seriously affect their general credibility.

Daniel Ferry, a witness for the Commonwealth, was recalled He denied that he had a talk with Oliver Liebensberger (a witness for the defense) about the strikers, September 10, or that he told Liebensberger that the crowd was in an ugly mood, or that they came near taking the guns from the deputies at West Hazleton, and that they would do it at Lattimer.

Oliver Liebensberger was recalled by the defense to contradict the preceding witness (Ferry). This raised a question of veracity between two witnesses of perhaps general equal standing as to credibilty. Even admitting Ferry to be a liar, it does not affect the issue materially. Ferry was not a striker and much less a leader of a strike.

Thomas Hall proved nothing of value to the defense. He told a very lame story. He worked at Lattimer in September and said he did not know of any complaints there in September. They were stopped there by a crowd on September 7. This was altogether qualified on cross-examination by his saying that he would not undertake to swear that the Lattimer people were satisfied with the wages they were receiving, or with the price of powder, or with the fact that they were obliged to deal in the company's store. They heard the strikers were coming and left of their own accord before any strikers appeared.

William Shoemaker gave similar general testimony on his direct examination; but on cross-examination he endeavored to escape a positive answer as to whether there were not complaints by saying that he never was around when any talk of that kind went on.

In point of fact, that such complaints were unusual is almost a matter of history, which, under the law of evidence, proves itself.

He left of his own account and not because of any compulsion.

Neither of these two witnesses established the fact that they were driven out of work on September 7. They left voluntarily.

TWENTY-FOURTH DAY OF THE TRIAL, MARCH 2, 1898.

The examination of witnesses for the defense was resumed, the following witnesses being examined:

James Martin (resumption of cross-examination), Samuel B. Price, Ario Pardee Platt, Alfred E. Hess.

The examination of James Martin, sheriff, was concluded on this day of the trial. He was naturally the most important witness for the defense, and its merits depend in very great measure upon the efficacy of his testimony. A careful and just estimate of this, occasion the conclusion that it does not all fulfill the promise of the opening address of

his counsel that it would settle the fact that there was justification for the Lattimer shooting. Indeed, it fails to establish the necessity for the summoning of the posse comitatus. An accurate condensation of the essential features of his extended narrative is presented in the following reference to his evidence: On arriving at Wilkesbarre from Atlantic City on September 5 he did not go upon the ground forthwith, as presumably from the position taken by the defense was obligatory upon him, but on Monday, September 6, he went to Hazleton, and only consulted with Zerby and Platt, two interested persons and very unfriendly to the miners, and who made serious misrepresentations to him. All the evidence in the case shows them to have been misrepresentations. Encouraged by these misrepresentations, and having neglected to acquire for himself any knowledge on the subject by diligent inquiry and personal examination from independent sources, he hastened to secure a posse comitatus. At the suggestion of Messrs. Zerby and Platt, alone, he selected Thomas Hall to get this posse comitatus for him. This was his initial error. The duty of such selection is one that the law forbids a sheriff to delegate. His insufficient excuse is that he was so unacquainted with the neighborhood as to make a personal attention to the matter impossible. His next blunder was to issue a proclamation, in which he referred to persons "terrorizing the people the way they were going there." He was absolutely without adequate proof at that time that there was a condition of affairs in the Hazleton region which could truthfully be so characterized. Immediately after this action, and as indicating how he was wanting in sincerity and independence, he went to the bicycle races at Hazleton for the entire afternoon. This circumstance indicates that there could not have been a state of public terror in a neighborhood in which bicycle races were going on. In the meantime Hall got the posse comitatus together for the sheriff, the sheriff having no hand in their selection. He contented himself with going to the hall and swearing them in in the evening and with directing them to meet him early the next morning (Tuesday, September 7), with guns. How these guns were procured is told in the testimony of a subsequent witness (A. P. Platt), hereafter to be referred to. The first performance of the posse comitatus was to attend a ridiculously trifling disturbance at Crystal Ridge, September 7, which was evidently greatly magnified in the sheriff's account of it, and which ended quite harmlessly and peaceably. After that they went to Beaver Brook, in the adjoining county, at the call of the manager there, only to find everything quiet and orderly. The sheriff and his men returned to Hazleton, peacefully took his dinner, and went back to Wilkesbarre, having seen nothing whatever to justify any proclamation or any posse comitatus with Winchester guns.

On the next day (Wednesday, September 8), he went to Drifton in response to a telegram and swore in some deputies there, obviously on a report the accuracy of which he did not take the trouble to investigate. These deputies, also, were apparently selected for him, as they met him at Drifton and were promptly accepted by him. He then went to Cranberry and Harwood, found everything in order, and returned to Hazleton. While at dinner there he heard that what he and the other witnesses for the defense persisted in calling "the mob" were at Stockton Junction. He went thither with 1 deputy, had a talk with "the mob," and as they seemed indisposed to disperse, he told them they must, as "the people were in a state of terror." So far as the evidence discloses, up to this time there was nothing in the situation to warrant this statement as to "a state of terror." It was a wholly

unwarrantable assumption. The strikers were readily dispersed. Then he went to Crystal Ridge with 50 deputies. There was some discussion between him and some of the strikers. No violence was, however, committed, and the sheriff went away. He then made the important admission to Mr. F. Pardee that he, the sheriff, had no right to interfere with the strikers, as they were doing nothing wrong.

Up to the morning of September 9, therefore, according to his own testimony, there was no "state of terror," and absolutely no occasion for summoning or maintaining a posse comitatus. He indeed admitted to Sheriff Setser at Crystal Ridge, at 10 a. m. on the 9th, that there was no need for a posse at that time. Later in the day there was a body of strikers whose numbers were not specified, and who were readily dispersed by the sheriff or deputies, and one man, after the "mob" had gone away, fired a gun at the deputies. He was not arrested, however, although it was, apparently, an easy thing to do, and the strikers departed unmolested. The sheriff and deputies remained until 4.30 p. m., but matters remained in their general peaceable condition and he left Hazleton at 5 p. m., arriving at his home at Wilkesbarre at 7 p. m. We find no "state of terror," therefore, or anything out of the ordinary, up to the morning of September 10.

On Friday, September 10, the sheriff went to Drifton again. His posse there awaited him. He arranged to be in easy communication with "any part of the trouble." What the "trouble" was a careful examination of his testimony up to this time does not make manifest. Upon dispassionately reviewing the events of the preceding four days, as detailed by this extremely interested and partial witness, it becomes only too plain that the single purpose of the call to the sheriff and the summoning of the posse comitatus was to defeat the strikers in their lawful efforts to secure an increase of wages.

Nothing happened on September 10 until 1 p. m., when, hearing that the strikers were coming to Hazleton No. 1, the sheriff and deputies went to West Hazleton and confronted a body of men, to whom he said "I want you to stop;" and one man replied, "You can't stop us." This expressed understanding of the striker was wholly in accordance with the sheriff's own opinion as expressed to Mr. F. Pardee on the previous morning and already referred to (see his testimony, p. 1999). As to this, indeed, the sheriff's whole attitude and conduct at the West Hazleton encounter indicates that he had serious doubts as to his right to stop the strikers. He and his deputies finally left there. Subsequently, word came that the strikers had resumed their march, and he said, significantly, they could not help it. However, he concluded to go to Lattimer with his deputies. At Harleigh he saw they were going to Lattimer. He and his deputies went there also. At Lattimer he said to his deputies that if the strikers said they were going to do nothing he would let them proceed. Here is another indication of his doubt as to his authority to interfere with them.

At Lattimer, on the highway, the sheriff ordered the strikers to stop, and they said they would not. The crowd surged around him. He drew his revolver. The crowd pushed him to one side of the row. One man struck him on the cheek. The sheriff got down on his knees. He is suspiciously vague in this critical part of the story. One man drew a knife and 2 held their revolvers out. But he does not say that any shots were fired by these 2 strikers or any others of them; and, accommodating this part of the evidence to the great mass of the testimony, as it is right to do, it is clear that nothing happened beyond what Mrs. Catharine Harvey stated in her cross-examination, and that is that the

men in the rear of the column of strikers pressed the men in front ahead, so that they crowded ahead of the sheriff and forced him aside. It is worthy of note in this connection that he does not say that he gave the order to fire. If he was threatened with danger, as he and others have striven to imply by their testimony, the deputies could easily have come to his relief. The circumstances related by the sheriff present no justification for their remaining in line and firing indiscriminately. He did not order them to cease firing, and admitted that he was very much surprised at the shooting, which of itself shows his belief that it was unnecessary. He confessed on his cross-examination that he did not originally confer with the mayor of Hazleton nor with any justice or constable, or invoke their assistance in the selection of his deputies.

It is impossible to avoid the conviction in the light of this testimony of the sheriff that there was really no abiding sentiment in his mind that the strikers were guilty of any criminal infringement of the rights of others. His principal anxiety seemed to have been how consistently to disperse those who had the right to march on the public highway. He was apparently divided between a desire to comply with the wishes of the people who had urged him to call out the posse comitatus and the belief that the strikers themselves were not seriously in the wrong.

Samuel B. Price was the sheriff's chief lieutenant. Upon September 6 Hall asked him to serve as deputy and he told him he would. This confirms the sheriff's story as to his unlawful delegation of his authority. The sheriff's instructions to his deputies, as repeated by Price, vested a discretion in the deputies that was as unwise as it was unwarranted. Price gives the same account as the sheriff of the proceedings on September 7, at Audenried and Beaver Brook, and the dispersing of the deputies at Hazleton at noon. Also, there is presented by him a relation of the experiences in the afternoon—the going to various places on unfounded rumors of truth; the return to Hazleton, and their dismissal for the day. And so as to Crystal Ridge and Cranberry, on September 8, there was no real disorder whatever there or at Stockton on the part of those whom they persist in calling "the mob." He was at Crystal Ridge all the afternoon with the sheriff, meeting 150 strikers, who did no violence, and who peaceably dispersed at 5 p. m. Likewise, on September 9, he went with the others about the country on false reports as to disorder; and finally he met a body of strikers at Beaver Meadows, with whom they had a little trouble; but there was no violence and no injury to person or property, or any real disturbances, so the deputies returned to Hazleton. Each night they went to their beds at home, leaving but a small guard, for form's sake, over their guns.

So much for four days' experience of the posse comitatus, during which the witness related nothing that afforded a justification for the necessity of the posse.

With reference to West Hazleton on September 10, Price mentions no real violence on the part of the strikers when they pressed back with their guns. He tells, indeed, of feeling 20 to 25 revolvers in the men's pockets, but takes care to say he saw none.

Beyond saying that he got a "glimpse" of the "mob" making for the sheriff at Lattimer, he told nothing of the incident preceding the shooting. His back was turned to the strikers, and he says he was confronted by a "large Hungarian," who fired at him from the alley with a revolver. This is the first time that any reference has been made to the "big Hungarian," whose presence alone on the other side (the rear) of the deputies is unexplained. Price's story as to this is altogether uncorroborated. Assuming that it may be true, the "big

Hungarian" is not identified by this witness as belonging to the strikers' body. In fact, he said he did not think he was one of them. Further than this, Price said that Eby, Berryman, and Ravert, of the deputies, were with him when the "big Hungarian" shot at him, but not one of these individuals was called to sustain Price. This omission on so important a point could not have been accidental.

Price said that he did not shoot at Lattimer. He mentioned a number of the deputies who were furnished with Winchester rifles and guns of the 16-shooter pattern. It was made clear by his cross-examination that there was no real state of terror in the Hazleton region prior to September 10.

A. P. Platt is the superintendent of Pardee & Co.'s store in Hazleton. He was an exceptionally and suspiciously zealous witness for the defense. His bias was evident and altogether in excess even of the bias of a defendent on trial for homicide. It is what might be styled an impersonal bias. He told in very effusive language of the occurrence at Cranberry, where 150 strikers had a demonstration, in which there was no violence to person or property, and about apprehensions for which he gave no substantial reasons.

Like the other preceding witnesses, he said the affair at Crystal Ridge, on September 7, was only a demonstration. They peaceably dispersed after having treated the sheriff "courteously." So as to Beaver Meadows and other places, September 7, he "heard" of disturbances, but really saw none. They returned to Hazleton at night, as he says, "having seen nothing of a startling nature."

On September 8 they were at Crystal Ridge all morning, as to which he repeated the expression, "nothing of a startling nature occurred." Then they went to Hazleton and back to Crystal Ridge in the afternoon, met and dispersed a band of strikers with little difficulty, and here again there was no injury to person or property. There was a great deal of talk on these various occasions in foreign tongues, which he confessedly did not understand, yet Platt and other witnesses constantly testify to threats, etc., of the strikers, who, according to the witnesses' reports, generally used their native language.

On September 9, at Beaver Meadows, there was held a demonstration by a more-or-less boisterous mass of the strikers, who, however, were easily dispersed without any semblance of riotous proceedings on the strikers' part. He told substantially the sheriff's story about the meeting of the sheriff and deputies with the strikers at West Hazleton.

At Lattimer, September 10, he said that the sheriff's life was in danger, but duly allowing for his exaggerated and pompous manner of testifying, none of the circumstances related by him support his view; on the contrary, they are wholly inconsistent with it. None of the preceding witnesses for the defense, much less the sheriff himself, present any such elaborately embroidered narrative. There is a marked contrast in his skillfully devised testimony between the demeanor of the strikers at West Hazleton and at Lattimer. According to him, they were quite peaceable and friendly at West Hazleton and wildly ferocious at Lattimer. Nevertheless, he swore that a line across the road at Lattimer, as the deputies were arranged at West Hazleton, would have enabled them to press the strikers back with their guns, as they did at West Hazleton.

NOTE.—Remarks upon the testimony of Alfred E. Hess will be found on observations on the testimony taken on the twenty-fifth day of the trial, March 3, 1898, his cross-examination being concluded on that day.

TWENTY-FIFTH DAY OF THE TRIAL, MARCH 3, 1898.

The examination of witnesses for the defense was resumed, the following witnesses being examined:

Alfred C. Hess (cross-examination resumed), John L. Salem, A. P. Platt (recalled), Charles J. Haen, Thomas Hall, Sheriff Martin (recalled), M. Conneff.

These witnesses were all defendants and participants in the Lattimer affair, with the unimportant exception of M. Conneff. Their testimony places the defense in no better position than it was left after the close of yesterday's proceedings.

Alfred E. Hess is a civil engineer in the employ of the Lehigh Traction Company. He was one of the deputies, and captain of Company A of the posse comitatus. He repeated briefly the story told by the other witnesses for the defense, and gave no instances of injury to persons or property, or any really riotous conduct on the part of the strikers. As to Lattimer, he subsequently confirms Mrs. Elizabeth Harvey, already respectively referred to, in saying that "the front halted for a moment and they moved on from behind." He compared it to a football scrimmage.

He contradicted other witnesses for the defense when he says Platt and other deputies rushed out to protect the sheriff at Lattimer. It can not be too frequently urged that the convergence of the roads there explains this witness's account—rushing to the line of the deputies. Their advance necessarily and unavoidably brought them in that direction.

Hess's fear that the strikers would charge on the deputies and take their guns from them is absurd and is a palpable afterthought. It is rendered incredible by his statement that only 3 or 4 of his men fired. Hess did not fire either.

Price selected Hess as deputy, not the sheriff. Like Price, he endeavored to create the impression that the deputies were very gentle with the strikers at West Hazleton.

His cross-examination made it very plain how, in consequence of the convergence of the two roads at Lattimer, the left of the deputies' line was nearer to the public road than its right. Hess says they were 75 to 100 feet distant on the right and 15 feet on the left. The majority of his company was composed of men closely identified with the coal and iron interests.

It is believed that the refusal of the court to allow the Commonwealth to show the relations of the deputies with the coal and iron interests was improper. It is true that the evidence was practically introduced, but the expression of opinion by the court on its formal exclusion was calculated to prejudice the prosecution.

John L. Salem was another defendant. He was selected by Hall. At Lattimer he saw the sheriff approach the "mob." There was, according to his testimony, a repetition only of the West Hazleton experiences, and nothing more serious or formidable. His account of the rush toward the deputies by the strikers tallies with Mrs. Elizabeth Harvey's relation, just referred to. The witness was "just about overcome with the heat" and went back to lean against a fence, when he heard a shot fired from the left of the deputies' line. By the time he got back into line it was all over.

Salem did not fire, either, he said. He did not see the sheriff down or getting up. He would not say that anybody rushed toward the sheriff at Lattimer.

Charles J. Haen was another defendant. He is in the employ of A. Pardee & Co. His account of the Lattimer affair shows no justification for the shooting, so far as the sheriff was concerned. According to Haen's story, the sheriff was in greater danger than he was at West Hazleton. He tells of being shot at (he "thought he was shot at" were his exact words), and of then firing himself. He is the first witness of the defendants to admit having fired, and is the only one of all the few defendants that were called who made such an acknowledgment. His account of the strikers making a break to the deputies is likewise readily reconcilable with Mrs. Harvey's often-quoted statement. As to his being shot at, this is the very first and only reference during the entire trial that has been made to any such occurrences. It bears the impress of pure invention. He mentioned 3 deputies who were immediately on either side of him, but not one of them nor anybody else was called, down to the termination of the trial, to corroborate this part of his testimony. This omission by the defense plainly indicates the untruthfulness of the story. So important an item of defense would not have been so neglected had the counsel had faith in the witness's testimony on this point, or had it been possible to secure a confirmation of the story.

Thomas Hall was another defendant. To him was delegated the selection of the deputies by the sheriff on September 6. He really began the selection before he saw the sheriff. It is, at least, remarkable that no one but Hall heard the sheriff's instructions to the deputies as detailed at length by this witness. It altogether fails of corroboration. He gave his version of the Lattimer affair; so far as he relates, there was nothing in the conduct of the strikers more serious than their actions at West Hazleton earlier in the day. His account of the strikers pressing forward is also quite in accord with Mrs. Harvey's story, as well as that of the Commonwealth's witnesses, and which give unquestionably the real character of the movement. The rear of the large column pushed the front forward, and, as already observed, the convergence of the roads unavoidably brought the head of the strikers' column close to the left of the deputies' line. A fair deduction from his testimony is that the shooting was premature, precipitate, and unwarranted by the emergency.

Hall said he did not fire, either.

M. Conneff is a court officer. He said he thought from the appearance of the sheriff's cheek on the night of September 10 that he had been struck by something.

TWENTY-SIXTH (AND LAST) DAY OF THE TRIAL, MARCH 4, 1898.

The examination of witnesses for the defense was resumed and concluded, the following witnesses being examined: Andrew Sevar No. 2 (recalled for further cross examination), Andrew Sevar No. 1 (for further cross-examination), John Eagler (recalled for further cross-examination), Andrew Nowatny (recalled for further cross-examination), Martin Locher (recalled for further cross-examination), Frank Krupka (recalled for further cross-examination), A. P. Platt (recalled).

And here the defense rested their case.

The examination of witnesses for the prosecution in rebuttal then followed, the following witnesses being examined: T. P. Ryder, Mr. Strouse, Joseph Costello, Fred. Williams, Leo Chemeleakie, Andrew Sevar No. 2, John Eagler, P. F. Failon, Michael Nicholson.

And here the Commonwealth rested.

The proceedings on the last day of the trial possess no special importance. Various witnesses for the prosecution were recalled by the defense for further cross-examination, for the purpose apparently of showing that the evidence as to the resolution of the Harwood meeting of September 9 not to carry weapons was a fabrication, inasmuch as none of the witnesses testified on this particular point at the preliminary hearing before the two judges in September, at which the defendants were held for trial. The attempt to show this was not successful. It is to be observed as to this that there was no necessity for introducing this item of evidence at the preliminary hearing. In point of fact—although in strictness it is out of place in a criticism of the present proceedings—the representative of the Austrian Government, who was at Hazleton after the shooting, embodied in his affidavits a reference to this particular action of the Harwood meeting of September 9. This definitely disposes of the fabrication theory.

Other testimony, on the last day, to be briefly noted was that of the witnesses who showed in contradiction of the sheriff and other defendants that there were no signs of marks or bruises or discoloration on the sheriff's face on the evening of September 10.

There was manifest impropriety in the court's inquiry of Joseph Costello (p. 2354) whether Costello had written him a letter during the trial. This was put to the witness at the end of his examination in rebuttal of Hess's testimony on the point of Hess's threats to witness at Lattimer. Costello was an important witness for the prosecution, and the court's question had nothing to do with the case, and in view of the court's previous animadversions on anonymous communications which he averred had been sent him during the trial was doubtless of effect to prejudice the witness's status with the jury as well as to injure the prosecution.

It is believed, too, that the court erred in refusing to admit the evidence of Fred. Williams (p. 2355) in proposed contradiction of Charles J. Haen as to the strikers making a dash at the defendants at Lattimer, September 10.

The evidence offered by the Commonwealth on this point was abundantly competent as rebuttal testimony under the well-recognized and constantly applied rules of evidence.

There was a verdict of "Not guilty" as to all of the defendants, and they were discharged.

General Review of the Trial.

The trial was, upon the whole, well conducted by counsel for the prosecution. They were embarrassed at the outset by the inadequate initial preparation of the case by the district attorney, who had original charge of it. The district attorney officiating at the trial came into office on January 1, 1898, and it is but fair to him to remark that had he had the conduct of the prosecution from the date of the preliminary hearing at which the defendants were held for trial, he could, and very probably would, have presented a stronger case for conviction.

It may with propriety and confidence be asserted that the jury were in sympathy with the defendants from the very commencement of the trial. They did but reflect the general sentiment of the community from which they were selected. Perhaps, had it been possible to try the case at an earlier day, this sympathy would not have been so active or so potent. Even, however, assuming it to have been entirely absent from the breasts of the jurors, it is only just to admit, in view of the

very negligent original preparation of the case and the consequent status of the prosecution when the case came on to be tried, there was a real difficulty in securing the conviction of the defendants. This would have presented itself to the most impartial jury in this form—the inevitable doubt as to guilt which secures every accused person his acquittal. That this doubt was natural, regarding a number of the defendants, notwithstanding their presence and technical participation in the Lattimer affair, can not be denied or unfavorably criticised. In simple justice to the present jury, their verdict has a partial, if not wholly adequate, explanation in this aspect of the case.

It is believed that a trial or trials of the other indictments in this jurisdiction would very probably result similarly to this one. A change of venue would be absolutely essential to an entirely fair trial.

The trial resulted in a miscarriage of justice. Of the 109 witnesses called by the prosecution a very large majority were actual eyewitnesses of the occurrences at Lattimer on September 10, 1897. Their great number entirely precludes the possibility of their having told a prearranged story to the jury. It is a remarkably consistent narrative that each witness relates, and the fact that they were not permitted to hear each other's testimony confirms the theory that no fabricated and partial account of the shooting could have been successfully determined upon by them in advance of the trial. Had the Commonwealth confined itself to a moderate, though legally sufficient amount of proof, it might have eventually left room for a just doubt as to the actual merits of the important issue. This was, indeed, in substance, the tactics adopted by the other side, and the Commonwealth's liberal contribution to the history of the affair presents a suggestive contrast to the meager testimony offered by the defense as to what transpired at Lattimer, September 10, 1897. It is true that the defense called a host of witnesses. A large proportion of these were, however, offered solely for the purpose of showing a condition of affairs previous to the shooting in justification of the summoning of the posse comitatus. This part of the defense, as has already been urged, entirely failed to fill the measure of proof necessary to establish such a justification. The disorder and turbulence incident to strikes in general were undoubtedly set forth in graphic and picturesque language by these witnesses for the defense, again and again, but it is not believed that it is possible for any impartial person, uninfluenced by local passion or prejudice, to realize from all this mass of testimony that in the Hazleton region, during the week ending September 10, 1897, the community was in terrorem publici; which condition of the population of a neighborhood is an essential prerequisite to the summoning of a posse comitatus. There is, indeed, the frequently repeated expression of the fears and apprehensions of the witness for the defense. An accurate and just estimate of this testimony, however, occasions either the conviction that their fears were matters of afterthought or that the circumstances related by these same witnesses as developing such fears could not on the part of rational human beings, of the average standard of judgment and intelligence, have furnished any warrant whatever for their existence. It is highly probable, indeed, and their is fair ground for argument favorable to the prosecution based upon such probability, that the mere presence of the posse comitatus in the neighborhood of Hazleton for the week preceding the occurrence at Lattimer unduly excited the population, and gave birth to those very apprehensions. Certainly, the evidence is insufficient to establish a legal warrant for the formation of the posse comitatus on September 6. The strongest

testimony on that point is, naturally, that of Sheriff Martin himself; but it discloses nothing, beyond vague representations made to him by interested and inaccurately informed persons, of a riotous or criminally violent character in the conduct or attitude of the miners. Therefore, the summary organization of the posse comitatus was a precipitate and premature performance. It was a palpable device, in the interest of the coal operators, to thwart the lawful schemes of their employees, under the color of law. Its precipitous and premature character, then, would of itself contribute, naturally and unavoidably, to stimulate the popular pulse to a feverish extent. Herein, consequently, is found the explanation of the apprehensions and fears of the citizens of Hazleton and its vicinity, and so sufficient is this explanation that there is no need to seek further to understand them. It can not be reiterated too frequently that there was nothing, so far as the entire testimony on the subject indicates, in the demeanor of the mining population at large to occasion a condition of general apprehension. To resume, the posse comitatus itself, and its performances, made such a state of mind not only possible but unavoidable.

As already observed, there was a great number of eyewitnesses on the part of the prosecution, who testified to the occurrences at Lattimer on September 10, 1897.

On the other hand, the witnesses called by the defense to testify to the Lattimer shooting were comparatively few in number. The most important of these were the sheriff and the deputies themselves. It is not to be overlooked that but 7 of the posse comitatus, including the sheriff himself, were put upon the witness stand; and that all of them but one, Haen, denied having fired at the strikers. When it is considered that the sole defense interposed was justification created by the presence of a dangerous mob of rioters, it is difficult to explain on any theory consistent with the innocence of the deputies why the fact of the shooting, impliedly admitted by the very character of their defense, should not have been testified to by some of these witnesses. Its careful exclusion by the counsel for the defense finds its obvious and only adequate explanation in the consciousness of guilt.

The preponderance of evidence as to the true character of the Lattimer affair is, then, unquestionably that of the Commonwealth's side. As to the character of this evidence, it may with justice and confidence be asserted that it bears with it the customary marks of genuineness and truthfulness. Whoever is familiar with the subject of human testimony must recognize in the successive relations of these inexperienced and uneducated miners all the unfailing indicia of sincerity and veracity which distinguish trustworthy evidence from that which is fabricated and untruthful. The very discrepancies which occasionally interfere with the reconciliation of an account by one witness with that of another with equal facilities for observation do but serve, under a well-established principle of the law and philosophy of evidence, to affirm the essential acceptability of the general body of the testimony.

Whether the miners were armed or not at Lattimer on September 10 is, under the evidence as to what actually occurred there on that day, not very important. They, themselves, swore, to a man, that they were not armed. Some of the witnesses for the defense insisted that they were provided with clubs, and some mention was made of knives and revolvers. The witnesses for the prosecution were quite as worthy of belief as those for the defense, and far outnumbered the latter. The witnesses for the defense varied widely in their estimate of the number of the clubs carried, and so different were their estimates that the effect

of their testimony on this point is at least seriously impaired. However it may have been, it is unquestioned and unquestionable that no threatening display or use was made of any weapons by the main body of the strikers on September 10, or, indeed, at any other time, and giving the testimony for the defense on this subject the widest possible range and indulgence, all that may, with any approach to accuracy, be asserted is that 2 or 3 of this large assemblage of strikers did, on the occasion in question, indulge in an alarming manifestation of weapons. Conceding so much—and it is the very utmost the evidence permits—there still remains an absolute absence of provocation for the wholesale destruction of human life which attended the encounter of the sheriff and his deputies with the miners on September 10. This feature of the case is extensively considered in the discussion of the testimony of Sheriff Martin.

Mr. Martin was the principal defendant, and, of course, the most important witness for the defense, and, as observed, the merits of the defense depend in very great measure upon the efficacy of his testimony. It is there shown, it is believed, that by the sheriff's own carefully considered and rehearsed testimony a substantial provocation for the shooting by the deputies fails to be disclosed.

In the line of this criticism of the weakness of the defense's attempt to establish a justification for the shooting on September 10, there is to be mentioned the testimony of Deputy Price, who was also the sheriff's "chief lieutenant." At the critical period Platt's back was turned, and could tell nothing material or important concerning the action of the strikers just at that juncture. He did, indeed, tell of a "big Hungarian" firing at him, Price, while his back was so turned. There was, however, no attempt whatever made to identify this "big Hungarian" with the main body of the strikers, and there is no fair inference to be drawn as to such identification, but no other witness referred to the "big Hungarian," and although Price said that three of the deputies saw the "big Hungarian," not one of these deputies was called to sustain him.

Likewise the shortcomings of the defense are forcibly illustrated by the narrative of A. P. Platt, another deputy. He was an intensely interested and prejudiced witness, whose whole manner of testifying was bombastic and exaggerated in the highest degree. He insisted that the sheriff's life was in danger, but gave no circumstances in support of his assertion. The contrast between his highly embroidered story and the simple relation of the average eyewitness called by the prosecution is impressively suggestive. As for Hess and Hall, the two other deputies, upon whose evidence so much importance was placed by the defense, especially with reference to the occurrences at Lattimer, it is to be remarked that neither witness told a story that would carry conviction to the impartial mind that the miners were sufficiently at fault to excuse their shooting by the deputies. Each of these witnesses confirms, in substance, the account of Mrs. Elizabeth Harvey, a witness for the defense, whose explanation of the movement of the strikers at Lattimer immediately before the shooting is undoubtedly the only true version, corroborating, as it does, the stories of the miners themselves. Mrs. Harvey had an excellent point of view, and on her cross-examination there was elicited the very important fact that the rear of the body of strikers, pushing ahead after the halt by the sheriff, forced those in front beyond the sheriff. Then it was that the firing was begun by the deputies. It is confidently urged that this statement of Mrs. Harvey presents the true condition of affairs immediately preceding the shooting at Lattimer. It is the statement of a hostile witness, animated

by no purpose to assist the cause of the miners, yet it sets forth effectively that the pressure from the rear of the column forced the head of the column violently forward. This movement of the column of strikers did not afford a justification for the sudden and precipitate killing of nineteen men and the serious wounding of twice as many more.

A careful consideration of the entire testimony relating to the Lattimer affair, September 10, 1897, forces the conviction that the deputies were the victims of a sudden panic, under the pressure of which judgment and discretion entirely forsook them. The history of riots conclusively establishes the fact that bloodshed can almost invariably be avoided, and there was nothing in the attitude and demeanor of the miners at Lattimer which justifies the belief that their reckless slaughter was necessary. They were, unquestionably, unprovided with deadly weapons, and although they were turbulent and demonstrative—a condition inseparable from a large, undisciplined body of laborers—they were not rioters, notwithstanding the unjust intimations to that effect thrown out to the jury in the charge of the court.

There is no question that the verdict of the jury met with general acceptance throughout the country. The opinion had been almost universally expressed that the killing of the miners at Lattimer had a salutary effect, even though, as was commonly conceded might be the fact, there was no legal justification for the firing by the deputies. The state of mind which is crystallized in this opinion no doubt entered into the jury box. This indicates how impossible it is to secure local justice for those who suffered directly and indirectly by the Lattimer affair, or to obtain punishment for those who, without sufficient warrant, assumed to interpret and summarily execute the law. For this failure of justice on the part of the duly constituted authorities of the Commonwealth of Pennsylvania, a responsibility attaches to the Government of the United States for the deaths and personal injuries of subjects of a foreign power, in consequence of such denial and miscarriage of justice. This doctrine is succinctly stated by that preeminent authority, Mr. James Bryce, in the following language:

> A foreign Government is prima facie entitled to redress for injuries lawlessly inflicted on its subjects, even if no treaty guarded this right, and a fortiori if a treaty does in fact secure it.
>
> This redress may be civil by way of pecuniary compensation, or criminal by the punishment of the offenders.
>
> The criminal form is more important, because it affords better security for the protection of alien residents in future.
>
> If punishment fails to be awarded, the defects of judicial procedure, or the perverseness of those who administer it locally, will be no answer to the complaints of a foreign Government, and if the denial of justice is palpable, and the case serious, a foreign Government will be entitled to treat such denial as a grave breach of international rights, possibly even as a casus belli. (Legal and Constitutional Aspects of the Lynching at New Orleans, 1891. New Review, Littell's Living Age, vol. 189, p. 579.)

The obligation of the Government of the United States to indemnify the subjects of a foreign power for injuries sustained under the circumstances indicated had been already practically admitted by the Department of State; "not as under obligation of treaty or principle of international law, but solely from a sentiment of generosity and pity. In view of the failure of the authorities to uphold the law or punish the criminals, it may reasonably be a subject for the benevolent consideration of Congress whether, with the distinct understanding that no precedent is thereby created, or liability for want of proper enforcement of the law, they will not, ex gratia, grant pecuniary relief to the sufferers." (Mr. Bayard, Secretary of State, to Mr. Cheng Tsao Ju, February 18, 1886. Wharton's International Law Digest, vol. 1, p. 486.)

The legal aspect of the question of the lack of justification for the shooting at Lattimer on September 10, 1897, may be thus presented: The sheriff of the county of Luzerne is, under long-established law and precedent, the conservator of the peace of the county, and his authority to assemble the posse comitatus, under a given emergency and to preserve that peace, is unquestionable. It can not be seriously maintained, however, that the sheriff is invested with such absolute discretion in the matter of the calling out of the posse comitatus that he can in no event be held accountable for the capricious or unjust exercise of that discretion. This would place in his hands a power that was, indeed, possessed by the sheriff in England in the Middle Ages, when he was a veritable autocrat, from whose ministerial acts there was no appeal. Although there has been no legislation, either in England or in any of the United States, diminishing in appropriate and explicit language the sheriff's arbitrary prerogatives, the trend of judicial decision, an enlightened public policy, and the spirit of our institutions have been effectual in contributing materially to limit the sheriff's authority. The criminal prosecution of Sheriff Martin and his deputies for the murder of Mike Ceslak was the first proceeding of its kind in the history of English or American law, so that there exist no precedents by which it may be measured or criticised. There have been, however, innumerable suits against sheriffs for civil damages for negligence, and for various acts of omission and commission, whether done colore officii or virtute officii, and these suits for the defaults or misdoings of sheriffs have been constantly sustained by the tribunals of both nations. The liability of the sheriff being so completely recognized by the law in civil proceedings against him, indicates plainly that the mediæval immunity of the sheriff from responsibility for his official acts has been sensibly abridged.

Such being the case, there can be no substantial reason presented for assuming that his liability for an extravagant exercise of discretion in the discharge of his duties as a conservator of the public peace should not at the present day be reviewable.

The claim of the Austrian Government against that of the United States is materially strengthened by the circumstance that the action of the sheriff and his deputies at Lattimer on September 10, 1897, was by no means of effect to restore order and obedience to law. So far from that result being secured, it precipitated a condition of affairs in the Hazleton region infinitely worse than that which, according to the testimony in the case of the Commonwealth *v.* Martin, existed previous to that date. There was thereby rendered imperatively necessary the immediate calling out of the State troops, whose presence was required to restore that peace and order which the unjustifiable shooting at Lattimer had destroyed, and the expense of whose transportation and maintenance entailed a charge upon the State of Pennsylvania of over $150,000. In the light of this remarkable sequel to the occurrence at Lattimer, and which is most inaccurately characterized as "a conflict," it is impossible to adopt the conclusion that it was either inevitable as a lawful necessity or as a means to the end of enforcing obedience to the law.

ROBERT D. COXE,
Of Counsel for the Imperial and Royal Austro-Hungarian Government.

14 SOUTH BROAD STREET,
Philadelphia, April 22, 1898.

Mr. Hengelmüller to Mr. Day.

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
New London, Conn., June 29, 1898.

MY DEAR MR. SECRETARY: Referring to our last conversation on the Lattimer affair, I have the honor to transmit to you herewith a copy of Mr. R. D. Coxe's brief on the case. I am aware that Mr. Coxe has already sent some copies to the State Department, but in view of the importance of the subject, I beg once more personally to bespeak your favorable attention for his presentation of our case. I can not but hope that its perusal will make you approve its conclusion, to wit, that the question whether an indemnity is due in justice and equity to the victims of the Lattimer affair can not be regarded as settled by the result of the trial of Sheriff Martin.

My Government is most anxious to arrive at a fair and amicable settlement of this question, with the concurrence of the Federal Government, and they believe that a careful examination of the arguments presented by Mr. Coxe will lead you to take a favorable view of the claim he advocates.

I hold myself entirely at your disposition, Mr. Secretary, for any further discussion of the subject, and as soon as you will let me know that you have formed your conclusions on the same and wish to communicate them verbally to me, will come to Washington for the purpose.

I have, etc.,

HENGELMÜLLER.

Mr. Day to Mr. Hengelmüller.

DEPARTMENT OF STATE,
Washington, July 2, 1898.

MY DEAR MR. HENGELMÜLLER: I have the honor to acknowledge receipt of your note of the 29th ultimo, and to inform you that we are in receipt of copies of Mr. Coxe's brief in reference to the Lattimer affair, and that we are giving the matter careful attention. After I have read these briefs I will communicate with you further on the subject.

I am, etc.,

WILLIAM R. DAY.

Baron Riedl to Mr. Hill.

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, November 18, 1898.

DEAR SIR: With reference to our last conversation, I have the honor to forward to you, inclosed herewith, a copy of a pamphlet purporting to be a review of the trial of James Martin, sheriff, and others, for the murder of Mike Ceslak, as issued by Robert D. Coxe, esq., attorney at law and member of the bar of Philadelphia.

I have, etc.,

RIEDL.

Mr. Hill to Baron Riedl.

DEPARTMENT OF STATE,
Washington, November 21, 1898.

DEAR SIR: I have received your note of November 18, inclosing brochure in the matter of the claim for indemnity by the Austro-Hungarian Government for the shooting of certain of its subjects at Lattimer, Pa., for which I desire to thank you. The matter will receive my early attention.

I have, etc.,

DAVID J. HILL,
Acting Secretary.

Baron Riedl to Mr. Hay.

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, January 13, 1899.

DEAR MR. SECRETARY OF STATE: Referring to our last conversation on the Lattimer affair, I have the honor to inform you that Mr. Robert D. Coxe is ready to come to Washington to-morrow or the day after to-morrow. You would oblige me very much by having me informed which of the days aforesaid would suit you for granting an audience to Mr. Coxe.

I have, etc.,

RIEDL.

Baron Riedl to Mr. Hay.

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, January 17, 1899.

DEAR MR. SECRETARY OF STATE: Referring to our last conversation on the Lattimer affair, I have the honor to inform you that Mr. Robert D. Coxe is free to proceed to Washington January 18, 19, 20, 21, 23, and 28.

You would very much oblige me by having me informed which of the days aforesaid and what hour would be convenient to you for granting the favor of an audience to Mr. Coxe.

I have, etc.,

RIEDL.

Mr. Hay to Baron Riedl.

[Personal.]

DEPARTMENT OF STATE,
Washington, January 17, 1899.

MY DEAR BARON RIEDL: I beg to acknowledge the receipt of your personal note of the 13th instant, and to inform you that I shall be pleased to grant to Mr. Coxe the interview which you request for him at 10 o'clock to-morrow morning or any date thereafter, as may best suit your convenience and that of Mr. Coxe.

Very truly, yours,

JOHN HAY.

Mr. Coxe to Mr. Hay.

PHILADELPHIA, PA., *January 23, 1899.*

MY DEAR SIR: In the matter of the claim for indemnity by the Austro-Hungarian Government for the shooting of certain of its subjects at Lattimer, Pa., on September 10, 1897, I desire to present to you, by way of supplement to my brief of April 22, 1898, embodying a review of the trial of James Martin, sheriff, and others, a few observations explanatory of that brief. The matter has already been brought to the attention of the Department through your predecessor, the Hon. William R. Day, in May, 1898.

It is but just to myself and to the national and State authorities that I should mention that originally my inclinations were by no means favorable to the contentions of the friends of the victims of the Lattimer shooting. As a citizen of Pennsylvania and a member of its bar, I was animated by a strong bias in favor of the processes of the law and their vigorous enforcement. In this frame of mind I attended the preliminary investigations at Hazleton in September, 1897, and the subsequent trial of the sheriff and deputies for murder at Wilkesbarre in February and March, 1898. I was thus able to consider the evidence as it was daily presented, at least impartially, so far as the defendants were concerned. I was, so far as the accused were involved as well as the Commonwealth of Pennsylvania and the particular tribunal, competent to view the whole proceeding judicially and dispassionately. My conclusions, accordingly, were reached not as a partisan advocate of the Austrian Government, but rather as an amicus curiæ, conscientiously considering the case from an especially advantageous and conservative point of view. My instructions from his excellency Mr. Hengelmuller von Hengervar, the minister from Austria-Hungary, were of such a character that I should have been seriously derelict in my duty to him and his Government had it been at all apparent to me that there was any justification for the killing of the subjects of that Government at Lattimer on September 10, 1897, and I had failed to so advise him.

My review of the testimony is before your Department, and I challenge the counsel for the defendants, as well as the representative of the United States Government who attended the trial, to indicate any omission or misstatement in my extensive and thorough analysis of the evidence prejudicial in the slightest degree to any of the accused.

If my review of the testimony may not be thus successfully impeached, it is impossible to conclude that the law was not violated by James Martin and his deputies at Lattimer on September 10, 1897.

The responsibility of the United States Government for the failure of justice in Pennsylvania is established by numerous precedents, as I have stated in my printed brief. The latest and most scholarly authority on international law thus presents the matter:

> There are no well-regulated States in which the judiciary is not so independent of the executive that the latter has no immediate means of checking the acts of the former; judicial acts may be municipally right, as being according to law, although they may affect an international wrong; and even where they are flagrantly improper no power of punishment may exist. All, therefore, that can be expected of a Government in case of wrongs inflicted by the courts is that compensation shall be made, and if the wrong has been caused by an imperfection in the law of such kind as to prevent a foreigner from getting equal justice with a native of the country, that a recurrence of the wrong shall be prevented by legislation. (International Law, W. E. Hall, 4th edition, Part II, Ch. IV, sec. 65.)

In conclusion, I beg to respectfully suggest that the matter is of sufficient urgency to invite the very serious and most earnest attention of

the United States Government by invoking Congressional action in accordance with the familiar rules of international jurisprudence.

I have, etc.,

ROBERT D. COXE,
Counsel for the Austro-Hungarian Government.

14 SOUTH BROAD STREET, *Philadelphia.*

Mr. Hay to Baron Riedl.

No. 263.] DEPARTMENT OF STATE,
Washington, February 4, 1899.

SIR: In the matter of the claim of the Austro-Hungarian Government for indemnity on account of the shooting of certain Austro-Hungarian subjects by Sheriff Martin and his deputies at Lattimer, Pa., I have the honor to inform you that the Department has given attentive consideration to the report by Mr. Robert D. Coxe, the representative of your Government at the trial of the sheriff and his deputies on September 10, 1897.

Mr. Coxe's report opens with the statement that "it may be assumed that the prosecution made out a prima facie case." To one not familiar with our settled course of procedure this statement, while technically accurate, is apt to be misleading. It was not disputed at the trial that the deputies shot and wounded or killed the strikers whose claim for indemnity is presented by the Austro-Hungarian Government. The bare proof of the undisputed facts, under our system of procedure, makes out a prima facie case. But this results not from any proof of actually criminal conduct or guilt on the part of the sheriff and his posse, but from the rule of procedure that any officer who may be prosecuted criminally or civilly for any acts done colore officii is required to show affirmatively in defense the fact that he was an officer, and that the act complained of was done under color of his office in the lawful discharge of his duty. When that is proven the defense is completely made out. That was done, or attempted to be done, in the trial of Sheriff Martin and his deputies; and the question of their guilt or innocence depends on the question whether the sheriff and his deputies, in doing the acts complained of, were within their right in the lawful discharge of their duty. This raises the question of fact. The sheriff is the official conservator of the peace of his county, and the crucial question is whether there was an actual or threatened disturbance of the peace such as to justify preventive or repressive measures; whether a riot was threatened or impending, and, if so, whether the rioters persisted in their unlawful conduct after the sheriff had commanded them to disperse. The facts showing that such was the condition of affairs at and previous to the time of the shooting are recited in the report of the Assistant Attorney-General, Mr. Hoyt, who witnessed the trial as the representative of this Government; and, as will be shown, they are abundantly established by the report of the testimony of the witnesses made by Mr. Coxe, the representative of the Austro-Hungarian Government.

Mr. Hoyt's report states that the case was fairly tried; that 103 witnesses were examined for the prosecution and 111 for the defense; that the story told by the witnesses for the prosecution shows that—

On the evening of September 9, 1897, at Harwood, near Hazleton, a meeting of the strikers was held, at which it was decided to go the next day, peaceably and without any weapons, to Lattimer, and ask the men there to go on strike, but not to use force nor to destroy property. At noon the next day about 250 men from Harwood and

other points started from Harwood and marched to West Hazleton, receiving accessions from Crystal Ridge and other surrounding villages. At West Hazleton the sheriff and his posse met them and told them to disperse; there was some altercation there between the strikers and the sheriff's posse, and then the strikers took a road to Lattimer which passed along the outskirts of Hazleton. At the same time the deputies boarded the cars of a trolley line running from Hazleton to Lattimer, and reached the latter place ahead of the strikers. The deputies lined up at Lattimer in front of a row of houses along and a short distance from the road running into Lattimer from the direction of Hazleton, and when the strikers arrived there the sheriff went forward alone and met them again, his deputies remaining on the side of the road behind him, and once more ordered them to disperse. He seized successively two of the strikers by the coat, and while he was engaged in a scuffle with them and with other strikers who gathered around him, one or two shots were heard, but from what source the witnesses (or all but two or three of them) did not definitely say. Then the deputies began to shoot at the strikers, first some scattering shots and then a volley, and the strikers broke and fled. The shooting continued for several minutes while the fleeing strikers were endeavoring to get to cover up the slopes along the road. Many of the witnesses testified that the sheriff informed the strikers at West Hazleton and Lattimer who he was, and produced a paper which he stated to be a proclamation, but did not read.

It appeared that the strikers were unarmed; that small clubs which they had previously carried were thrown away on the march between West Hazleton and Lattimer; that they were peaceable and orderly in their conduct on the march, were not riotous either at West Hazleton or Lattimer, and at neither place made an assault upon the sheriff or his deputies, or offered any violence, or used threatening language to them. When the crowd stopped before the sheriff at Lattimer 10 men or more gathered around him, and while he was parleying with them and endeavoring to pull to the side of the road the men whom he had seized by the coat, the main body of strikers pushed slowly ahead, and at that point and moment the deputies began to fire.

Witnesses among the strikers testified that they had not stopped or beaten men on the road from Harwood to West Hazleton, and thence to Lattimer, nor compelled men to join their number against their wills; that there were 300 or more in their assemblage; that they only went to Lattimer to have a talk with men there, to show themselves, and to induce the Lattimer men by peaceable means to join their strike for more wages. Witnesses also testified to violent language and threatening behavior on the part of the deputies at West Hazleton before the shooting, and again at or near Lattimer after the shooting. The testimony was cumulative that the strikers were peaceable and unarmed, and did not on the march, nor at West Hazleton, or Lattimer exhibit any such conduct as to justify the volley of the deputies.

According to the indictments, there were 19 men killed and 38 wounded. * * * Of the men killed 10 were Austrian subjects, and of the men wounded 11 were Austrian subjects.

The story of the witnesses for the defense shows, according to Mr. Hoyt's report, that—

For a week or more preceding the 10th of September the people of the region had been kept in a terror-stricken condition, owing to the fact that the employees of one of the mines near Harwood had gone on a strike and had induced and compelled the men at other mines to follow them; and had been organizing and assembling marching parties from day to day, which proceeded to various mines, colleries, and open workings, and throughout the villages and country generally; compelled men to cease work, drove the workmen away, stopped the engines, went into the houses of laborers and other residents, and by threats of violence compelled men against their wills to join them; carried and used clubs and other weapons, beating and chasing men who did not wish to join them, and driving them to the brush, shooting at them, and conducting themselves on numerous occasions throughout the week preceding September 10 in such violent, threatening, and lawless manner in both speech and deed that the law-abiding and peaceable citizens and residents were alarmed and fearful for their safety and even for their lives.

It also appeared that the sheriff, being appealed to by owners of property for protection of themselves and their employees, went to Hazleton on September 5, duly constituted a large number of citizens as armed deputies, published and posted, in concert with the sheriffs of Carbon and Schuylkill counties, a proclamation against rioting, and instructed the deputies generally that it was their duty to maintain peace at all hazards, but not to take life unless his life or their lives were in danger. It also appeared that the sheriff carefully cautioned his men to keep cool upon all occasions, especially when they met bodies of strikers, and that if his life or their lives were in danger at any time, and that if he was not able for any reasons to give suitable commands, including the command to fire, they must proceed in such extremity according to their own discretion, under the direction of the leaders whom he had selected.

Between September 5 and 10 the sheriff and some or all of his deputies proceeded about the country as called upon; met on various occasions and at sundry points disorderly bands of strikers proceeding about to the collieries and mines, intimidating and stopping the workmen, and successfully dispersed them, without any more violent manifestations than some rough language and threats.

On September 10 the sheriff and his posse met the mob, consisting of 400 or 500 men, on their march from Harwood to Lattimer, at West Hazleton, read his proclamation, and commanded them to stop and disperse; arrested one man who refused to stop; passed through the strikers, who handled him somewhat roughly, but after some violent talk on the part of the strikers, refusing to heed his commands and disperse, he did nothing to prevent their march through the outskirts of Hazleton to Lattimer. At the latter place, after lining up the deputies on the side of the road so as to meet and stop the mob before they reached the breaker, the sheriff went forward and met them; commanded them to stop; asked what they were going to do, to which they replied, "Stop Lattimer mines;" and then, upon the sheriff's proceeding to arrest one of them who spoke riotously, many men in the foremost ranks surged around him, knocked him down, and tried to take away his revolver, which he held in his hand to enforce his commands. He did not intend to shoot unless he was compelled to, and, as a matter of fact, he did not shoot, although he tried to shoot one man who struck him a blow on the face which sent him to his knees. During this altercation and assault upon him two of the strikers with revolvers endeavored to shoot him, and one with a knife struck at him.

During these proceedings the main body of strikers moved forward past the crowd, around the sheriff, and proceeded, according to many witnesses, pursuing their way toward Lattimer breaker, and, according to several witnesses, they turned at that moment and moved violently and with shouts toward the deputies.

All of these events happened within a very brief space of time, and just at this point, when the sheriff's life was in danger and a threatening attack upon the line of deputies had begun, after one or two preliminary shots (the source of which could not be exactly located, though there was evidence showing that they proceeded from the rear of the line of deputies, where three of the strikers were located, beckoning the main body to come on to the assault upon the deputies), a portion of the line of deputies fired the volley described, but ceased firing within a half minute or thereabouts, and then the deputies, or many of them, proceeded with the sheriff to assist in caring for the dead and wounded.

It appeared from the story of the defense that the strikers at West Hazleton, as well as at Lattimer, were violent in their actions and language, as they had been during the series of occurrences leading up to Lattimer, and that the deputies made no threats and acted coolly and without violence both at West Hazleton and after the shooting.

Mr. Coxe does not report the evidence adduced on behalf of the prosecution, but contents himself with the statement that a prima facie case was made out. He does set out an abstract of the testimony of the witnesses for the defense. By his report of the testimony it is shown, out of the mouths of many witnesses, that the strikers on and prior to September 10, 1897, endeavored to compel others to join them; that they pursued and chased others, who fled; that some of them had pistols, revolvers, and guns, and fired shots at inoffensive people; that large numbers of them carried clubs and pieces of iron and used intimidation, menaces, threats, and opprobrious epithets, which, in popular parlance among the laboring classes, are regarded as insulting in the last degree, as a challenge to physical conflict, and as a sign that the speakers are resolved to persist in their course without regard to consequences; that on September 10, before the shooting occurred at Lattimer, the sheriff halted the strikers, saying to them, "I want you to stop," and one man replied, "You can't stop us," and they said that they would not stop, and in a few minutes they marched on, two of them grappling with the sheriff, striking him a heavy blow on the cheek, which brought him to his knees, two men holding revolvers and one holding a knife, with which he made a lunge at the sheriff, when the rest of the strikers rushed toward the deputies and the shooting began.

In his instructions to the jury the judge recited a portion of the testimony of the sheriff as not being in any material part contradicted by the evidence on behalf of the prosecution. It shows that the strikers

used the insulting epithets above referred to; that the sheriff read the proclamation to them; that they pushed right on by him; that the crowd surged around him, striking him a terrific blow on the side of the head; that the man with a knife made a lunge at the sheriff while on his knees, and while he was in that posture the shooting began.

The legal principles by which the validity of this claim is to be determined may be stated in a few propositions.

No Government insures the absolute security of all foreigners who may happen to be within its territory. Aliens, as well as nationals, are bound to respect the laws, the institutions, and the constituted authorities of the State in whose territory they reside. They are treated the same as nationals and, like the latter, they are, in case of infraction of the penal law, prosecuted and punished. In particular, if they take part in an insurrection or in a civil war, the treatment to which they expose themselves in such lawless actions affords no legitimate ground for diplomatic intervention.

The responsibility of Governments toward foreigners is not more extensive than that of the foreign sovereign toward his own subjects. The duties of hospitality do not prevent the entire exercise of the right which belongs to sovereignty to employ the legal means to provide for the preservation of the State, nor are foreigners entitled to a privileged position, nor are they exempt from the consequences of criminal conduct, threatened or committed, nor are they to be indemnified for damages resulting from such conduct and from the imperious necessity of watching over the public safety and welfare.

This Government recognizes the international obligation to do justice, but it can not admit that in this case legal injustice has been done. Even if it were to be conceded that the sheriff and his deputies were acting wrongfully and unlawfully, still the remedy by way of diplomatic intervention can not be invoked until all remedies have been exhausted before the ordinary judicial tribunals. In this case abundant remedies are afforded for redress, if any actionable wrong has been committed; but the disposition of this claim may safely be rested on higher grounds—on the ground that aliens are subject to the same rules of law and order, of peace and justice which bind the citizens of the United States. Whoever sojourns in a foreign land having a settled and pure administration of justice impliedly submits to the local jurisdiction and to the requirements of the municipal law. This Government can not tolerate a state of anarchy, either threatened or inaugurated, in communities composed either of its own citizens or of aliens who may engage in industrial or other pursuits within its territory. If they obey the precepts of the law it will protect them; if they defy the law and the constituted authorities, then, in common with all others who participate with them in such acts of lawlessness and violence, they must be deemed to accept the consequences of the conflict which they invite.

There has in this case been no denial of justice, which should be shown as a prerequisite to diplomatic intervention. There has been no denial of justice, because a careful investigation of the rulings of the court at the trial and the instructions to the jury shows that they are characterized by ability, learning, integrity, and impartiality. And if there was any degree of feeling in the community where the strike occurred it was rather creditable than otherwise. It can not be justly characterized as prejudice in the judicial sense of that term, but was rather that sentiment which is ordinarily and inevitably felt against criminal transgressions by all well-ordered and self-governed communities who make and enforce their own laws through agencies appointed

by law and which depends for its enforcement upon the active and healthy public sentiment which lies at the foundation of all law and order. It is not shown that the trial of the sheriff and his deputies was not a fair one, nor is it shown that a legal wrong was done by the sheriff and his deputies, because there was abundant evidence given at the trial, and justifying the verdict rendered, that the Austro-Hungarian subjects who were slain and wounded were aggressors and violators of the law in refusing to obey the command of the sheriff to disperse. The command was seasonably and lawfully given, and even though they may have felt that the command was an unnecessary one, yet the proper respect due to the sheriff as the conservator of the peace of the county and the desire to avoid disorders and the possible effusion of blood which might occur by reason thereof made it their duty as law-abiding citizens to obey the command.

The principles of international law which support the foregoing conclusions on the facts shown are enunciated by Rivier, Fiore, and others, and accord with the uniform practice and precedents of this Government, not only in controversies in which claims for indemnity have been made by citizens or subjects of foreign States against this Government, but also where such claims have been made by its own citizens, invoking its diplomatic intervention in their behalf against foreign States. These principles were enunciated by Mr. Fish, Secretary of State, in 1873, and again in 1875; by Mr. Buchanan, Secretary of State, in 1848; by Mr. Webster, Secretary of State, in 1851; as well as by Secretaries of State, Mr. Bayard and Mr. Marcy, and as shown in 2 Wharton's Digest, section 230.

In conclusion, the Lattimer strikers were disturbers of the public peace and violators of the law. They were rapidly drifting into a state of petty war. It was the duty of the sheriff to take measures to prevent, as well as to repress, civil tumults and disorders. On previous occasions he had commanded them to disperse and they obeyed. They were perfectly familiar with his official position and the nature of the authority he exercised. If they had obeyed his lawful command no blood would have been shed; and in their lawless and aggressive conduct, challenging the embodied force of the State, they placed themselves beyond the protecting pale of the law. To reward the wounded living and the heirs of those slain under such circumstances, would be offering a premium to lawlessness and inviting renewed outbreaks and riots.

This Government is therefore unable to admit the justice of the claim.

Accept, etc.,

JOHN HAY.

Baron Riedl to Mr. Hay.

[Translation.]

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, February 11, 1899.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your note of the 4th instant, No. 263, which was delivered to me on the 9th, relative to the demand for indemnity made by the Austro-Hungarian Government on account of the killing of several of its subjects by Sheriff Martin and his posse near Lattimer, Pa., and I beg to add that I have forwarded the note to my Government, and must now await its further decision.

I avail myself, etc., RIEDL.

BELGIUM.

DESECRATION OF THE NATIONAL FLAG.

Mr. Sherman to Mr. Storer.

No. 60.] DEPARTMENT OF STATE,
Washington, November 19, 1897.

SIR: I inclose herewith a copy of dispatch No. 17, of the 5th instant, from the United States consul at Antwerp, Belgium, calling attention to the desecration in that city of the flag of the United States by the defacement of representations thereof used in connection with advertisements.

The particular instance of desecration to which the consul calls attention is that of the "American stables," Rue Montigny, 80–82, Antwerp, two of whose advertisements (a handbill and a poster) are herewith inclosed.

There is no Federal law or State law, so far as the Department knows, prohibiting desecration of the national flag, the bills introduced into Congress last winter to that end having failed of enactment.

While, therefore, we have no law applicable to our own citizens, yet you will bring the advertisements in question to the attention of the Belgian Government and ask that it prohibit such desecration of our flag in future, if any proper way be open to it so to do.

Respectfully, yours,

JOHN SHERMAN.

[Inclosure in No. 60.]

Mr. Lincoln to Mr. Day.

No. 17.] CONSULATE OF THE UNITED STATES,
Antwerp, November 5, 1897.

SIR: I have the honor to inclose herewith a copy of a poster which has been displayed at different points about the city.

My attention was attracted to this method of advertising the first time about a fortnight ago by seeing a similar placard posted on one of the street corners.

Your attention is respectfully invited to this distasteful desecration of our national emblem in a foreign land, in view of the proposed legislation of Congress last winter. I am uninformed as to whether or not the bill introduced which intended to restrain a like practice in our country became a law.

It is my opinion that resorting to similar means of advertising abroad not only injures the credit and reputation of individual business men, but tends to impair the dignity of American citizenship in the eyes of other peoples.

It seems to me that ways may be found to promote the sale in foreign lands of the products alike of our soil and industry without resorting to a means disgraceful in the eyes of the foreigner as well as repugnant to the good sense of every patriotic citizen.

I am, etc.,

GEO. F. LINCOLN, *Consul.*

Mr. Storer to Mr. Sherman.

No. 59.] LEGATION OF THE UNITED STATES,
Brussels, November 30, 1897.

SIR: In obedience to your instruction No. 60, dated November 19, I at once addressed a communication to Mr. de Favereau, the minister of foreign affairs, of which, bearing in mind the probable lapse of time before an answer is to be expected, I beg to inclose a copy.

The matters complained of, I am told, are not of recent origin nor has this abuse of the American flag been confined to Antwerp alone. The so-called American Circus Companies and the Wild West Indian Shows several years ago gave great notoriety and excited much comment in their efforts to give a national character to their enterprises by using the flag for advertising purposes, and, I regret to say, many tradesmen claiming to be Americans, or who deal in goods of American origin, have adopted the custom of thus using the national emblem to exploit their private business.

As soon as the reply of the Belgian Government is received it will be reported to you.

I have, etc., BELLAMY STORER.

[Inclosure to dispatch No. 59.]

Mr. Storer to Mr. de Favereau.

LEGATION OF THE UNITED STATES,
Brussels, November 29, 1897.

YOUR EXCELLENCY: The attention of the Government of the United States has been turned to the fact that certain persons in Belgium have been employing pictorial representations of the flag of the United States as a means of advertisement of individual trade for the purpose of private gain.

In addition to what my Government is bound to consider this lack of respect for its national emblem, the persons seeking this method of obtaining notoriety for their private business have defaced the representation of the flag by printing upon and over it the sordid details of trade advertisements.

For a clear understanding of the subject-matter, I beg to inclose for the inspection of your excellency and for that of any officer of the Belgian Government to whom your excellency may see fit to transmit the same two advertisements of the kind I speak of, which were recently used with wide publicity in Antwerp.

I am informed the same means of advertisements are now being used in Brussels.

Recognizing fully the friendly feeling always shown by the Government of His Majesty the King of the Belgians toward all expression of the wishes of the United States, which is fully reciprocated, I feel sure of a continuance of this disposition when I say to your excellency that, should a way be open under the constitution and laws of Belgium to prevent in the future such or similar employments of representations of the American flag which are so distasteful to the Government and people of my country, the taking of such course by the Government of His Majesty would be a gratification to the Government of the United States.

I profit, etc., BELLAMY STORER.

Mr. Storer to Mr. Sherman.

No. 75.] LEGATION OF THE UNITED STATES,
Brussels, January 5, 1898.

SIR: I have the honor to report that I have just received the answer of the Belgian Government, transmitted through the minister of foreign affairs, to my letter of November 29, a copy of which has been transmitted to the Department with my dispatch No. 59, on the subject of the unauthorized use in Belgium of the American flag for advertising purposes.

I transmit herewith a copy and translation of the letter of the minister of foreign affairs.

I venture to suggest that if the various consular officers were ordered to inform all those persons in their several districts thus making use of the flag of the opinion of the Belgian minister of justice and their liability to legal proceedings in this country it might in most instances answer the practical purpose desired.

I have, etc., BELLAMY STORER.

[Inclosure 1 in dispatch No. 75.]

M. de Favereau to Mr. Storer.

MINISTRY OF FOREIGN AFFAIRS,
Brussels, January 4, 1898.

I have not failed to bring to the attention of the minister of justice the letter that your excellency was kind enough to address me on the date of November 29 last on the subject of the use made in Belgium for advertising purposes of the American national flag.

My colleague has written me that the circumstances stated by your excellency do not fall within the provisions of any of our penal laws, but that the American Government could bring before the civil courts the persons who, without its consent, have made use of the flag of the United States, to which it (the Government) has an exclusive right, and this in order to obtain damages for such occurrences in the past, as well as with the intention of having them enjoined, by the same decree, from repeating this use in the future.

In placing the information above stated at the service of your excellency, I take, etc.,

DE FAVEREAU.

Mr. Sherman to Mr. Storer.

No. 104.] DEPARTMENT OF STATE,
Washington, February 7, 1898.

SIR: Your dispatch No. 75, of the 5th ultimo, in further relation to the subject of the desecration, for advertising purposes, of the flag of the United States in the city of Antwerp, has been received.

The Department did not anticipate that any penal law of Belgium would be found applicable to the case, and, in the absence of any law on the part of the United States prohibiting the use of the national or any foreign flag for advertising purposes, it is not seen how the question can be effectively treated either under international law or as a matter of equitable comity between the two Governments.

While it is doubtless true as an abstract proposition that the Government of the United States might appear through its representative agencies as a party to a civil process for damages or as an applicant for a restraining order, just as the Belgian Government might do the same in the United States were the situation reversed, the adoption of such a course might possibly impose upon the Government resorting thereto the unfavorable precedent of an adverse decision. Whether it may hereafter appear advisable to institute such action might depend upon the extent of the abuse and the fact of injury resulting therefrom to the complaining Government. It might also be well to ascertain whether the use of the flag and arms of other countries for advertising purposes has at any time been restrained by the Belgian courts upon complaint made as suggested by the royal minister of justice. Until the matter shall be better understood, your suggested public notice through the several consular offices in Belgium that parties so using the national flag without authorization would be liable to legal proceedings in that country is not deemed advisable.

A recent incident in England involving much the same principle may suggest whether the matter may not be subject to some regulation by the authorities having charge of business and trade. A line of steamers plying between England and the United States under the British flag has for some years past used the United States union jack as its house flag. Upon inquiry being made by the ambassador in London the British board of trade intervened, in virtue of its authority in matters of shipping and navigation, and I am just informed that the line in question has been constrained to adopt another distinctive house flag.

Respectfully, yours,

JOHN SHERMAN.

Mr. Sherman to Mr. Storer.

No. 128.] DEPARTMENT OF STATE,
Washington, March 25, 1898.

SIR: For use in connection with legislation contemplated in Congress, you are requested to obtain and forward to the Department copies of any Belgian laws or regulations which may be in force to prevent the use of the Belgian flag for advertising purposes.

Respectfully, yours,

JOHN SHERMAN.

Mr. Storer to Mr. Day.

No. 119.] LEGATION OF THE UNITED STATES,
Brussels, June 8, 1898.

SIR: I have the honor, in reply to your instruction of March 25, 1898, No. 128, to say that in Belgium there is no special proceeding, either civil or criminal, established by law to prevent the use of the Belgian flag for any commercial or industrial purpose, including advertising.

The law of Belgium is in the same situation with regard to the Belgian flag that the minister of justice declared it to be regarding the national flags of foreign nations which might be so used in Belgium, in the official letter, a copy and translation of which were transmitted by me in dispatch No. 75, on January 5, 1898.

The Belgian Government, I am officially informed, could only employ the same method open to any foreign Government in Belgium, which would be to bring an action before the civil tribunals for any injurious use of its national flag (in usage abusif) under the general provision of the civil code, which provides that "anything whatever done by anyone which causes damage to another must be repaired by him through whose fault it has occurred."

Up to the present time no instance of any such action on the part of either the Belgian or any other Government has occurred.

I have, etc.,

BELLAMY STORER.

Mr. Storer to Mr. Hay.

No. 165.] LEGATION OF THE UNITED STATES,
Brussels, December 17, 1898.

SIR: The inquiry of the Department on the subject of the legislation of Belgium for the protection of the Belgian flag as the national emblem was answered by me in my dispatch No. 119, dated June 8, 1898, as fully as at that time was possible under the then existing theories of the law.

In that dispatch I stated the result of the investigation of the Belgian Government on the subject as reported to me, namely, that there were no means, either civil or criminal, established by law to prevent the use of the Belgian flag for any commercial or industrial object, including advertising purposes, except the possible result of a civil action brought by the Government for "usage abusif," for which up to that time there had been no precedent.

The widespread interest taken in this subject in the United States, shown by various circular letters and requests for information from bar associations and different patriotic societies sent to this legation, as well as the inquiries of the Department, seem to make a report of a certain advance in legal procedure on this subject since the date of my former dispatch interesting and possibly of real value.

On the day of the parliamentary election, May 23 last, certain individuals belonging to the socialist party, as part of their political campaign, burned the Belgian flag publicly in the streets of Charleroi, and treated the fragments remaining with the greatest ignominy.

The legal authorities at first were rather at a loss to know what course to pursue to punish this act, as no precedent and no penal statute existed which at first sight could technically cover the occurrence.

In the Charleroi case the court of examining magistrates (le parquet), having the functions both of a grand jury and of the court passing on the legal effect of an act as to whether it constitutes a crime under the laws, decided the laws to be broad enough to cover the matter.

The counsel for the defense, among the ablest in Belgium, seemed to be convinced by the reasoning of the parquet and took no writ of error to the court of cassation from this decision of the parquet. The case was then sent to the procureur-general or State prosecutor of the province of Hainaut, and he, before the court of assises at Mons, then presented his indictment against the chief participants on the following principles:

The Belgian constitution of 1831 contains the following provision: "Article 125. The Belgian nation adopts the colors red, yellow, and black."

The report of the committee drafting the constitution declared on this subject that these colors "are the sign of the independence of Belgium." The "Pandectes Belgee," or Commentaries on the Constitution of Laws, considered of the highest authority, say, on this subject, "It is the flag which, in a word, everywhere and always represents our country."

The law of July 20, 1831, contained the following provision: "Article 2. Whoever shall have maliciously and publicly attacked the obligation of the law (la force obligation des lois), or directly shall have incited disobedience to the law, shall be punished by imprisonment of from six months to three years."

Based on these enactments, the indictment asserted that the accused had attacked the obligation of the law and incited disobedience to it by this insult to what represented not only law and order, but the country itself, "for," to quote the indictment, "the flag represents the country, and the country means the land and the constitutional and legal institutions which govern it, and which form and organize our social life and our nationality."

It is interesting to compare the language of article 125 of the constitution of Belgium with that of our act of January 13, 1794, Revised Statutes United States, section 1791. Each of these enactments state in the baldest language, of practically the same legal force, what the color and form of the national emblem shall be, and nothing else. Equally interesting it may be to distinguish the Belgian law of 1831, making penal the attack on the obligation of the law and which punishes the inciting to disobey the laws, from the more narrowly limited provisions of our section 5336 of Revised Statutes, which in words covers only an attempt by force to prevent, hinder, or delay the execution of any law of the United States.

In the Charleroi case the court of assises upheld the indictment, held the insult to the Belgian flag constituted a legal crime, and, after conviction by the jury of both the defendants, sentenced them to the minimum penalty of six months' imprisonment.

The entire novelty of the case and the well-recognized fact that there had been no legal precedent, has given great notoriety to this decision of the court.

The opinion of the court of cassation can not now be had in this case, as there exists no appeal from the court of assises on questions of fact.

I have, etc.,

BELLAMY STORER.

IMPORTATION OF MEATS INTO BELGIUM.

Mr. Sherman to Mr. Storer.

No. 88.] DEPARTMENT OF STATE,
Washington, January 14, 1898.

SIR: I inclose for your information copy of a letter from the Secretary of Agriculture asking whether the Department has knowledge of any proposed regulations respecting the importation of salted meats into Belgium.

You are requested to make inquiries in regard to the subject in the proper quarter and to report the result to the Department.

Respectfully, yours,

JOHN SHERMAN.

[Inclosure in No. 88.]

Mr. Wilson to Mr. Day.

UNITED STATES DEPARTMENT OF AGRICULTURE,
Washington, D. C., January 11, 1898.

SIR: I have the honor to inclose for your information copy of a translation from a Belgian paper, which is forwarded to us by Messrs. Swift & Co., of Chicago. Will you kindly inform me if your Department has any information of the proposed regulations respecting the importation of salted meats into Belgium, and if you have not received such information, will you please make inquiry of the American minister to that country as to whether such regulations have been made or are contemplated.

Very respectfully, JAMES WILSON,
Secretary.

[Translation from Belgian newspaper.]

The inspection of fresh, packed, prepared, or salted meats imported into Belgium is to be the object (as officially announced) of a decree making regulations, to appear soon, to be applicable from January 1.

Henceforth a careful inspection of the boxes will be made on the frontiers, in the ports, and in certain offices of the custom-house officers in the interior of the country, such as Brussels, Liege, etc., to be designated by the Government.

This regulation is aiming especially at hams, boxed meats, etc., arriving in large quantities from America, principally at the port of Antwerp.

A tax of 15 centimes per 100 kilos of meats examined will be collected for expenses of the inspection.

Mr. Storer to Mr. Sherman.

No. 83.] LEGATION OF THE UNITED STATES,
Brussels, January 27, 1898.

SIR: Acting under the instructions of your No. 88, dated January 14, 1898, to make inquiries regarding the truth of newspaper reports of proposed regulations of importation of salted meats, I beg to report the result.

The minister of agriculture informs me that no new regulations rendering more difficult the importation of salted meats and no new charges for inspecting same have been or are sought to be imposed. The regulations are exactly the same as imposed some four years ago, and the amount charged to cover the cost of making the inspection remains the same. An administrative change in the mechanical working of the inspection of importations through Antwerp for consumption in Belgium was found to be necessary, and, since the beginning of the year 1898, some of the inspections are made by the General Government at the place of sale instead of at the place of importation. This modification was rendered advisable by the neglect of local authorities to follow the law requiring them to inspect thoroughly the several packages which had been passed at Antwerp by "sample inspection." No greater hardship is imposed on the importers, nor is any discrimination shown toward or against the importations from any country, all being treated alike.

The statements I have given are those of the minister, as at present this legation is not in possession of the Belgian regulations of importa-

tion, the only copies of which attainable having been transmitted to the Department by this legation March 10, 1897, were translated and published in Consular Reports No. 199, Vol. LIII, of April, 1897.

I have, etc.,

BELLAMY STORER.

Mr. Storer to Mr. Day.

No. 141.] LEGATION OF THE UNITED STATES,
Brussels, September 14, 1898.

SIR: I have the honor to report that the regulations of the importation of fresh, salted, and preserved meats into Belgium has been again amended. I beg to refer to my dispatch No. 83, dated January 27, 1898, for a statement of the substance of the amendment of these regulations, then just made, stating the impossibility at that time of forwarding a printed copy. I beg now to inclose a reprinted copy of the said "arrete" or decree of December 14, 1897, amending the law as then existing and of which the Department was already in possession, and also an abstract of the "Moniteur Belge" of August 29 and 30, 1898, containing the amendments last made, dated August 22, 1898.

It will be observed that now the inspection and conditions of importation are extended to include "fats and extracts produced from cattle, sheep, goats, and hogs;" that the importation of fats and extracts of horse flesh, as well as the flesh itself, are prohibited, and that the stamp of inspection may be placed on the case or cover of the package in case of preserved or tinned meats.

I have, etc., BELLAMY STORER.

[Inclosure 1 in dispatch No. 141.—Translation.]

[Department of agriculture and public works.—Bureau of public health and hygiene.]

Expert inspection of meats imported into the Kingdom.

51.

RULES OF ORGANIZATION.

Leopold II, King of the Belgians, to all present and to come, greeting:

See article 1, last paragraph, of the law of June 18, 1887, establishing a right of entry for animals and meats, modified by the law of January 30, 1892.

See the law of August 4, 1890, relative to the adulteration of food, modified by that of December 30, 1895.

See especially the order contained in article 3 of this last law, in the following terms:

"Concerning the meats imported into the Kingdom, there shall be first levied against the importers a duty which will not exceed the cost of inspection, and of which the Government shall fix the assessment."

In the review of articles 13, 14, and 20 of the regulation of February 9, 1891, upon commerce in meats.

See the notice of the operation of veterinary inspection. Upon the proposition of our minister of agriculture and public works, we have decreed and we hereby decree:

ARTICLE 1. "The entry into Belgium of fresh meats, prepared or preserved, will not take place except through the customs officers or branches of custom-house offices on the frontier or in the interior, which shall be designated by our minister of agriculture and public works, and at such hours and upon such days as shall be determined by our minister of finance.

"The importation of horse flesh, prepared or preserved, is interdicted."[1]

ART. 2. "The fresh meats, with the exception of those prepared from sheep, are not admitted in other form than the entire animal or in halves or quarters and on condition that the lungs are adhering.[2] Fresh meats prepared from the horse, the ass, the mule, and donkey are not admitted to entry except when having the lungs adhering."[1]

ART. 3. "The fresh meats imported shall not be put upon the public markets for food until pronounced upon as suitable and are furnished with a stamp conforming to the prescribed model after an examination made by the veterinarians who are charged with the control of live animals imported into Belgium or by other experts designated for this purpose."

ART. 4. "If the importer does not accept the decision of the expert, there will be a delay of twenty-four hours granted for him to present his objections. He will be allowed, in this case, to have a second inspection made by a veterinary surgeon of his own choice. In case of failure to agree, the first expert will call in a third expert, who shall be the veterinary inspector of the Government or his deputy, and whose opinion shall prevail."

ART. 5. "If the inspection shows that the meat is improper for food, even after sterilization, it will be sequestered in care of the expert, who will immediately inform the chief magistrate in writing, who, following the directions of the expert, will examine it and decide whether it can be submitted to a close cutting up; if not, he will order the burial in the ground of the entire mass, under supervision of the police."

ART. 6. "The expenses of inspection are charged to the importer. In case of a second inspection, the expense will be borne by the interested party if the decision of the first expert is confirmed, and by the Government in the contrary case."

ART. 7. "The preceding regulations do not apply to meats, prepared or preserved, which pass in transit directly through the Kingdom."

ART. 8. "Infractions of the preceding rules will be punished by the penalties prescribed by articles 6 and 7 of the law of August 4, 1890, without waiving the application of the penalties established by the penal code."

ART. 9. "Articles 13, 14, and 20 of the royal decree of February 9, 1891, concerning the general regulation of commerce in meats, are abolished."

ART. 10. "Our minister of agriculture and public works is charged with the execution of this decree, which will be in force from the 1st of January, 1898."

Given at Brussels December 14, 1897.

LEOPOLD.

In the King's name, the minister of agriculture and public works.

LEON DE BRUYN.

52.

DECREE FIXING THE AMOUNT OF TAXES FOR INSPECTION.

Leopold II, King of the Belgians, to all present and to come, greeting:

See article 3, paragraph 2, of the law of December 30, 1895, in the following terms:

"Concerning the meats imported into the Kingdom, there shall be first levied against the importers a duty which will not exceed the cost of inspection, and of which the Government shall fix the assessment."

See article 3 of the royal decree dated this day relative to the expert inspection of meats imported into the Kingdom.

Upon the proposition of our minister of agriculture and public works, we have decreed and hereby do decree:

ARTICLE 1. "The tax for expert inspection of meats imported into the Kingdom is fixed at 20 centimes per hundred kilograms or fraction of a hundred kilograms."

ART. 2. "The tax for expert inspection repeated is fixed at 3 francs.

"For traveling expenses, 25 centimes per kilometer, going and returning, and calculated from town to town, are allowed over and above other expenses to the second expert when he does not reside in the locality where the inspection is made."

ART. 3. "The taxes for expert inspection are placed in the hands of the expert by means of a coupon receipt taken from a coupon register (stub book)."

ART. 4. "Our minister of agriculture and public works is charged with the execution of this decree."

Given at Brussels December 14, 1897.

LEOPOLD.

In the King's name, the minister of agriculture and public works.

LEON DE BRUYN.

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[1] Article 1 of the law of December 30, 1895.

[2] Article 2 of last paragraph of the law of June 18, 1887. Modified by the law of January 30, 1892.

MINISTERIAL REGULATIONS DETERMINING THE BUREAUS OF CUSTOMS TO BE OPEN TO THE IMPORTATION OF FRESH MEATS.

The minister of agriculture and public works.

See the royal decree of December 14, 1897, reorganizing the service of expert inspection of fresh meats imported into the Kingdom.

Upon the proposition of the minister of finance, decree:

Single article. The importation of fresh meats after the 1st of January proximo will be make exclusively through the bureaus and branch bureaus of customs which are enumerated in the annexed table as a part of this decree, and upon the days and at the hours indicated.

The inspection shall be made under the direction of the experts whose names are set opposite those of the bureaus and branch bureaus of customs.

Brussels, the December 17, 1897.

LEON DE BRUYN.

AMENDMENT TO THE MINISTERIAL DECREE OF 17TH OF DECEMBER, 1897.

Table showing the days and hours at which Belgian custom-house offices are open to the importation into Belgium of fresh meats.

[Offices and branch offices of customs expert veterinarians.]

Names.	Days when offices are open.	Names.	Residence.
	By sea transit.		
Antwerp (port)	Every day from sunrise to sunset	Weemaes	Antwerp.
Gand (port) or Ghent	Days not holidays from 8 to 12 o'clock, and from 14 to 18 hours (2 to 6 o'clock).	De Conick	Ghent.
Ostend (port)	Every day from the rising to the setting of the sun.	Verraert	Ostend.
	By railway transit, Holland frontier.		
Houcke	The first and third Mondays of the month, and the evenings during the Bruges fair, from 9 to 10 o'clock.	Van Damma	Westchappell.
Maldeghem (Pont de paille).	Mondays from 14 to 15 (2 to 3 o'clock).	Vander Heyden	Eecloo.
Watervliet	Wednesdays from 9.30 to 10.30 o'clock	do	Do.
Staak, Assenede	Tuesdays from 15 to 16 (3 to 4 o'clock).	Denil	Selzaete.
Selzaete (station)	Wednesdays from 6 to 9 o'clock, and Saturdays on arrival of the train, at 12-34m.	do	Do.
La Trompe (Stekene)	Wednesdays from 9 to 10 o'clock	De Bruyn	Stekene.
Kruisstraat (Moerbeke).	Tuesdays from 14 to 15 (2 to 3 o'clock).	do	Do.
Santollet	The first and third Saturdays of the month from 9 to 11 o'clock.	Bril	Strabrocck,
Esschen (station)	Tuesdays and Saturdays from sunrise to sunset.	Van Gerven	Essche.
Esschen (village)	Saturdays from 1 to 2 o'clock	do	Do.
Poppel	First and third Saturdays of the month from 10 to 11 o'clock.	Huynen	Turnhout.
Achel (station)	By railway and by overland routes, Wednesdays and Saturdays until 10 a. m.	Vander Hoydonck.	Peer.
Hamont (station)	The first Wednesday of the month at the hour of the passing of the first morning train.	Schowterden	Bree.
Hamont (village)	Tuesdays from 8 to 9 o'clock	do	Do.
La Planck	The holidays at Fauquemont or Valkenburg from 2 to 3 o'clock.	Lowhienne	Aubel.
Vise (station)	Tuesdays from sunrise to 12 m. and Saturdays from 12 m. to sunset.	Simon	Vise.
La Clinge (station)	Thursdays from 8 to 9 o'clock	De Clerck	Vracene.
La Clinge (village)	do	do	Do.
Kieldrecht	Tuesdays from 2 to 3 o'clock	do	Do.
Brussels (first office)	Every day at 9 o'clock	Van Hertsen	Brussels.
Westwezel	Tuesdays from 2 to 4 o'clock	De Ryck	Antwerp.
Bar-le-Duc	Wednesdays from 10 to 12 in winter, Thursdays from 6 to 7 in summer.	Huynen	Turnhout.
Arendonck	Thursdays, 11 to 12 in winter and from 5 to 6 in summer.	do	Do.
Maeseyck or Maesyck.	Mondays and Thursdays from 2 to 4 in winter and from 5 to 7 on Mondays and Fridays in summer.	Pernot	Maesoyck.

Table showing the days and hours at which Belgian custom-house offices are open to the importation into Belgium of fresh meats—Continued.

Names.	Days when offices are open.	Names.	Residence.
	By railway transit, Holland frontier—Continued.		
Lanaeken (station) or Lanaken.	Wednesdays and Fridays at 11 o'clock.	Tyvaert	Lanaeken.
Gemmenich	Wednesdays from 2 to 3 o'clock		
Ophoven	Thursdays from 10 to 12 in winter, Fridays from 10 to 12 in summer.	Dumoulin	Montzen.
Petit-Lanaye	Wednesdays and Fridays at 1 o'clock.	Deborre	Sichen-Sussen and Bolre.
Stockheim	Wednesdays at 3 o'clock	Pernot	Maesoyck.
Sneermaes	Wednesdays and Fridays, 1.30 o'clock	Tyvaert	Lanaeken.
Vroenhoven	Fridays at 10 o'clock	Detorre	Sichen-Sussen and Bolre.
Verviers (western station).	Tuesdays and Fridays from 10 to 11 o'clock.	Hansoulle	Verviers.
Liege (first office)	do	Ruelens	Liege.
Liege (second office)	Tuesdays from 11 to 12 o'clock	do	Do.
	Germany and Grand Ducal frontiers.		
Bleyberg (station)	Mondays, Tuesdays, and Thursdays on the arrival of trains transporting live stock.	Dumoulin	Montzen.
Welkenraedt	Saturdays from 9 to 10 o'clock	Conradt	Dolhain Limbourg.
Wolberg (Antelba)	Mondays; (a) from 1st of April until 30th September from 5 to 6 o'clock; (b) from 1st of October until 31st March from 3 to 4 o'clock.	Laurencin	Arlon.
Sterpenich (station)	The evening before the fairs at Bieche, the evening of the fairs at Neufchatean and Cinoy, and the day following the fairs at Thionville, at the hours of the arrival of trains 5233 and 5225.	do	Do.
Aubange	Wednesdays and the evenings of the fair at Arlon, or the evening before if the evening be a holiday, from 10 to 11 o'clock; the days of the fair at Longuyon from 3 to 4 o'clock.	Simon	Measancy.
Athus (station)	Tuesdays from 8 to 9 o'clock	do	Do.
Gouvy (station)	Wednesdays from 8 to 9 o'clock	Ransens	Gouvy.
	French frontier.		
St. Mard	Wednesdays and fair days at Longuyon from 2.30 to 4.30 o'clock; the day following the fairs at Etain and Verdun from 10 to 12 o'clock.	Gratia	Virton.
Limes (Gerouville)	Saturdays and fair days at St. Walfroid and Stenay from 2.30 to 4.30 o'clock.	Gratia	Do.
Villers-devant-Orval	Mondays: (a) from 15th June to the 15th September from 7 to 8.30 o'clock; (b) from 16th September to 14th June from 2.30 to 4 o'clock.	Smeets	Florenville.
Florenville	First, from 15th June to 15th September, Tuesdays from 6.30 to 8 o'clock, and Fridays from 6 to 7.30 o'clock, and on fair days at Stenay from 6.30 to 7.30. Second, from 16th September to 14th June, Tuesdays and Fridays from 12.30 to 2 o'clock, and the day following the fair at Stenay from 8 to 9 o'clock. Third, every year, fair days at Carignan from 2 to 4 o'clock.	do	Do.
Muno	The second and fourth Fridays of the month: (a) from 8 to 9 o'clock for the period from 15th June to 15th September; (b) from 9 to 10 o'clock for the period from 16th September to 14th June.	do	Do.
Bouillon	Fridays from 3 to 4 o'clock	Bacus	Bouillon.
Acimont (station)	Tuesdays and Fridays as well as the evenings of fair days, at Cinoy, or the preceding evening if the former is a holiday, from 9 to 10 o'clock.	Polet	Doische.

Table showing the days and hours at which Belgian custom-house offices are open to the importation into Belgium of fresh meats—Continued.

Names.	Days when offices are opened.	Names.	Residence.
	French frontier—Continued.		
Cul-des-Sarts	The first Saturday in the months of February, April, June, August, October, and December, and the first Monday of the months of January, March, May, July, September and November: (a) from the 1st October to the 31st March from 3 to 4 o'clock p. m.; (b) from the 1st April to the 30th September from 4 to 5 p. m. Every year, the third Thursday of the month from 1 to 2 o'clock.	Pureur	Couvin.
Momignies (station)	Mondays and Saturdays, 3 to 4 o'clock.	Gerard	Momignies.
Erquelinnes	By railway and overland routes Tuesdays and Fridays from 10 to 11 o'clock.	Duby	Solre Sur-Sambre.
Bois-Bourdon (Havay)	Tuesdays and Fridays, as well as on the 14th and 15th of each, or on the 13th if the 14th is a Sunday or a holiday, from 10 to 11 o'clock.	Fauconnier	Givry.
Quievrain (village)	Tuesdays and Fridays from 10 to 11 o'clock.	Delattre	Hensies.
Do	Thursdays from 3 to 4 o'clock	do	Do.
Hertain	Wednesdays as well as evenings of fair days at Tournai from 4 to 5 o'clock.	Ninove	Templeuve.
Menin (station)	Saturdays from 9.30 to 10.30 o'clock	Snaeck	Menin.
Menin (town)	Mondays from 4 to 5 o'clock	do	Do
Drouckaert (Reckem)	Wednesdays: (a) from the 1st October to the 31st March from 3 to 4 o'clock; (b) from 1st April to the 30th September, 5 to 6 o'clock.	do	Do.
Pont-Rouge (Warenton)	Wednesdays, as well as the day before the fairs at Thourout, Elverdinghe, Ypres, and Boesinghe, from 2 to 3 o'clock.	Stragler	Warenton.
L'Abeele (Village-Waton)	Tuesdays and Thursdays, 2 to 3 o'clock.	Breyne	Poperinghe.
Haeghedoorne (Bevoren on the Yser)	Thursdays from 2 to 3 o'clock	Taccoen	Leysele.
Adinkerke (village)	The first and third Fridays of the month from 10 to 11 o'clock.	Desmet	Furnes.
Lamorteau (station)	Fridays and the days of fairs at Montmedy from 2.30 to 4 o'clock.	Gratia	Virton.
Query (station)	Thursdays from 2.30 to 4 o'clock	Deghilage	Goegnies-Chaussee.

N. B.—When the opening day appointed for the bureaus and branch bureaus of customs occurs on a Sunday or on a holiday the receiver shall agree with the expert veterinarian upon the evening or day before or the day following as the day of importation. This change shall be made known to the public by means of a placard in a prominent place, at least eight days in advance, on the walls of the building or premises belonging to the customs office.

54.

CIRCULAR ADDRESSED TO THE EXPERT MEAT INSPECTORS ON THE FRONTIER.

BRUSSELS, *December 24, 1897.*

I have the honor herewith to forward to you a copy:

First. Of the royal decree of the 14th of this month which organizes the service of expert inspection of meats imported into the Kingdom.

Second. Of the royal decree of the same date which gives the amount of the tax to collect from the importers.

Third. Of the ministerial decree of the 17th of this month which indicates those bureaus of customs through which the entry of the meats is authorized, the days and hours of their being open; also the names of the veterinarians charged with the service of inspection.

Concerning the collection of the duties, you will please conform to the following instructions:

Before the inspection the importer or his representative must pay into the hands of the expert the amount of the tax due according to the royal decree of the 14th of the current month.

The expert gives him a receipt torn from a stub book (Form No. 42). The receipt and the stub must bear the same inscriptions.

The expert will address to the central administration (service of health and public hygiene) within the first five days of each month an exact certified statement of the taxes which he has collected during the preceding month, and if the expert is charged with the service in several localities directed by a bureau or subbureau use Form No. 41.

Under such circumstances, a postal order should be annexed equaling in amount the gross receipts.

Whenever experts live in a locality where there is an agency of the national bank, or in proximity to one, they will pay directly into the treasury the amount of the receipt under the law, "Product of the taxes of inspection of meats." They will replace the postal order by a certificate of deposit, which will be delivered to them, and which they should immediately have signed by the agent of the treasury.

Agents who are likewise charged with the sanitary control of live stock will render a separate account of the receipts connected with the two branches of the service. They will produce a postal order or a certificate of deposit, distinct for the support of each statement.

When the importer demands a second inspection he should place in the hands of the first expert a sum sufficient to cover the expenses of the second inspection. If the decision of the first expert is confirmed, the tax for the second inspection is borne on the monthly account of receipts. If the decision of the first expert is revoked, the sum consigned is immediately restored to the interested parties.

The experts in meat inspection at the frontier offices are remunerated according to the regulation of April 8, 1893, relative to the sanitary control of domestic animals.

At each visit they make a declaration through the receiver of customs, establishing the exact hour of their arrival at the bureau of control, as well as the hour at which they terminated the operations of inspection.

A quarterly report in duplicate shall be made of the indemnities which are due and the disbursements which have been made, and especially noting the sending of postal orders. The two copies will be transmitted to the central administration within the first ten days after the end of the quarter year, having annexed thereto the declarations of the receivers and other vouchers.

When the same office of customs is open both to the importation of live stock and slaughtered meats, fees connected with the double service intrusted to the expert are combined, from the point of view of the remuneration. They will therefore have to produce but a single account, in duplicate, of the fees connected with both branches of the service.

The third expert who may be designated by the veterinary inspector and the second expert will forward to the central administration a declaration of that which is due to them.

You will be required, Mr. Veterinarian, to demand from the experts now in charge of the service of inspection of imported meats the employment of stamps made obligatory by the ministerial decree of June 28, 1891.

The minister of agriculture and public works.

LEON DE BRUYN.

[Form No. 42.]

[Kingdom of Belgium, minister of agriculture and public works. Service of public health and hygiene.]

INSPECTION OF IMPORTED MEATS.

No. ——.

Received of Mr. ——,[1] for the inspection[2] of —— kilograms of meat of ——, the sum of ——.[3]

At ——, the ——, 189—. The expert.

[1] Name, profession, dwelling place of the importer.
[2] In case of a second inspection, modify the text.
[3] In full words.

[Form No. 41.]

[Minister of agriculture and public works. Service of public health and hygiene.]

INSPECTION OF IMPORTED MEATS.

Statement of taxes for inspection, collected by Mr. ———, veterinarian at ———, during the month of ———, 189—.

Custom-House Office ———[1].

[1] The experts charged with the inspection in several localities are requested to forward this statement to the bureau or subbureau of customs.

Dates of importations.	Amount of the—		Observations. [Give special information in this column as to the second inspection; also the name and address of the second and third inspector.]
	Tax for inspection.	Tax for repetition of inspection.	

[Inclosure 2 in dispatch No. 141. Abstract from Moniteur Belge, August 29-30, 1898.—Translation.]

Expert inspection of imported meats.

Leopold II, King of the Belgians, to all that are and shall be, greeting:

Reviewing the royal decree of December 14, 1897, concerning the expert inspection of fresh meats imported into the Kingdom, see Article I of the law of December 20, 1897, thus expressed:

The articles 19 to 26, 28, and 50 of the loi of April 6, 1843, upon the repression of fraud are applicable in case of importation, of exportation, or transit, without declaration of merchandise liable to duty or not, which would be subject to measures of legal control, or which might be temporarily prohibited for any cause whatever, at the point of entry, or of departure or in transit, by all the frontiers or only a part.

See the notice of the service of veterinary inspection.

Upon the proposition of our minister of agriculture and public works, we have decreed and we hereby do decree:

Articles 1, 3, and 8 of the royal decree of December 14, 1897, relative to the inspection of imported meats into the Kingdom, are replaced by the following provisions:

ART. 1. The entrance into Belgium of meats, fats, and appurtenances, fresh, prepared, or preserved, coming from animals of the cattle, sheep, goat, or swine species, is not authorized except through the custom-house officers or branches of these offices, upon the frontier or in the interior as designated by our minister of agriculture and public works, and upon the days and at the hours determined in accord with our minister of finance.

The importation of meats, fats, and appurtenances of the horse species, prepared or preserved, is interdicted.

ART. 3. These meats, fats, and appurtenances imported shall not be delivered to the public markets for food until they are pronounced suitable for consumption and provided with a stamp in conformity to the model prescribed, after an examination put in operation by the veterinarians charged with the control of live stock imported into Belgium or by other experts designated for this purpose.

For those products which are prepared or preserved the stamp may be applied to the boxes or receptacles.

ART. 8. Infractions of articles 1 and 2 of this decree will be punished by the penalties provided by the law of April 6, 1815, for the repression of fraud in customs.

Infractions of articles 3 to 7 will be punished by the penalties provided by articles 6 and 7 of the law of August 4, 1890, without prejudice, as to the application of penalties established by the penal code.

Our minister of agriculture and public works is charged with the execution of this decree.

Given at Ostend August 22, 1898. LEOPOLD.

In the name of the King. The minister of agriculture and public works.

LEON DE BRUYN.

BOLIVIA.

ASYLUM IN LEGATIONS.

Mr. Bridgman to Mr. Hay.

No. 79.] LEGATION OF THE UNITED STATES,
La Paz, Bolivia, December 24, 1898.

SIR: I have the honor to state that the ministers in La Paz representing the American, Brazilian, and French Governments have formed a joint council for the purpose of acting in unison regarding the reception and treatment of refugees asking "asylum" of the legations during the present insurrection.

In reference to the same I drew up a set of rules to govern our actions in the matter, a copy of which I inclose herewith. These rules were accepted without alteration, and signed by all.

The rules are based on paragraphs 50 and 51, page 20, in Instructions to Diplomatic Officers, and paragraph 92, page 138, of Woolsey (Scribner's 1897 edition).

The idea in South America is deeply rooted, among the populace at least, that a foreign legation is legally a refuge for all sorts of criminals, who may remain in safety from lawful or unlawful pursuit.

I have, etc.,

GEORGE H. BRIDGMAN.

[Inclosure 1 in No. 79.]

Conditions agreed upon by all the ministers undersigned to govern reception of refugees.

Every person asking asylum must be received first in the outer or waiting room of the legation, and there state his name, official capacity, if any, residence, and reasons for demanding refuge; also if his life is threatened by mob violence or is in active danger from any attack.

If, according to the joint rules laid down by the committee composed of the Brazilian, American, and French ministers, he shall be adjudged eligible for protection, he must subscribe to the following rules in writing:

First. To agree that the authorities shall be at once notified of his place of refuge.

Second. To hold no communication with any outside person, and to receive no visitors except by permission of the authority quoted above.

Third. To agree not to leave the legation without permission of the resident minister.

Fourth. To hold himself as virtually the prisoner-guest of the minister in whose legation he is.

Fifth. To agree to peaceably yield himself to the proper authorities when so demanded by them and requested by his host.

Sixth. To quietly depart when so requested by the minister, should the authorities not demand his person after a reasonable time has elapsed.

EDWARDO LISBOA.
GEORGE H. BRIDGMAN.
C. DE CONTONLY.

LA PAZ, BOLIVIA, *December 21, 1898.*

CENTRAL AMERICA.

DISSOLUTION OF THE UNITED STATES OF CENTRAL AMERICA.

Mr. Merry to Mr. Hay.

No. 174.] LEGATION OF THE UNITED STATES,
San Jose, Costa Rica, December 1, 1898.

SIR: I have the honor to inclose herewith copy and translation of official telegram received this a. m. by the Government of Costa Rica announcing the final dissolution of the newly formed United States of Central America by the executive council thereof.

With assurances of my highest consideration, etc.,

WILLIAM LAWRENCE MERRY,
United States Minister.

[Inclosure 1 in No. 174.—Translation.]

(Telegram deposited in Amapala November 29 at 12.40 p. m. Received in San Jose November 30 at 9.20 a. m.)

To the Minister of Foreign Relations:

With real regret I fulfill the duty of advising your excellency that the executive federal council has decided to-day to declare that the existence of the Republic of the United States of Central America is dissolved, not being able to continue in the exercise of its functions consequently. I will send to your excellency separately the documents justifying such a transcendent resolution taken as extraordinary necessity in consequence of the important events in Salvador. Central American patriotism feels injured in its most legitimate interests and leaves the responsibility to those who insisted in destroying their work.

On leaving my post I have the honor to repeat to your excellency the protestations of my consideration and respect.

J. SANSON.

Mr. Merry to Mr. Hay.

No. 175.] LEGATION OF THE UNITED STATES,
San Jose, Costa Rica, December 2, 1898.

SIR: Respectfully referring to my No. 174, dated 1st instant, I have the honor to advise that the Government of Costa Rica has officially recognized the Regalado anti-Federal Government of Salvador. Guatemala has not, so far as I am advised, taken like action, but is expected to do so soon. I have inclosed herewith telegram just received from Hon. Erasmo Calderon, minister of foreign affairs of the newly habilitated Republic of Nicaragua, which is self-explanatory, and follows the proclamation of President Zelaya, dated November 30, announcing the

resumption of her sovereignty as a Republic. I have already advised that the Government of Honduras has recognized the new Government of Salvador.

I have, etc., WILLIAM LAWRENCE MERRY,
United States Minister.

[Inclosure in No. 175.]

[Telegram deposited in Palace Managua, December 11, 1898, at 6.20 p. m. Received in San Jose December 2, 1898, at 3 p. m.]

UNITED STATES MINISTER: I have the honor to advise your excellency that by decree of my Government of this date Nicaragua has assumed the full sovereignty of a free and independent Republic, through the dissolution of the Federal Republic of the United States of Central America, to which it belonged, the ministry of foreign relations being reestablished. In communicating to your excellency the foregoing I have also the satisfaction of advising you that I have taken charge of that important post by disposition of the President, and that in it I will second the decided intention of my Government to continue cultivating with that of your excellency the most frank and cordial relations for the mutual interest of both countries. While I may be at the head of such an important department I shall have the pleasure of maintaining the most sincere friendship with your excellency.

With all consideration, your excellency's most attentive, sincere servant,

ERASMO CALDERON.

Mr. Merry to Mr. Hay.

No. 178.] LEGATION OF THE UNITED STATES,
San Jose, Costa Rica, December 10, 1898.

SIR: I have the honor to inclose herewith documents which may be of interest in connection with the dissolution of the newly formed Estados Unidos de Centro America.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,
United States Minister.

[Inclosure 1 in No. 178.—Translation.]

Executive power—General ministry.

Considering that the compact of Amapala, celebrated in June, 1895, and all that proceeds therefrom, has not obtained the legitimate sanction of the Salvadorean people, and moreover has been a violation of the political constitution of Salvador; that the assembled constituent assembly of Managua, reunited in June of the present year, the deputies of Salvador were not directly elected by the Salvadorean people, and for that reason had no legal authority to concur to a constituent law that could bind the Republic; that the union with the Republics of Honduras and Nicaragua under the contracted terms will seriously injure the interests of Salvador, decrees:

ART. 1. The Republic of Salvador is not obliged, by the contract of Amapala, to acknowledge any authority in the constitution of Managua of the 27th August of the current year, and it is released from the contract of union with the Republics of Honduras and Nicaragua.

ART. 2. The Republic of Salvador assumes in full its self-government and independence, and will enter into the union with the sister Republics of Central America when the same is convenient to its positive interests and is the express and free will of the Salvadorean people.

Given in the Executive Palace, November 25, 1898.

T. REGALADO,
General of Division and Provisional President of the Republic of Salvador.
E. ARANJO,
The General Minister.

[Inclosure 2 in No. 178.—Translation.]

A circular from the general ministry.

SAN SALVADOR, *November 30, 1898.*

Señor GOVERNOR OF THE DEPARTMENT, *present:*

You will please make public the following:

Peace in the Republic is now a real and positive fact, without fear that anyone may be able to disturb it. The federal council was dissolved yesterday in Amapala through want of any assistance.

The Republics of Nicaragua and Honduras have assumed, like Salvador, their autonomy and independence, and we have now frank and friendly relations with their respective Governments. The Government of the country occupies itself now in mustering out its troops, keeping only those needed for the conservation of public order. All the Salvadoreans can now quietly devote themselves to their industries, and, without distinction, may be certain of enjoying every guarantee and that the Government is determined to preserve the peace, in order that it may bring prosperity to the country and well-being for all.

Your obedient servant,

E. ARANJO.

[Inclosure 3 in No. 178.—Translation.]

Decree issued at Managua, December 1, 1898.

Inasmuch as the federal executive council, installed at Amapala on the 1st ultimo, has declared dissolved the Republic of the United States of Central America by act of the 29th of same month, obliging the State of Nicaragua to reassume its sovereignty, therefore the council of ministers decrees:

First. Nicaragua assumes her full sovereignty of a free and independent Republic, and in consequence the constitution of 1893, with the reforms of 1896, will continue in force throughout.

Second. The department of foreign relations is reestablished and annexed to that of Gobierno [Interior].

Third. All danger of peace and public tranquillity not having yet disappeared, the martial law ruling prior to 1st November last remains in force.

Fourth. With this decree report shall be made at the next assembly of the national legislature and will take effect from its publication.

Signed: J. S. Zelaya, and by ministers of the departments of interior, treasury, instruction, and development.

Mr. Merry to Mr. Hay.

No. 197.] LEGATION OF THE UNITED STATES,
San Jose, Costa Rica, December 29, 1898.

SIR: Herewith I have the honor of inclosing a translated and Spanish copy of a communication from the late "executive federal council," of the late United States of Central America, officially announcing its dissolution, and stating some of the causes that lead thereto. Although you have been already informed of the facts therein stated, the communication is respectfully forwarded to the Department of State, as therein requested.

With assurances, etc.,

WILLIAM LAWRENCE MERRY,
United States Minister.

[Inclosure in No. 197.—Translation.]

Mr. Sansón to Mr. Merry.

EXECUTIVE FEDERAL COUNCIL OF THE
UNITED STATES OF CENTRAL AMERICA,
Amapala, November 29, 1898.

SIR: The executive federal council was inaugurated in this city on the 1st instant, putting into force the political constitution of the United States of Central America, decreed by the constituent of Managua the 27th August of this year. This political entity was born to national life with the spontaneous assemblage of the Governments of the States of Nicaragua, Honduras, and El Salvador as signers of the pact of Amapala, that has been the chief generator of the idea of union, and with all the assistance of public opinion frankly manifested through the organs of the press of most authority and by the majority of the political clubs of these States.

It seemed as if the work of national union, so longed for by Central American patriotism, was consolidated, presenting in the lap of peace the charming fruit of order and of liberty. The council complied religiously with the mandate of the law, and in its first work of organization was directed in the straight path of justice, without overlooking the peculiarities of these countries, in order not to wound for a moment the customs of many years; but before entering upon the full exercise of its functions and taking into its hands the means of public administration that corresponded to its constitutional sphere, it was surprised by the cry of rebellion that the barracks of the State of El Salvador raised against it, proclaiming as supreme head Gen. Tomas Regalado, who declared dissolved the Federal Republic in name of the people of Salvador, who submitted through the force of arms to his will.

As soon as it had knowledge of the successes the executive federal council exerted itself to suffocate the rebellious movement, and in this noble effort employed all the means that patriotism demands under the circumstances.

Unfortunately events took place with great rapidity, many military commanders in the service of the federation failed in their duty and weakened the prompt and timely action of the council, and in consequence the State of El Salvador remained in fact separated from the body of the Republic.

In presence of occurrences so serious that the council found it impossible to overcome them for the reasons given, and through the circumstance of its recent installation it not being permissible to remove many of the military commanders who were not in its confidence, it has seen itself under the painful necessity of declaring the Republic of the United States of Central America dissolved, and the council being unable to continue in the exercise of its powers, declines in its persons the responsibility of the rupture of the federation.

Upon bringing the foregoing to the knowledge of your excellency, in order that you may duly place it before your Government, I have the honor to repeat the assurances of my highest esteem, etc.

J. SANSÓN.

Mr. Sansón to Mr. Hay.

[Translation.]

NATIONAL PALACE, *Managua, December 5, 1898.*

MR. SECRETARY: I have the honor herewith to transmit to your excellency the autograph letter which is addressed by His Excellency General President Zelaya to His Excellency the President of the United States of America, informing him of the political change which took place in Nicaragua on the 1st instant.

Begging your excellency to forward the autograph letter in question to its high destination, I offer you the assurance of my most distinguished consideration.

Your excellency's faithful and obedient servant,

J. SANSÓN.

[Inclosure.—Translation.]

J. Santos Zelaya, General of Division and Constitutional President of the Republic of Nicaragua, to His Excellency the President of the United States of America.

GREAT AND GOOD FRIEND: The military occurrences which have taken place in the State of El Salvador since the 13th ultimo have put an end to the Federal Republic of the United States of Central America, and the Executive Council which represented it was obliged, on the 29th of the same month, to declare the de facto separation of the signatory States.

The result of this situation has been that Nicaragua, an integral part of the federation, has recovered her absolute sovereignty as a free and independent nation, and has adopted her former name of a Republic, governed by democratic institutions.

While the end of this new attempt to form a federation, which was so greatly desired by all Central American patriots, is to be lamented, I entertain the firm conviction that the antecedents of this country and those of my Government in its relations with other nations, and especially with the United States, will render it possible to reestablish those relations in a satisfactory manner, and to strengthen them on a footing of the sincerest and most advantageous cordiality.

My Government will spare no pains to promote the accomplishment of these desires, and I avail myself of this occasion to inform you that the people and Government of Nicaragua feel the most lively sympathy for your beautiful country, and earnestly desire its further progress and prosperity.

With the sincerest wishes for the peace and well-being of the United States, and for your own personal happiness and welfare, I beg you to accept the assurance of my most distinguished consideration.

Your faithful friend,

J. S. ZELAYA.
J. SANSÓN.

Done at the National Palace of Managua, on this 5th day of the month of December, 1898.

A true copy of its original.

[L. S.] J. SANSÓN.

MANAGUA, *December 5, 1898.*

Mr. Aranjo to Mr. Hay.

[Translation.]

GENERAL MINISTRY, REPUBLIC OF SALVADOR,
CENTRAL AMERICA, PALACE OF THE EXECUTIVE,
San Salvador, December 5, 1898.

SIR: I have the honor to inform your excellency that a political evolution took place in this country on the 14th of November last, which was designed to reestablish the autonomy and independence of this

Republic, breaking, to this effect, the bonds of union with the neighboring Republics of Nicaragua and Honduras. That movement, which was in harmony with public opinion and seconded by all Salvadorians, has called a new government into existence under the provisional presidency of Gen. Tomás Regalado, of which the undersigned is minister general; this Government has been spontaneously recognized by the whole country, which is in the full enjoyment of peace and tranquillity.

In consequence of the aforesaid event, the executive federal council that represented the ephemeral political entity which was called the United States of Central America was dissolved at Amapala by an instrument bearing date of November 29; the Governments of Nicaragua and Honduras have likewise thereby recovered their independent existence, and the separation of this from those Republics has been consummated, all three having resumed their former amicable relations. The Republic of El Salvador has therefore fully reassumed its autonomy and independence, and has begun once more by itself to form part of the great family of nations, and it desires to reestablish its relations of friendship with those nations with which it had the honor formerly to sustain them. I consequently have the honor to address your excellency for the purpose of informing you that the new Government of El Salvador earnestly desires to maintain and cultivate the most cordial relations of friendship with the Government of the United States of America.

Your excellency will find inclosed two copies of the Official Journal,[1] one of which contains the decree reestablishing the autonomy of this Republic, and the other the decree whereby the diplomatic ministers and consular corps of the Greater Republic of Central America are declared no longer to represent El Salvador in foreign countries, of which fact the said officers have already been informed.

I beg your excellency to bring the foregoing to the knowledge of your Government, and at the same time to accept, etc.,

E. ARANJO.

Mr. Ugarte to Mr. Hay.

[Translation.]

REPUBLIC OF HONDURAS,
MINISTRY OF FOREIGN RELATIONS,
Tegucigalpa, December 10, 1898.

SIR: In pursuance of a treaty concluded at Amapala on the 20th day of June, 1895, the States of Honduras, Nicaragua, and El Salvador delegated their transient sovereignty to the diet of the Greater Republic of Central America, which was installed September 15, 1896, and assumed charge of the foreign relations of the three countries.

That diet, according to the aforesaid treaty of Amapala, was to cease to exercise its functions as soon as the constitution should be adopted whereby the three contracting States were to unite their interests in a stable and permanent manner.

That constitution was discussed at Managua by the representatives of the three States, was signed on the 27th of August last, and was promulgated as a law of the new political entity called "The United States of Central America."

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[1] Not printed.

On the 1st of November last, in pursuance of the provisions of the constitution adopted, a provisional executive council was installed at Amapala for the purpose of discharging the functions of president of the Republic, pending the election by the people of the citizen who was definitively to fill that high position.

Unfortunately, a movement for separation, headed in the State of El Salvador by Gen. Tomás Regalado, and the subsequent events mentioned in the instrument of dissolution of the council which I have the honor herewith to inclose for your excellency's information, resulted in a rupture of the federation, the States which formed it resuming in consequence their transient sovereignty under the name of Republics, and the decree being issued here in Honduras, an authenticated copy of which I likewise inclose to your excellency, in order that you may take note of its contents.

Having been called by the Government of this Republic to discharge the duties of minister of foreign relations, I take pleasure in assuring you excellency, in obedience to the instructions of the President, that the Government earnestly desires to continue to cultivate and daily to draw closer, if possible, the friendly relations which have happily existed, and still exist, between Honduras and the United States of America, and that it is firmly purposed to do all in its power to promote the moral and material interests of both by means of a policy of sincere cordiality.

With assurances, etc., ÁNGEL UGARTE.

CHILE.

CHILE-ARGENTINE BOUNDARY DISPUTE.[1]

Mr. Wilson to Mr. Hay.

No. 81.] LEGATION OF THE UNITED STATES,
Santiago, November 25, 1898.

SIR: Referring to my No. 78 of October 31, regarding the negotiations concluded on the 30th ultimo, for submitting the question pending between Chile and the Argentine Republic relative to the Puna de Atacama to a commission of delegates to meet at Buenos Ayres, presided over by the United States minister to the Argentine, I now beg to inclose a copy and translation of the agreement arrived at between the two Governments.

Since the publication of this document the meeting of the commission, which had been fixed for December 1, 1898, has been postponed by mutual consent to March 1, 1899.

I have, etc., HENRY L. WILSON.

[Inclosure in No. 81.—Translation.]

SANTIAGO, *November 23, 1898.*

Whereas the national congress has approved the following bill:

SOLE ARTICLE. The National Congress approves the two documents, signed in Santiago on November 2, 1898, by the minister of foreign relations of Chile and the chargé d'affaires and plenipotentiary ad hoc of the Argentine Republic, Señor Don Alberto Blancas, the object of which documents is to agree upon the meeting in Buenos Ayres of a commission of delegates from both countries which shall fix the boundary line between parallels 23° and 26° 52′ 45″, south latitude; and to agree, in case the said commission is unable to come to any decision, upon the designation of a commission, to be composed of a Chilean and an Argentine delegate and the present United States minister to the Argentine Republic, to definitely settle the dividing line.

And whereas, having heard the opinion of the council of state, I have seen fit to approve of and sign it? Let it be promulgated and carried out as a law of the Republic.

FEDERICO ERRAZURIZ.
J. J. LATORRE.

In the city of Santiago de Chile, on the 2d day of November, 1898, Señor Don Juan José Latorre, the minister of foreign relations, and Señor Don Alberto Blancas, chargé d'affaires and plenipotentiary ad hoc of the Argentine Republic, according to the telegraphic credentials, which shall later on be ratified in the usual manner, having met in the office of the ministry of foreign relations, declared that the Governments of the Republic of Chile and the Argentine Republic, being desirous of arriving at an agreement regarding all the questions which affect or may affect the two countries directly or indirectly, thus establishing, in a thorough, frank, and

[1] See also under Argentine Republic.

friendly manner, the relations which common glories imposed upon them from the very moment of their political emancipation, agreed:

First. To have a commission meet, in the city of Buenos Ayres, with the following objects:

(*a*) To fix the dividing line between parallels 23° and 26° 52′ 45″ south latitude, in accordance with the stipulations of the first basis of the agreement of the 17th day of April, 1896, taking into consideration all the documents relating to the case and its previous history.

(*b*) To study and draw up the corresponding solutions in the questions which may directly or indirectly interest the two countries and which may be submitted to its deliberation.

Second. The commission shall be composed of 10 delegates, 5 to be appointed by the Republic of Chile and 5 by the Argentine Republic. The appointment by each Government of its delegates, and the date for the commission to begin its sittings, shall be the subject of a later document.

Third. The commission shall begin by treating the first point referred to in the first basis. If the delegates arrive at a decision regarding the said point, either by a unanimous vote or by a vote of the majority of its members, the line thus decided upon shall be definitely accepted, and the Governments shall be advised of it immediately, in order that, communicating it to the Government of Bolivia, they may proceed to erect upon the ground landmarks at such points of the line as may be considered necessary.

If the delegates do not arrive at a decision, they shall advise their respective Governments, in order that the proceeding provided for in another document of this date may be carried out.

Fourth. The foregoing basis being complied with, the commission shall proceed to treat the other points to which the first basis refers. The decisions which the delegates may adopt shall not be obligatory upon the respective Governments, but, as soon as the latter have been informed of them, the said Governments shall definitely decide them.

Fifth. The commission shall finish dealing with the questions submitted to it ten days after its first meeting, unless the Governments, by common agreement, resolve to prorogue the said term.

Sixth. If after three meetings the commission has not decided upon the line between parallels 23° and 26° 52′ 45″ south latitude, the demarcating commission referred to in the document of this date shall begin its work.

In witness whereof the undersigned, in the names of their respective Governments, have signed the present agreement in duplicate, one copy for each party, and have affixed their seals thereto.

J. J. LATORRE,
BLANCAS.

In the city of Santiago de Chile, on the 2d day of November, 1898, the minister of foreign relations, Señor Don J. J. Latorre, and Señor Don Alberto Blancas, chargé d'affaires and plenipotentiary ad hoc of the Argentine Republic, according to telegraphic credentials, which shall be ratified later on in the usual form, having met in the ministry of foreign relations, with the object of continuing the negotiations referred to in the minutes of the proceedings of the 16th day of September last, and after exchanging ideas on the subject, agreed:

First. To designate a Chilean and an Argentine delegate and the present United States minister to the Argentine Republic, in order that, in the character of demarcators, and taking into consideration the documents relating to and the previous history of the case, they shall proceed by a majority to decide definitely upon the dividing line referred to in the first basis of the agreement of the 17th day of April, 1896.

Second. As soon as the dividing line is decided upon, the demarcating commission shall communicate to the respective Governments, in order that it may be communicated to Bolivia, and the dividing landmarks be erected at such points of that line as may be considered necessary.

Third. The demarcating commission shall meet in Buenos Ayres and begin its duties forty-eight hours after the respective Governments advise its members the contingency provided for in the agreement of this same date has arisen. The demarcation of the dividing line shall be finished three days after the first session.

Fourth. If there should be any disagreement regarding the decision adopted, the dissenting member may leave the fact on record, but may not state the reasons upon which his opinion is based.

In witness whereof the undersigned, in the names of their respective Governments, have signed the present agreement in duplicate, one copy for each party, and have affixed to it their seals.

J. J. LATORRE,
ALBERTO BLANCAS.

Communications exchanged between the minister of foreign relations and the chargé d'affaires of the Argentine Republic regarding the submission of the said documents to the approval of the Argentine Congress.

ARGENTINE LEGATION, *Santiago, November 15, 1898.*

MR. MINISTER: With the object of answering the question which has been referred to me verbally by His Excellency the President of the Republic, I have the honor to advise you that I have been instructed to state to the Chilean Government that the Argentine foreign office is of the opinion that the pending negotiations do not require the intervention of its Congress.

I gladly avail myself of the occasion to renew to you the assurance of my most distinguished consideration.

ALBERTO BLANCAS.

Rear-Admiral J. J. LATORRE,
Minister of Foreign Relations of Chile.

REPUBLIC OF CHILE,
MINISTRY OF FOREIGN RELATIONS,
Santiago, November 21, 1898.

SIR: I have had the honor to receive your esteemed note of the 15th instant, in which, with the object of replying to the question referred to you by His Excellency the President of the Republic, you are good enough to advise me that you have been instructed to state to this Government that the Argentine foreign office is of the opinion that the pending negotiations do not require the intervention of its Congress.

I thank you for the reply which you are good enough to transcribe to me, and at the same time beg to communicate to you the desire of my Government to know if the carrying out of the stipulations in these arrangements—that is to say, the documents signed by you and the undersigned on the 2d instant—will in any manner, or at any time, be subordinate to the approval of the Congress of your country.

I thank you in advance, and subscribe myself your obedient servant,

J. J. LATORRE.

Señor Don ALBERTO BLANCAS,
Chargé d'Affaires ad interim of the Argentine Republic.

ARGENTINE LEGATION, *Santiago, November 21, 1898.*

MR. MINISTER: In acknowledging the receipt of your note of this date, I have the honor to transcribe in reply the last telegram which I have received from my Government in answer to the question you asked me. It says:

"BUENOS AYRES, *November 19.*

"*Mr. Chargé d'Affaires ad interim of the Argentine Republic:*

"Santiago. Official. I received your telegram of to-day's date. You may state to the President, as you say in your note of the 15th, that this Government does not require to submit the arrangements for approval to Congress, and that it will limit itself to communicating them to Congress in the same way as was done with the former arrangements, without any further formalities. I salute you.

"A. ALCORTA."

I gladly avail myself of the occasion to renew to you the assurance of my most distinguished consideration.

ALBERTO BLANCAS.

Rear-Admiral J. J. LATORRE,
Minister of Foreign Relations of Chile.

CHINA.

RUSSIAN OCCUPATION OF PORT ARTHUR AND TALIEN WAN.

Mr. Denby to Mr. Sherman.

No. 2897.] LEGATION OF THE UNITED STATES,
Peking, China, March 29, 1898.

SIR: I have the honor to inform you that the convention between Russia and China relating to the cession of Port Arthur and Talien-wan was signed the 27th instant.

As far as I can ascertain, the terms of the agreement are that these places are leased to Russia for twenty-five years. The area of territory leased extends 160 li (53 English miles) from north to south and 70 li (23 English miles) from east to west.

Chinese vessels of war and merchant vessels can enter and leave Port Arthur at their pleasure.

The port of Talien-wan is to be under Russian jurisdiction. I am unable to say how trade will be affected. The Chinese force stationed at Port Arthur, now under the command of General Sung, is to be moved to Newchwang.

There was a grand demonstration by the Russians yesterday at Port Arthur, and salutes were fired in honor of the Czar.

The Russian military attaché, Colonel Wogack, will be governor of the ceded territory.

I will endeavor to secure official copy of the convention. It must be said, however, that some delay will occur.

I have, etc.,

CHARLES DENBY.

Mr. Sherman to Mr. Denby.

No. 1560.] DEPARTMENT OF STATE,
Washington, March 31, 1898.

SIR: I inclose herewith* for the files of your legation copy of a note from the Russian chargé d'affaires ad interim, at this capital, informing this Government that in virtue of a convention signed at Peking on the 27th instant by the representative of Russia and the members of the Tsung-li Yamên, duly authorized for the purpose, Port Arthur and Talien-wan, together with the adjacent territories, have been ceded to Russia in usufruct by the Chinese Government; that the above-named ports and territories will be immediately occupied by the troops of His Majesty the Emperor of Russia; that the port of Talien-wan will be open to foreign commerce, and that vessels of all friendly nations will be received there with the utmost hospitality.

Respectfully, yours,

JOHN SHERMAN.

* Not printed.

Mr. Denby to Mr. Sherman.

No. 2913.] LEGATION OF THE UNITED STATES,
Peking, China, April 15, 1898.

SIR: I have the honor to inclose a translation of a proclamation issued by Russian admiral relating to the Liao Tung Peninsula.

By this proclamation the northern limit of Russian territory is about 30 miles north of Kinchow, and the eastern limit is Pietze-woa.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2913.]

Proclamation issued by the admiral commanding the Russian naval squadron on the Pacific and the Russian naval and military forces of the Liao-Tung Peninsula.

Whereas a telegram has been received from the Czar of Russia to the effect that it is the earnest desire of the Emperor of China to maintain relations of friendship between the two countries, and that every effort should be made to assist each other; it has therefore been agreed that Port Arthur, Talien-wan, and places in the vicinity thereof, are to be leased to the Russian Government for the period of twenty-five years. The area of territory so leased extends from Port Arthur north to Putao-tien and Pitzu-woa. It is important that measures should be adopted to preserve order and maintain peace within the limits of the above-named places.

Acting under instructions I assume charge of the above-named places on the 28th of March. The Chinese troops have been withdrawn and orders have been given by me that the forces under my command are to exercise due vigilence and care to afford protection to the Chinese, to the end that they may carry on their daily pursuits without fear. Important questions that may arise must be presented to me for my consideration and action to be taken thereon. Merchants and traders will be allowed to pursue their respective callings as heretofore. Criminals or disorderly characters (Russian or Chinese) will be dealt with according to the laws of their respective countries. This proclamation is issued for general information. Let every one respect and obey it.

Issued on the 5th of April.

Mr. Denby to Mr. Sherman.

No. 2929.] LEGATION OF THE UNITED STATES,
Peking, China, May 15, 1898.

SIR: I have the honor to acknowledge the receipt of your instruction No. 1560, of the 31st of March, 1898, wherein you inclose a note from the Russian chargé d'affaires ad interim, touching the cession in usufruct of Port Arthur and Talien-wan by China to Russia.

As a corollary to this note, the Russian consul at Tientsin recently notified the consular body that all foreigners within their consular districts desiring to visit either Port Arthur or Talien-wan must not only obtain passports but must have their passports viséed at the Russian consulate before departing.

I have, etc., CHARLES DENBY.

Mr. Denby to Mr. Sherman.

No. 2932.] LEGATION OF THE UNITED STATES,
Peking, China, May 18, 1898.

SIR: I have the honor to inclose a translation of the recent Russo-Chinese convention, clipped from the North China News of the 10th instant.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2032.]

[Clipping from the North China Daily News of May 10, 1898.]

The Russo-Chinese convention.

The Russo-Chinese convention, with regard to Liaotung and correlated matters, was signed in Peking on the 27th of March, and a copy of it has been forwarded to the Jiji Shimpo by the latter's special correspondent in that city. It runs as follows:

Li and Chang [here follow their titles and degrees], having been invested with plenipotentiary powers by His Imperial Majesty the Emperor of China, and M. Pawlow, Russian chargé d'affaires in Peking, having been similarly invested by His Imperial Majesty the Emperor of Russia, have this day—3d of the third month of the twenty-fourth year Kuanghsu—concluded the following convention with regard to the leasing of Port Arthur and Talien:

ARTICLE I. In order to provide for Russia a suitable basis on the northern coast of China, and thereby to render her naval position complete and secure, His Majesty the Emperor of China agrees hereby to lease Port Arthur and Talien, together with their adjacent waters, to Russia: *Provided*, That the sovereign rights of the Middle Kingdom shall not be impaired by the transaction.

ART. II. With regard to the limits of the leased land, steps shall hereafter be taken to determine by survey to what distance the boundary should be carried in a northerly direction from Talien in order to provide for the security of that place. But the exact limits and all other details connected with the operation of this convention shall be determined after consultation between the Chinese representative in St. Petersburg and the Russian Government: *Provided*, That within the limits thus determined Russia shall enjoy the rights and privileges of a lessee.

ART. III. The period of the lease shall be twenty-five years from date of signing this convention. *Provided*, That, at the conclusion of that period, it may be prolonged by mutual agreement between the contracting parties.

ART. IV. The district, territorial and maritime, described in Article I, shall serve as a depot of military and naval supplies to Russia, and the principal officials administering its affairs may be Russians, acting under a chief who shall have general responsibility. *Provided, however*, That such officials must not bear the title of governor-general or visiting inspector. The troops of the Middle Kingdom shall not be permitted to encamp within the limits of the leased land, but civilian subjects of the Middle Kingdom shall be entitled to reside there provided that they do not behave lawlessly. In the event of a breach of the law by a Chinese subject he shall be handed over to the nearest Chinese local tribunal for judgment and the infliction of a penalty. All details relating to the administration of justice shall be determined in accordance with the Russo Chinese treaty of 1860 (the tenth year of Hien-fung).

ART. V. Beyond the northern boundary of the leased land an uninhabited space shall be left, its limits to be hereafter determined by the Chinese representative in St. Petersburg and the Russian Government in consultation. All affairs within this space shall be under the control of Chinese officials, but Chinese troops may not enter there except after consultation with the Russian authorities.

ART. VI. The contracting parties agree to regard Port Arthur as a naval station. It shall be used by Russian and Chinese ships only, and neither the men-of-war nor the merchantmen of any other power shall have access to it. Similarly, in the case of Talien Bay, one part shall serve as a naval station for the warships of China and Rusia, but the rest shall be a commercial port, open for the ingress and egress of the ships of all nations.

ART. VII. In view of the importance of Port Arthur and Talien, Russia undertakes to construct, at her own expense, whatever barracks and forts may be required, and to adopt whatever other means are necessary for the defense of those places.

ART. VIII. It shall be permitted to construct a railway from a point in the part of the Trans-Asian trunk road for the building of which China gave her consent in 1896, to Talien, all the details of construction to be in accordance with the Chinese system of Manchurian lines. Moreover, a branch of the line so constructed may be carried from some place midway between Yingtsze (Newchwang) and the Yalu River to a convenient point on the seacoast. All details relating to the direction of the roads and their building shall be settled by the Chinese representative in St. Petersburg in consultation with the director of the Trans-Asian Railway: *Provided*, That the Russian Government explicitly engages that there shall be no trespassing upon, or seizure of, Chinese territory in connection with the above railway works.

ART. IX. This convention shall become operative from the day of its conclusion, and the ratifications shall be exchanged in St. Petersburg.

The above appears to have been rendered from the Chinese into Japanese, so that our interpretation is only a translation from a translation, and can not be relied on for accuracy. One very important point, however, appears quite plain, namely, that a portion of Talien Bay is to be converted into a naval station accessible to Chinese and Russian warships only. That is a new feature of an open port. Another interesting point is that there is to be a branch of the Liao-tung railway, leading from a point midway between Newchwang and the mouth of the Yalu to the sea. What sea is contemplated we can not yet tell—whether the Gulf of Pechili or the Yellow Sea. If the former, Newchwang will probably be the objective point. If the latter, the line will probably traverse southern Shingking and emerge at Takushan, which is about 25 miles west of the mouth of the Yalu.—[Japan Mail.]

Mr. Denby to Mr. Sherman.

No. 2935.] LEGATION OF THE UNITED STATES,
Peking, China, May 21, 1898.

SIR: I have the honor to inclose a copy of the original of a communication from the Russian chargé d'affaires relating to the requirement that all foreign subjects going to any part of the territory in Manchuria, recently ceded to Russia, shall bear passports which have been viséed by the Russian consul. I inclose also a translation of this paper.

I am requested to notify the consuls of the United States of the regulations above set out, but I think it prudent not to send such notification until I shall have received your instructions on the subject. I have accordingly simply acknowledged the receipt of the paper.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2935.]

PEKING, *May 19, 1898.*

Monsieur le Ministre and Dear Colleague:

In conformity with the instructions I have just received from the imperial ministry of foreign affairs, I have the honor to inform you that all foreign subjects going to Port Arthur and Talien-wan, or to any other point in the territory which has been ceded in usufruct to the Imperial Government by the Chinese Government, must be provided with passports from their respective Governments duly viséed in a Russian consulate.

While so informing your excellency, and hoping that you will find it useful to give to your consuls instructions relative to the subject mentioned, I seize the occasion to renew to you, monsieur le ministre, the assurance of my high consideration.

A. PAVLOW.

Mr. Denby to Mr. Sherman.

No. 2937.] LEGATION OF THE UNITED STATES,
Peking, China, June 1, 1898.

SIR: I have the honor to inclose a copy of a communication received from the Russian chargé at Pekin relating to the viséing of passports

of foreigners going into the recently ceded Russian territory. I also inclose a translation thereof. It was reported here that Russia would recede from the demand that such passports should be viséed, but this communication simply reiterates the necessity of having passports viséed, and seems to require that such passports shall be viséed by Russian consuls in China.

I have, etc., CHARLES DENBY.

[Inclosure in No. 2937.]

PEKING, *May 31/19, 1898.*

Monsieur le Ministre et Cher Collègue:

In order to complete my note of the 7/19 instant, I have the honor to inform your excellency that according to the last instructions, which have been given to me by the imperial ministry, the visé in the Russian consulates of national passports delivered to strangers who are going to Port Arthur and to Talien-wan or to any other point in the territory which has been ceded in usufruct to the Russian Government by the Chinese Government will be entirely effective, but it is understood that the imperial consulates of Russia in China will have to visé, according to the instructions received, the national passports of strangers going upon the above-mentioned territory, who will present them to that end.

Accept, Monsieur le Ministre, the assurances of my highest consideration.

A. PAVLOW.

Mr. Denby to Mr. Sherman.

No. 2939.] LEGATION OF THE UNITED STATES,
Peking, China, June 6, 1898.

SIR: In my dispatch, No. 2937, of the 1st instant I sent a translation of a recent circular issued by the Russian Legation relating to the viséing of passports of persons going to the territory ceded by China to Russia.

I stated in this dispatch that the circular "seems to require that such passports shall be viséed by Russian consuls in China."

I have now the honor to inform you that my construction was erroneous. It is understood here that it is not compulsory that such passports be viséed. Passports are obligatory—visées are optional.

I have, etc., CHARLES DENBY.

Mr. Moore to Mr. Conger.

No. 9.] DEPARTMENT OF STATE,
Washington, July 23, 1898.

SIR: I have to acknowledge the receipt of Mr. Denby's No. 2939, of the 6th ultimo, in which, referring to the construction placed by him in his No. 2937, of June 1, upon the circular issued by the Russian legation at Peking, in relation to the visaing of passports of persons going to the territory ceded by China to Russia, that it seemed to require

that such passports should be visaed by Russian consuls in China, he states that this construction was erroneous, as it is understood that the visaing of passports is not compulsory.

If Mr. Denby's understanding is correct, the Russian territory in China is excepted from the regular Imperial regulations which require passports to be visaed by Russian diplomatic and consular officers before they will admit the bearer into Russian territory.

Respectfully, yours,

J. B. MOORE,
Acting Secretary.

Mr. Conger to Mr. Day.

No. 47.] LEGATION OF THE UNITED STATES,
Peking, China, September 17, 1898.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 9, of July 23 last, in regard to the viséing of passports of persons going to the territory recently ceded by China to Russia, and in reply to state that I am informed by the Russian chargé d'affaires, Mr. Pavlow, that the regulations concerning the visé of passports of foreigners going to Russia do not apply at Port Arthur or other points in the Liao-tung ceded to Russia, nor are they on arrival at any of these places obliged to have passports previously visaed at the Russian consulate or legation.

I have, etc.,

E. H. CONGER.

GERMAN OCCUPATION OF KIAOCHOU.

Mr. Denby to Mr. Sherman.

No. 2884.] LEGATION OF THE UNITED STATES,
Peking, March 9, 1898.

SIR: I have the honor to inclose a translation of a memorial to the throne which embodies a report of the recent demands made by Germany on China and the proposed treatment thereof by China.

The conventions made with Germany have followed or will follow the terms of this memorial.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2884.]

Memorial presented by the Tsung-li Yamên setting forth the terms and conditions arrived at with the German minister in the matter of the lease of Kiaochou.

Whereas in November of last year two German missionaries were murdered in the jurisdiction of Tsaochou, in the province of Shantung, German vessels of war thereupon seized and occupied Kiaochou. The German minister, Baron Heyking, addressed the Yamên a communication in which he made six demands on the Chinese Government, and the situation of affairs looked as though peaceful relations might be broken off between the two countries.

The Yamên had already presented the above particulars for your majesty's information, as well as copies of the correspondence and memoranda of the interviews had with the German minister on the subject.

The Yamên discussed with the German minister the course of action adopted by your majesty, pointing out to him the concessions and demands China would grant and those she would not grant.

The German minister pointed out in an official communication to the Yamên that the governor of Shantung, Li Ping-heng, had frequently disobeyed your majesty's commands, and his refusing to listen to the instructions of his Government has resulted in the present serious case. He demands the degradation of Li Ping-heng and that he never again be allowed to hold office.

To this proposition your memorialists positively refused to give assent and decided that the four Chinese characters meaning that "he never again be allowed to hold office" should be expunged from the demand made; that your memorialists could only lay the wish expressed against a second appointment of the high officer before your majesty and await your decision in the matter.

The German Bishop Anzer is at Chi-ning Chou, where he has commenced the building of a cathedral, but as the Tsaochou affair has now happened, the German minister expressed the wish that to honor and protect the missionaries an Imperial honorary tablet should be erected, the cost of which to be defrayed by China. Your memorialists considered what law or precedent there was for such cases, and decided that the cathedral should be built with a tablet on it containing five characters meaning, "This cathedral is erected by the Emperor," the estimated cost to be 66,000 taels.

The murderers must necessarily be punished and an indemnity paid for loss of life to the missionaries.

The German minister has stated, however, that the two murdered missionaries have no relations to which an indemnity could be paid, and that the money be expended in the erection of two cathedrals, one in the city of Tsaochou and the other at Chang-Chia-chuang, in the district of Chu Yeh.

The land at each place to be given by the officials and not to exceed in area 10 mow.

The cathedrals to be erected the same as the one at Chi-ning Chou, at an expenditure of 66,000 taels each.

A tablet is to be erected on each cathedral with five characters on it meaning, "This cathedral is erected by the Emperor." The tablets are to be put up at the main entrance to the cathedrals as evidence that the missionaries are to be protected. It is also agreed that the sum of 2,000 taels is to be paid for loss of property belonging to the missionaries. The German minister also represented that the places rented by the missionaries were very uncomfortable, and he suggested that 24,000 taels be appropriated by China for the purpose of building seven places for them, one at Chu Yeh, Ho Che, Yun Cheng, Shan Hsien, Wu Chih, Tsao Hsien, and Lu Tai, respectively, as a mark of sympathy for the two murdered missionaries.

The murderers have been punished and also the delinquent officials, but the German minister further demanded that China should guarantee that similar outrages should never occur again. Your memorialists stated to him that the treaties provided for the protection of missionaries and their churches, but outrages committed by outlaws happen suddenly and without warning; hence it is impossible to forever guarantee that outrages shall not occur again.

The German minister also requested that an imperial decree be issued ordering the officials to act in good earnest, in accordance with treaty stipulations, to protect the missionaries. As the Yamên has no record of the places where the German missionaries are located, the German minister has promised to furnish same. Your memorialists would further state that they informed the German minister that in the matter of the delinquent officials China alone must decide as to the form of punishment they should receive, whether they should be transferred to other provinces or degraded.

The German minister then brought up the question of commercial matters in connection with the missionary case. He requested that Germany should have the preference of building railroads in Shantung, if China should ever determine to build any, and also the preference to work mines near the railways. And, further, that a company (German and Chinese) be started to build the railways and work the mines near thereto in the whole province, his idea being to follow the plan of the Russian-Chinese Company. Your memorialists told him that they could only agree to a line being built from Kiaochou to the capital city, Chi Nan. The question of building other lines to connect with Chinese lines could be considered after the first line was built. Shares may be issued to Chinese as well as Germans, but it is distinctly understood that Germany will not encroach on any Chinese territory in Shantung, and a separate agreement is to be drawn up to this effect. There is no need in this matter to follow the Russian system; the Chinese and German Governments are to arrange it themselves. The German minister further requested China to pay to Germany the sum of several million of taels to defray the expenses incurred by Germany in this case. This your memorialists refused to give assent, on the ground that it was an unreasonable demand, but, considering the friendship that has existed

between China and Germany for several tens of years and of the assistance formerly rendered by Germany to China, your memorialists stated that other questions having no relation to the missionary case could be considered; these, however, must be regarded in the nature of a separate case.

In the matter of the payment of expenses incurred by Germany which your memorialists positively refused to agree to, the German minister said he would have to refer the question to his Government. After a delay of about ten days, your memorialists approached the German minister on the subject several times, until he finally waived the claim for expenses in landing marines and withdrawing them, etc.

Considering that there has never been any disagreement existing between China and Germany, and that the German Government came to the assistance of China in securing the evacuation of the Liao-tung Peninsula by the Japanese for which she has never been recompensed; and further, as England, France, and Russia have taken maritime ports in the East, and as Germany has no port as a rendezvous for her vessels and for a coaling station, her position is not equal to the other great powers. Your memorialists have on several occasions received notes and telegrams from Hsu Ching Cheng, Chinese minister to Germany, stating that Kiaochou is the place that Germany has been longing for, hence in February of last year your memorialists asked the sanction of Your Majesty to the building of a dock there. The question of devising some arrangements was therefore taken in hand. In November last the missionary case occurred, and Your Majesty issued a decree ordering Li P'ing Heng to cause the arrest of the murderers. That the Germans were planning to get a maritime port, Your Majesty had received due notice of. As a result of the murder of the two missionaries the German vessels of war seized Kiaochou and sent detachments of troops on shore. They went straight to the district city of Chi Mo for the purpose of making observations. The German Emperor has deputed his brother to come to China in command of some vessels of war, and it is impossible to ascertain his purpose.

The German minister submitted in connection with the missionary case six demands which he insisted should be complied with on the part of China, but he would not say a word as to whether Germany would evacuate Kiaochou. Your memorialists corresponded and argued the question with the German minister. He finally stated that Germany wished to lease Kiaochou and territory inland, extending 100 li, upon the same conditions as the settlements and concessions at the ports, the rent to be paid annually; that the territory should be self-governing, i. e., under Germany, but still belong to China. He sent a communication on the question of leasing this territory, containing five articles, which in the general had for their object the preservation of friendly relations between the two countries. Your memorialists, after due consideration of the terms proposed, decided that the territory should be leased for a period of ninety-nine years, the boundary line inland to be fixed by officials duly appointed for the purpose by the two Governments, and to extend 100 li round on all sides.

Chinese vessels of war and merchant vessels can enter and leave Kiaochou at pleasure.

As there are dangerous sandbanks around the islands outside of Kiaochou, permission is granted to Germany to lay buoys. No dues shall be levied on Chinese naval and merchant vessels on entering and leaving port. Should Germany wish to hand over Kiaochou to China, China agrees to pay Germany the money she has expended on the place and China will select another suitable port for Germany. This refers to Kiaochou being handed over to China before the expiry of the lease. It is understood that during the term of the lease Germany shall not interfere or remove any of the Chinese lekin stations now established; these shall remain where they are located. Germany is to withdraw her troops stationed outside of the 100-li limit. As to the amount of rent to be paid by Germany, your memorialists will consider this question with the German minister, so that there may be no misunderstanding.

Your memorialists submit the foregoing to your majesty and reverently await your decision in the premises.

Your memorialists would further state that they have written to the governor of Shantung, so that he may devise all necessary arrangements. Germany commenced all this trouble, and many of the foreign powers have shown a desire to interfere in the matter.

The Chinese and foreign papers and telegrams have all contained comments on it, and your memorialists decided that China and Germany should alone discuss and decide the questions at stake, and that foreign powers should not be allowed to mediate in the matter, as it is certainly known that foreign powers are not sincere in their purpose to come to China's assistance in the present emergency; it is in appearance only.

China has suffered a great deal, and there is just a possibility that foreign powers in their contest with each other are merely making China a battlefield, which renders it most difficult for her to do anything.

The present affair should therefore be brought to a speedy termination. Your memorialists present this their memorial upon which they implore Your Majesty will cast your sacred glance.

BRITISH OCCUPATION OF CHINESE PORTS.

Mr. Denby to Mr. Sherman.

No. 2907.] LEGATION OF THE UNITED STATES,
Peking, China, April 5, 1898.

SIR: I have learned from good authority that China has ceded Wei-hai-wei to Great Britain on the same terms that Port Arthur has been ceded to Russia.

Wei-hai-wei is an excellent harbor, much larger, and better than Port Arthur. It is exactly at the mouth of the Gulf of Pechili, and is the nearest point on the Gulf to Korea. It commands the gulf. It is about 40 miles from Chefoo and 80 from Kiaochou. It is supposed here that it will be a second or northern Hongkong.

I do not suppose that Wei-hai-wei will be a treaty port; but it will be an open port. There will be no tariff, and the commerce of the world will be treated fairly.

I have, etc., CHARLES DENBY.

[Inclosure.]

[Extract from the Chinese Commercial Guide, by S. Wells Williams, fifth edition, Hongkong, 1863.]

Wei-hai-wei Harbor, at about 25 miles westward of Alceste Island, is formed between Leu-cung Island, 517 feet high, and a deep bight of the coast, and is the most eastern anchorage on the north shore of the Shantung province. It is easy of access, and has two entrances, one on the west, the other on the east side of Leu-cung Island, thus affording a facility for access or departure with almost any wind.

The western entrance, although much narrower than the other, has the deepest water and should be used by all vessels drawing above 18 feet. The soundings in it are 10 and 12 fathoms, but when abreast Observatory Island (a rocky islet near the northwest side of Leu-cung) they increase suddenly to 17 fathoms, and decrease again rapidly to 5 fathoms; after which the depth gradually decreases to the southern shore and into the bay to the westward where the town is situated.

Round Island and three or four adjoining rocks lie off the northern point of the western entrance; the outer rock, scarcely a mile ENE. from the point is 10 or 12 feet high, and steep-to. A rocky patch, which covers at high water, lies between this outer rock and Round Island; no other hidden dangers are known.

The best anchorage is close to the west point of Leu-cung Island, in 5 to 7 fathoms, on excellent holding ground of mud, the island protecting the anchorage from the northeast. At half a mile ESE. from the eastern end of the island is a reef of rocks, steep-to, but as a portion of them always shows above water they may be easily avoided.

Mr. Denby to Mr. Day.

No. 2941.] LEGATION OF THE UNITED STATES,
Peking, China, June 10, 1898.

SIR: I have the honor to inform you that the convention leasing to Great Britain Mirs Bay, Deep Bay, and the adjacent islands near Hongkong, was signed yesterday by the Chinese Government. It will take effect from and after the 1st of July next.

I have etc., CHARLES DENBY.

FRENCH OCCUPATION OF KWANGCHAU BAY.

Mr. Denby to Mr. Sherman.

No. 2917.] LEGATION OF THE UNITED STATES,
Peking, China, April 20, 1898.

SIR: I have the honor to inform you that Kwangchau Bay, which has been recently ceded to the French Government for ninety-nine years, is situate on the southwestern coast of China, in the district of Leichou, Kwangtung Province.

The harbor is said to be a good one. The country back of it is highly productive. One of the chief products is sugar.

I have, etc., CHARLES DENBY.

RIOT AT CHIANG PEI TING.

Mr. Denby to Mr. Sherman.

No. 2878.] LEGATION OF THE UNITED STATES,
Peking, February 26, 1898.

SIR: I have the honor to inform you that on the 7th instant I received from the Yamên a communication relating to the occupation of a place called Chiang Pei Ting, which is near Chung-king, by American missionaries. A translation is inclosed.

In this communication the Yamên sets forth that should the Americans go to the place named there will be danger of a riot. The 8th instant I sent to our consul a dispatch, of which a copy is inclosed.

I afterwards received a telegram from him which, with my answer thereto, are set out in my dispatch to the consul of the 19th instant, of which a copy is inclosed.

Thus the matter stands at present.

I have, etc., CHARLES DENBY.

[Inclosure 1 in No. 2878.]

The Tsung-li Yamên to Mr. Denby.

PEKING, *February 7, 1898.*

YOUR EXCELLENCY: We have the honor to inform your excellency that the Yamên received a telegram from the customs Taotai, at Chung-king stating that the people at Chiang Pei Ting have never been friendly toward the Christians.

Since the riots in the beginning of Kwang-hsü the French missionaries have not occupied the premises in that locality which the officials rebuilt. Last winter an American missionary was assaulted at this place. The authorities arrested the assailants and punished them. The American consul, Mr. Smithers, insisted that the American missionaries should be allowed to have a mission station there, but two months have elapsed and nothing as yet has been arranged. It is to be feared that the American consul does not consider the feelings of the populace toward Christians, and the Taotai requests that the matter be laid before the United States minister, informing him that, should the missionaries locate at Chiang Pei Ting and trouble arise, it may be difficult to afford them proper protection.

The Yamên would observe that the treaties provide for the propagation of the Christian religion in all the provinces, and the local authorities must do their best to grant protection to the missionaries. But the people of Chiang Pei Ting are very turbulent, and since the riots which occurred in the beginning of the reign of Kwang-hsü the French missionaries have not occupied the premises rebuilt for them at that place, which is an indication that the people are very much opposed to Christianity.

The Yamên has telegraphed the Taotai at Chung-king to confer with the American consul and try to arrange matters amicably, so as to avoid trouble.

The Yamên begs that your excellency will instruct the American consul to consult with the Taotai respecting this case and, pending a satisfactory arrangement, the missionaries be requested not to carry on religious work at the place in question and thus avoid trouble.

Cards of ministers with compliments.

[Inclosure 2 in No. 2878.]

Mr. Denby to Mr. Smithers.

No. 23.] PEKING, *February 8, 1898.*

SIR: I have received from the Yamên a dispatch, of which a copy is inclosed.

Having received no report on the subject thereof from you, I can not well give you binding instructions. There is no objection, of course, to your consulting with the Taotai and seeking to satisfactorily arrange the pending matter. I rely on your prudence and discretion.

I am, etc.,

CHARLES DENBY.

[Inclosure 3 in No. 2878.]

Mr. Denby to Mr. Smithers.

No. 24.] PEKING, *February 19, 1898.*

SIR: I acknowledge the receipt of your telegram, as follows:

UNITED STATES MINISTER, *Pekin:*

Methodist mission desire rent property Chiang Pei Ting. Inhabitants offering objections. Taotai not interfering.

SMITHERS.

I answered as follows:

SMITHERS, *Chung-king:*

Advise missionaries to hold off until further advices. Report matter fully. Await my dispatches of 8th instant and of to-day.

DENBY.

I understand that since the Catholic property was destroyed in 1886 no missionary has gone to Chiang Pei Ting, and that it is considered a dangerous place. I think it better that our missionaries should not take up their residence in Chiang Pei Ting until you have reported the matter fully to me and I have arranged it with the Yamên. Telegrams convey little information.

I am, etc., CHARLES DENBY.

Mr. Denby to Mr. Sherman.

No. 2888.] LEGATION OF THE UNITED STATES,
Peking, March 17, 1898.

SIR: In my dispatch No. 2878 of the 26th ultimo I informed you that there was danger of a riot at Chiang Pei, near Chung-king, should the American missionaries insist on going there. I also inclosed copies of the Yamen's paper to me and of telegrams received and sent.

In my telegram of the 19th ultimo to Consul Smithers I advised missionaries to hold off until further advised in the matter.

I intended as soon as I received dispatches from the consul stating the existing condition of things to endeavor to settle the matter with the Yamên. Until then there would seem to have been no harm in the missionaries keeping away from the place of danger. Since the date of my telegram above mentioned I have heard nothing from Chung-king about this matter until yesterday. I then received a telegram from Mr. Smithers, of which a copy is inclosed. To this telegram I sent an answer, of which a copy is inclosed.

I have, as you see, applied to the Yamên for protection, and have instructed Mr. Smithers to demand redress from the local authorities.

As my information touching this matter is derived from meager telegrams, I am unable at this time to determine what redress should be demanded. I have instructed Mr. Smithers to report to me his opinion as to what redress should be demanded and what measures should be taken to prevent further violence.

I have, etc., CHARLES DENBY.

[Inclosure 1 in No. 2888.—Telegram.]

Mr. Smithers to Mr. Denby.

CHUNG-KING, *March 15, 1898.*

UNITED STATES MINISTER, *Peking:*

Native hospital assistant killed 6 o'clock this morning at Chiang Pei Mission. Rented place yesterday partly demolished by mob numbered over 100. Await instruction.

SMITHERS.

[Inclosure 2 in No. 2888.—Telegram.]

Mr. Denby to Mr. Smithers.

PEKING, *March 16, 1898.*

SMITHERS, *Chung-king:*

Have demanded from Yamên immediate and energetic action. Demand ample redress from local officials.

DENBY.

Mr. Denby to Mr. Sherman.

No. 2893.] LEGATION OF THE UNITED STATES,
Peking, March 21, 1898.

SIR: I have the honor to inform you that in an interview with the Tsung-li Yamên to-day I demanded in settlement of the riot at Chiang

Pei Ting, of which you were informed in my dispatch No. 2888, of the 17th instant, the following terms of settlement:

1. Country militia to be dispersed.
2. Death penalty to be inflicted on the murderer of the Chinese helper.
3. Leaders of gentry who are making trouble to be arrested.
4. Indemnity of 500 taels to be paid.
5. The right to occupy premises in Chiang Pei Ting to be secured for the American missionaries.
6. A proclamation commanding peace and protection to be put up.

These terms, except the last, are those which were recommended in a telegram by the consul-general and substantially by our consul at Chung-king.

The Yamên acceded to these terms and agreed to carry them out.

I have, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Sherman.

No. 2901½.] LEGATION OF THE UNITED STATES,
Peking, China, April 2, 1898.

SIR: In my dispatch No. 2893, of March 24 last, I reported to you an account of my interview with the Yamên on the subject of the recent riot at Chiang Pei Ting. Having received a telegram from the consul-general that the Chinese authorities were not acting with promptness, I addressed a note to the Yamên, of which a copy is inclosed. In reply to that note I have received a dispatch from the Yamên, of which a translation is inclosed. Having received another telegram from the consul-general that prompt action had not been taken, on the 2d instant I addressed to the Yamên another note, of which a copy is inclosed. I have also had a personal interview with a secretary of Chang Yin-Huan, who is a member of the Yamên, in which I insisted that immediate action must be taken to carry out the terms that had been agreed on by the Yamên and myself. The sentiments expressed in the Yamên's notes are well enough, but it is important that prompt action should be taken. The public all along the Yangtze are excited over the rumors which reach them that China is to be partitioned, and unless the local authorities act with vigor and promptness there is danger of disorder. There are hot-heads among our own people as well as among the Chinese.

I have, etc., CHARLES DENBY.

[Inclosure 1 in No. 2001.]

Mr. Denby to the Tsung-li Yamên.

PEKING, *March 16, 1898.*

Your Highnesses and Your Excellencies:

I have the honor to inform you that I have received information that a mob yesterday morning at Chiang Pei killed a native hospital assistant and demolished an American missionary station.

You will please issue orders for the arrest and punishment of the guilty and to prevent further outrages.

Prompt action should be taken immediately.

I have, etc., CHARLES DENBY.

[Inclosure 2 in No. 290½.]

The Tsung-li Yamên to Mr. Denby.

PEKING, *March 17, 1898.*

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your excellency's note, stating that you had received a telegram from the United States consul at Chung-king informing you that a mob yesterday morning at Chiang Pei Ting killed a native hospital assistant and demolished an American missionary station. Your excellency requested the Yamên to issue orders for the arrest and punishment of the guilty and to prevent further outrages, etc.

We at once telegraphed the viceroy of Sxechuan to issue instructions to the local authorities to cause the arrest of and to punish the guilty parties.

As we were just writing a reply to your excellency's note we received a telegram from the Taotai of Chung-king in regard to the case of the American missionaries leasing house property at Chiang Pei Ting. The Taotai's telegram is as follows:

After the case of Chang Yu San was settled, quiet prevailed at Chiang Pei Ting. The American consul stated, however, that he would have to wait the instructions of the United States minister at Pekin. On the 14th of March the Taotai heard that Dr. McCartney had rented another place in the city of Chiang Pei Ting. Orders were issued to the assistant magistrate to exercise every care in the matter. He reported that Dr. McCartney had rented from one Chen Jung-sheng some house property situated on the main street, which belonged to Jen Tsai Tang, and originally leased to Mr. Chen. An agreement was drawn up with Mr. Chen on the 14th of March, but Mr. Jen knows nothing about it. Dr. McCartney dispatched two assistants named Wang Chih Tang and Tang Hsi I, who, with a servant named Lu, took their baggage into the house in the nighttime. Mr. Wang then took a note to the subprefect's Yamên. The subprefect examined the deed and found it to be defective. He kept Mr. Wang in his Yamên and sent for Mr. Tang to bring the baggage there. The men were ordered to stay at the Yamên that night and in the morning the matter of the lease could then be looked into, and if all right, they could occupy the house. Wang and Tang persistently refused to listen to the order of the prefect. At the third watch in the night some Yamên police escorted the men to the house. The men had'nt left the Yamên but a short time when the prefect heard a row and went in person to ascertain what it was all about. He found that the house leased by the missionaries had been torn down. The mob dispersed, but three arrests were made. At daylight the body of Wang Hsi I was found outside of the Wen Ching Gate. Mr. Wang and Mr. Lu had returned to Chung-king, taking with them a note for Dr. McCartney. Dr. McCartney with two other missionaries went to the subprefect's Yamên and behaved in a disorderly manner. They went with the subprefect to examine the dead body. It was that of Tang Hsi I, a native of Sui Ning district. He had no family. It was found that he had wounds on his head and had been beaten on the body with wooden sticks or clubs. There were no other marks or wounds on his body that could have caused death. Dr. McCartney and the other missionaries wanted to take the corpse to the missionary chapel in Chung-king City, but they were remonstrated with against doing this and the body was finally interred outside of the city. The American consul has not up to the present notified the Taotai by letter of the affair. He is evidently awaiting instructions from the United States minister. Dr. McCartney has acted differently and does not await instructions. The lease to the house property was defective, but in spite of that he sends his assistants in the nighttime to take possession of the house. The subprefect wanted to examine into the circumstances attending the lease, and wanted the men to stay at his Yamên and thus protect them, but this they declined to agree to, hence the riot and murder. The house was also demolished before the lease had been properly made. It can not be compared to the case of a hospital having already been established. Dr. McCartney has himself to blame for this affair, and has shown himself decidedly ungrateful in not waiting to know the wishes of the United States minister and consul. Cheng Jung Sheng had sublet the house without letting the owner of it know anything about the transaction. The matter had not been properly arranged and Chen is certainly guilty of a serious offense. The subprefect is ordered to take steps to arrest Mr. Chen and bring him before the court for trial. The three men arrested will also be tried. The Taotai has notified the American consul twice by note of this affair, but he has not received any reply; neither has he heard whether he entertains any views on the subject in opposition to the Taotai's.

The present subprefect of Chiang Pei Ting has just been appointed, having taken charge of the office about ten days ago. He is an officer who regards the feelings of the people. With the exception of the present case there is nothing that has transpired to disturb the peace of the place. Quiet prevails in and about the city of Chung-king. The foreign consuls all consider that Dr. McCartney has not acted properly in this matter. The Taotai is still without any letter from the United States consul. It would seem that Dr. McCartney must realize himself that he has acted wrongly in the matter. If the Yamen can request H. E. Denby, United States minister, to telegraph the United States consul at Chung-king not to be hasty or impetuous in dealing with this case, but to wait and let the Chinese officials manage it, the questions at stake can be easily settled.

The above telegram we communicate to your excellency, and beg that you will telegraph the United States consul at Chung-king to confer with the Taotai in an even-tempered spirit to the end that the case may be speedily brought to a termination.

Cards of ministers with compliments.

[Inclosure 3 in No. 2901½.]

Mr. Denby to the Tsung-li Yamên.

PEKING, *April 2, 1898.*

Your Highnesses and Your Excellencies:

I have the honor to inform you that I have received from the United States consul at Chung-king a telegram stating that the Taotai has refused to comply with his demand, and the Taotai says that he has received no instructions from the Tartar general.

This greatly surprises me, and I again insist that immediate orders be issued to the Taotai, through the Tartar general, to comply with my demands which the Yamên agreed to.

If immediate action is not taken I will be compelled to report the matter to my Government for instructions.

I have received your note of yesterday, and from the reading of it I must conclude that the Taotai has not been as strongly instructed as he ought to be.

CHARLES DENBY.

Mr. Denby to Mr. Sherman.

No. 2916.] LEGATION OF THE UNITED STATES,
Peking, China, April 20, 1898.

SIR: In my dispatch No. 2901½, of the 2d instant, I set out the terms of a settlement of the recent riot at Chiang Pei which I had agreed on with the Tsung-li Yamên.

One of the stipulations was the payment of 500 taels as damages. This amount had been wired me by the consul-general as the sum recommended by our consul at Chung king, but it turned out that there was a telegraphic error, and that the true sum was 5,000 taels. I informed the Yamên of the mistake and demanded the latter sum.

I have, etc.,

CHARLES DENBY.

Mr. Moore to Mr. Denby.

No. 1573.] DEPARTMENT OF STATE,
Washington, April 30, 1898.

SIR: I have to acknowledge the receipt of your dispatch No. 2888, of the 17th ultimo, reporting that a mob has killed a native hospital assistant at Chiang Pei and demolished premises rented by American missionaries at that place.

Your energetic remonstrance to the Tsung-li Yamên and demand for appropriate redress according to the ascertained circumstances are approved by the Department.

Respectfully yours, J. B. MOORE,
Acting Secretary.

Mr. Day to Mr. Denby.

No. 1581.] DEPARTMENT OF STATE,
Washington, May 10, 1898.

SIR: I have to acknowledge the receipt of your dispatch No. 2893, of March 24th last, in which you give the terms demanded by you, and accepted by the Tsung-li Yamên, for the settlement of the claims of American missionaries growing out of the riot at Chiang Pei Ting.

The Department approves your action in the matter and congratulates you on this disposal of the incident.

Respectfully yours,
WILLIAM R. DAY.

Mr. Day to Mr. Denby.

No. 1588.] DEPARTMENT OF STATE,
Washington, May 20, 1898.

SIR: I have to acknowledge the receipt of your dispatch, No. 2901½, of the 2d ultimo, reporting that you have made a demand on the Chinese Government that immediate action must be taken by it to carry out the terms agreed upon by yourself and the Tsung-li Yamên for the settlement of our claims growing out of the recent riot at Chiang Pei Ting.

The Department approves your action in the matter and instructs you to follow up the demand on the line of previous instructions in similar cases.

Respectfully, yours, WILLIAM R. DAY.

Mr. Day to Mr. Denby.

No. 1592.] DEPARTMENT OF STATE,
Washington, June 6, 1898.

SIR: I have to acknowledge the receipt of your dispatch, No. 2916, of the 20th of April last, reporting that through an error in a telegram to you from our consul-general at Shanghai you were led to demand

500 taels instead of 5,000 taels from the Chinese Government as indemnity for injuries to Americans, resulting from the riot at Chiang Pei. You add that you have informed the Yamên of the mistake and have demanded the latter sum.

Such mistakes suggest that, in telegraphing important sums, words and not figures should be employed.

Respectfully, yours, WILLIAM R. DAY.

Mr. Conger to Mr. Hay.

No. 136.] LEGATION OF THE UNITED STATES,
Peking, China, February 1, 1899.

SIR: Referring to Colonel Denby's dispatch, No. 2916 of April 20, 1898, concerning the murder of a Chinese hospital student at Chiang Pei, near Chung-king, in March last, I have the honor to report that the case has been finally settled upon still more favorable terms than those agreed upon by Colonel Denby.

I inclose a copy of the conditions agreed upon, and a dispatch from Consul Smithers with information that all the conditions had been faithfully executed. Also a copy of the proclamation of the Taotai issued in accordance with the terms of the agreement.

The settlement has been considerably delayed, first by a long series of literary examinations, making arrests and punishments unwise for a time, and then by the absence of the missionaries for the summer, and because of the long time necessary to communicate with the consul, and the difficulty of adjusting the details to the satisfaction of all taking part therein. However, it is now finished and apparently satisfactory to all.

I have, etc., E. H. CONGER.

[Inclosure 1 in No. 136.]

Copy of conditions.

1. The criminals to be severely dealt with according to law, the chief criminal to be beheaded. The punishment to be carried out by January 1, 1899, failing which this agreement to be null and void.

2. Messrs. Yuan, Pei, and Li are to be deprived of their rank and official position forever. The heads of the gentry of Kiang-peh, as well as the above three, to sign a bond at the Kiang-peh Ting, guaranteeing the safety of the property and of the missionaries who may reside or resort there in the future. Also place a copy of the same in the chapel.

3. The amount of 400 taels is to be paid by the subprefecture to defray expenses of putting the building to be used as a hospital into repair.

4. In addition to the sum of 5,000 taels, to be paid as indemnity, the people of the subprefecture are to cheerfully aid the hospital in its virtuous and meritorious work in the sum of 1,000 taels. This sum to be handed over by the gentry on the day of the opening of the hospital.

5. A proclamation is to issue giving the reason of the punishment of the criminals and the object of establishing the hospital. Such proclamation to be a satisfactory one to the mission and to be posted in Eastern Szechuan.

6. On the opening of the hospital the local officials and gentry will attend and offer their congratulations to the mission.

[Inclosure 2 in No. 136.]

Mr. Smithers to Mr. Conger.

No. 33.] UNITED STATES CONSULATE,
Chung-king, January 11, 1899.

SIR: I have the honor to report that the Kiang-peh missionary case was concluded yesterday, the hospital and chapel having been opened with a feast given to the six male members of the mission at Chung-king, at which the ting or department magistrate, the commissary of the seal, the sergeant of the ting, the professor of the ting, the head gentry, and about twenty other gentry were present.

I was unable to be present at the opening myself, but Mr. Laisun, the interpreter, attended, and has reported to me that the proceedings passed off to the apparent satisfaction of all the members of the mission. The 1,000 taels gratuity money was paid to Mr. Lewis by the head gentry just prior to the commencement of the repast. The property acquired by the mission I am informed is a spacious one.

I append a confirmation of my telegram dispatched to-day:

CONGER, *Peking:*
Affair satisfactorily settled.

SMITHERS.

I have, etc.,

GEORGE F. SMITHERS,
Consul.

[Inclosure 3 in No. 136.]

Copy of proclamation.

In the matter of issuing a proclamation: Whereas during the present year, second moon, owing to the Methodist Episcopal mission renting a house within the city of Kiang-peh, a disturbance occurred, causing this case, wherein a life was lost, I, Taotai, repeatedly, together with the said ting and official gentry, petitioned the Tsung li Yamên and the Szechuan Tartar general and viceroy to at once examine into the matter and give us their instructions, which we are most grateful to say they have agreed to, ordering me to consult together with the United States consul and missionaries and to satisfactorily deliberate and settle the case.

On investigating the treaty with the United States I find in the twenty-ninth article as follows:

"The principles of the Christian religion as professed by the Protestant and Roman Catholic churches are recognized as teaching men to do good, and to do to others as they would have others do to them. Hereafter those who quietly profess and teach these doctines shall not be harassed or persecuted on account of their faith. Any persons, whether citizens of the United States or Chinese converts, who, according to these tenets, peaceably teach and practice the principles of Christianity shall in no case be interfered with or molested."

This imperial edict has been promulgated for more than ten years.

The inhabitants of Chiang Pei have been peaceful with the Christians for a long time, when one night rowdies congregated and created trouble, so as to result in Tang she-i meeting with cruel beating and strangulation, resulting in his death and then dragged out of the city.

The said ting and gentry have already captured the criminals Wonh Sing-ho, Chow Tsun-lin, and Lin Jung-shan; they have been examined, and their testimony taken and sent on to the provincial capital. I have petitioned and received from the high authorities that the sentence passed on Wong Sing-ho is beheading, and that of Chow Tsan-lin and Lin Jung-shan is that they shall be beaten and transported. Yuan Hai-shan, Li Che-chou, and Pei Chao-keng, for not being able to give proper protection, are to be forever deprived of their rank, and in future are forbidden to be employed in the public affairs of the city, and they are to sign a bond, together with the heads of the gentry, to protect the property of the mission, besides the protection of the missionaries who may reside there; and the American

missionaries are to, as before, rent a house in perpetuity inside the city of Chiang-Pei, and to choose a lucky day for the opening of their hospital.

Hereafter the inhabitants are to act in the usual manner and be at peace with the Christians. Therefore I should issue this proclamation.

I issue this proclamation that those under my jurisdiction, soldiers, people, and everybody, may know of the above.

You should know that the western religion has been sanctioned by imperial edict to be promulgated. The local officials, literati, and people should all give protection. Repeatedly have imperial edicts been received to that effect, which is on record.

Therefore rowdies will on no account be allowed to give an impression and stir up trouble.

If you should dare to disregard this proclamation I will surely deal with you severely, and not in the least give you any leniency. Be careful to obey these injunctions.

A very important proclamation.

CITIZENSHIP OF CHINESE BORN IN THE UNITED STATES.

Mr. Denby to the Secretary of State.

No. 2908.] LEGATION OF THE UNITED STATES,
Peking, China, April 7, 1898.

SIR: I have the honor to inclose herewith a copy of dispatch No. 3, of the 22d ultimo, from our consul at Canton; also a copy of a petition filed before the consul by Wong Fook; also a copy of my dispatch No. 413, of April 7, 1898, to our consul at Canton.

These papers involve the question whether a Chinese person who was born in the United States in 1878 did, by virtue of such birth, become a citizen of the United States.

There are circumstances in the case which are peculiar. For instance, the sixth paragraph of the petition states that "the murdered man had resided in Hongkong for a few years for the purpose of studying the English language," as if the English language could not have been learned in the United States.

It must also be determined whether in all cases of murder or injury to foreigners the Chinese Government is liable, whether its agents have been negligent or not.

I have declined to present this claim to the Chinese Government and await your instructions.

I have, etc., CHARLES DENBY.

[Inclosure 1 in No. 2908.]

Mr. Bedloe to Mr. Denby.

CONSULATE OF THE UNITED STATES,
Canton, China, March 22, 1898.

SIR: I have the honor to inform you that a report concerning the murder of an American citizen of Chinese descent, named Wong Goni Sing, born in the United States in 1878, is going forward to-day to the United States consul general at Shanghai, who will doubtless communicate its contents to you with a view to obtaining instructions respecting the amount of indemnity that should be demanded. I have taken up the case for the brother of the deceased, who is also a native American citizen, and have urged the Viceroy to do his utmost to bring the guilty parties to justice.

The murder was committed on February 10, ultimo, at Tai Ling Po, in the Sunwei district of the province of Kwang-tung, about 100 miles distant from the city of Canton, and was a shocking outrage, the body showing no less than nineteen cuts about the head, hands, and arms. The amount of money taken from the deceased was only $3 or $4, Mexican. The chief magistrate of the Sunwei district appears to have done next to nothing in the matter of bringing the guilty parties to justice, and I am therefore endeavoring to induce the Viceroy to dispatch a deputy, accompanied by an assistant from this consulate, to conduct a careful inquiry on the scene of the murder, in the district of the Sunwei magistrate, and to place the magistrate under an examination to elicit information respecting his inspection of the corpse and the declaration the magistrate posted up at his Yamên ten days after he had viewed the body of the victim.

I have, etc., EDWARD BEDLOE, *Consul.*

[Inclosure 2 in No. 2908.]

DR. EDWARD BEDLOE,
Consul and Judge in the United States Consular Court at Canton, China:

The petition of the plaintiff Wong Fook (Chinese characters) humbly showeth:

1. That he is a native-born citizen of the United States of America, resident temporarily at Tai Ling Lo (Chinese characters), in the Sunwei district of the Province of Kwangtung, in the Empire of China, and is engaged in business in San Francisco.

2. That the defendant or defendants are subjects of the Emperor of China and are resident within the jurisdiction of his excellency the viceroy of the Liang Kwang (Chinese characters).

3. That the petitioner arrived at Hongkong from the United States by the steamship *Peru* six months ago, and in Hongkong met his brother Wong Goni Sing (Chinese characters), third son of Wong Mok (Chinese characters), of Rock Spring, Wyo., United States of America.

4. That petitioner is the eldest son of the aforesaid Wong Mok, of Rock Spring.

5. That petitioner and his brother aforesaid were born in the United States—the petitioner in San Francisco in 1870, and his brother aforesaid in 1878.

6. That the aforesaid Wong Goni Sing had resided in Hongkong for a few years for the purpose of studying the English language, the course of study being concluded when the petitioner arrived at Hongkong from the United States six months ago, as stated in paragraph 3.

7. That soon after his arrival in Hongkong, petitioner left that British colony with his brother, the aforesaid Wong Goni Sing, and proceeded to the village of Pokhong and subsequently to the village of Tai Ling Po (Chinese characters), in the Sunwei district, for the purpose of residing for a few weeks with his mother, whom he had not seen for many years.

8. That petitioner and his brother duly arrived at their home in Tai Ling Po, and resided there in perfect harmony with their aged mother and their wives until the 20th day of the first moon of the twenty-fourth year of Kwang-su, being the 10th day of February, 1898.

9. That after breakfast on the 10th of February (20th day of first moon) the petitioner's brother received from him (the petitioner) $4 to cover any expenses he might incur in visiting the market place named Goo Dong (Chinese characters), about 2 miles (6 li) from Tai Ling Po, the aforesaid Wong Goni Sing having told petitioner (who together with his father supported, clothed, and educated him) that he wished to visit the market and wanted a few dollars for current expenses.

10. About 10 a. m. on the 10th of February the aforesaid Wong Goni Sing left petitioner's residence, stating beforehand that he was going to visit the market place at Goo Dong.

11. That Wong Goni Sing did not return to the petitioner's house in Tai Ling Po that day (the 20th of the first moon), and as he was still absent when the time arrived for retiring for the night, petitioner became alarmed and communicated with the neighbors, with the result that a search party provided with lanterns went forth to look for the aforesaid Wong Goni Sing. The party went as far as the market place aforesaid and returned without obtaining tidings of the missing youth.

12. The next day (21st day of first moon, being 11th of February, 1898), during the forenoon, some strangers (men) came to petitioner, who was talking with some neighbors in the street, and said they "had heard about a dead body lying in a

palm-tree grove about 1 mile (3 li) from the village of Tai Ling Po." The petitioner's informants promptly left petitioner after reporting what they said they had heard, and it was therefore impossible to get any details from them.

13. That petitioner did not recognize the men who told him they "had heard there was a dead body in the palm-tree grove."

14. The men referred to in paragraphs 12 and 13 appeared to be residents of the district in which Tai Ling Po is situated.

15. That shortly after the men left petitioner gathered together some relatives and went forth to look for the body to see if it was the body of the missing brother.

16. After searching for about one hour the party came upon a body in the neighboring palm-tree grove. It was immediately identified by petitioner and others as the body of petitioner's brother, the aforesaid Wong Goni Sing.

17. The body had been brutally hacked about with knives. The throat was cut almost from ear to ear. There were deep cuts in the deceased's hands, arms, face, and head. The clothes of the deceased were saturated with blood.

18. Petitioner searched the body to see if the murder had been committed for the purpose of robbing, and found that there was no money in his purse or pockets.

19. When deceased went out on the 20th day of the first moon (10th of February) he was not in possession of a gold watch and watch chain, neither was he wearing a gold ring or jewelry of any kind whatsoever.

20. Shortly after finding the body the petitioner caused it to be carried, and himself accompanied it and the bearers to the official residence of one Chui (Chinese characters) the "Yuen Kwan," at Sunwei, who noted the petitioner's statement and examined the body.

21. After inspection by the "Yuen Kwan" the body was carried to petitioner's home and then buried near the village of Tai Ling Po aforesaid.

22. About ten days after the murder was reported to the "Yuen Kwan" (magistrate) he (the "Yuen Kwan") had a document posted up at the entrance of his official residence, certifying that the youth Wong Goni Sing must have been murdered. This document bore the seal of the "Yuen Kwan."

23. Petitioner has no reason for believing that deceased had had a quarrel with some person or persons, and that a quarrel resulted in a fatal fracas, for deceased was only 20 years of age, was very sensible, very quiet, and well behaved. He was not rowdy or dissipated, and did not visit brothels nor gambling "hells." There are, in fact, neither brothels nor gambling "hells" in the vicinity of Tai Ling Po.

24. Petitioner believes the killing was done intentionally, the number, position, and character of the wounds leaving no doubt about the aforesaid Wong Goni Sing having been done to death.

26. In consequence of the murder of his brother aforesaid, petitioner will be a heavy loser in his business in the United States, the deceased being old enough to make himself very useful in the business and was educated for that purpose with that end in view. He was a well-educated and steady youth, and would undoubtedly have been a very useful assistant to petitioner.

Your petitioner therefore prays:

I. That his consul will at once make urgent representations to the viceroy, requesting his excellency to issue directions to the officials of Sunwei district to grant proper protection to the family and the relatives of petitioner.

II. That the viceroy cause more careful and complete inquiries to be made into the whole case, and that most vigorous and immediate efforts be made to bring the murderer or murderers to justice.

III. That petitioner be supplied through the consul at Canton within one week with a copy of the declaration of the Yuen Kwan of Sunwei district, wherein he certifies that he has seen the body and is convinced that death was caused by wounds inflicted by certain persons then unknown.

IV. That the officials of Sunwei district be caused to make immediate and very thorough search for the murderer or murderers, and that petitioner be supplied with a copy of the report of all proceedings taken by the Chinese with a view to bringing the guilty party or parties to justice.

V. That in view of the great loss sustained by petitioner through the murder in Sunwei district of his brother aforesaid, an indemnity, by way of compensation be obtained promptly from the Chinese authorities, such indemnity to be fixed by petitioner's consul in consultation with the viceroy of the Liang Kwang or in some other way.

VI. That your petitioner may have such further and other relief as to your honorable court may seem proper.

Signed and executed in Canton, China, this 10th day of March, 1898.

WONG FOOK, [SEAL.]
Petitioner.

Witness:
T. C. CHUNG.

[Inclosure 3 in No. 2908.]

Mr. Denby to Mr. Bedloe.

No. 413.] LEGATION OF THE UNITED STATES,
Peking, China, April 7, 1898.

SIR: I have received your dispatch No. 3 of the 22d ultimo, wherein you ask my interposition in a case growing out of the murder of Wong Goni Sing.

I have also received from the consul-general a copy of a petition of Wong Fook, wherein he asks you to secure from the viceroy "proper protection to the family and relatives of petitioner," the punishment of the murderers, and an indemnity.

This case presents grave questions, which, under the rules governing this legation, must be submitted to the State Department before I can take it up.

The rules governing the presentation of claims by the legation are found in section 134 of the Personal Instructions of 1885, which reads as follows:

> If the claim is founded in contract they (the diplomatic agents) will, in no event, interfere without specific instructions to do so. If it be founded in tort, they will, as a general rule, in like manner, seek previous instructions before interfering, unless the person of the claimant be assailed, or there be pressing necessity for action in his behalf before they can communicate with the Department; in which event they will communicate in full the reason for their action.

It is settled by section 140, Consular Regulations, 1896, that Chinese persons can not be naturalized, but the question now presented touching their rights, if born in the United States, is of first impression.

In sections 174 and 197, Second edition Wharton's International Digest, the question is alluded to, and in the latter section the author says:

> Whether, when born in the United States, Chinese are citizens has been incidentally questioned.

For the reasons above stated, I am unable to present this claim to the Chinese Government, and I think it best for you to await instructions from the Department before proceeding further with it.

I have reported the matter to the Department.

I am, etc., CHARLES DENBY.

Mr. Day to Mr. Denby.

No. 1590.] DEPARTMENT OF STATE,
Washington, May 26, 1898.

SIR: I have to acknowledge the receipt of your dispatch No. 2908 of April 7, 1898, with its inclosures, setting forth the facts of the murder, on or about February, 1898, of a man named Wong Goni Sing, brother of Wong Fook, both of whom, it is claimed, were born citizens of the United States. It is further claimed by the brother of the murdered man that injustice is being done him by the failure of the Chinese Government to take proper measures for the investigation of the crime and apprehension and punishment of the offenders. Your mediation with the Chinese Government is asked, and you request instructions from this Government as to whether the men referred to are citizens of the United States, and as to what action, if any, you shall take.

The courts of the United States have conclusively held that children born to Chinese persons in this country are born citizens of the United

States by virtue of the first clause of the fourteenth amendment to the Constitution.

From the petition and papers inclosed by you it would appear that both Wong Fook and his murdered brother, Wong Goni Sing, were born in this country and have remained citizens thereof. If such is the case, and any injustice such as complained of is being done, the interest of this Government is of course aroused, and any needed protection to the surviving brother is to be extended.

Before any action can be taken, however, this Government must be satisfied that the facts of citizenship of the brothers, or at least of the surviving brother, are well assured. If the brothers were of Caucasian race a certain degree of presumption, in addition to facts stated, would exist in their favor, but being of Chinese race and descent this presumption is wanting. With the fullest desire to protect the interests of the surviving brother, if he be an American citizen, you should, without unnecessary delay, and by correspondence with the United States consul at Canton, satisfy yourself as to whether or not Wong Fook and his brother were born in the United States and continued to be citizens thereof, unless you are already satisfied thereof. The consul in Canton should be in position, by means of direct examination of the claimant and others, and of documents, etc., if any exist, to determine as to the birthplace and citizenship of the brothers. If you shall find that they were citizens, and that the surviving brother is a citizen, and shall further find that injustice is being done by delay or negligence, as claimed, you will at once, upon reciting the essential facts to the Chinese Government, request an immediate and thorough investigation of the affair, with a view to apprehending and punishing the offender. Or if, while determining the citizenship of the claimant and his brother, delay is occasioned, and there is reasonable ground to believe that they may be citizens of the United States, you will then call the attention of the Chinese Government to the case, on behalf of one who claims to be a citizen of the United States, in order that the delay may not be attended by loss of evidence against the offenders.

You will understand that it is the purpose of this Government to protect the life, interests, and property of its citizens in foreign lands to the fullest extent, while at the same time careful not to be made the means of redressing the grievances of citizens of other countries in foreign lands.

You will keep the Department informed of the conclusions to which you come as to the birthplace and citizenship of these brothers, and the action taken by you.

Respectfully, yours, WILLIAM R. DAY.

CONFERENCE OF MISSIONARIES AT CHUNG KING.

Mr. Conger to Mr. Hay.

No. 124.] LEGATION OF THE UNITED STATES,
Peking, China, December 29, 1898.

SIR: I have the honor to report that at the request of Bishop Earl Cranston I requested the Tsung-li Yamên, November 9 last, to issue special instructions to the viceroy of Szechuan to take such measures as will insure the protection of all missionaries going to and from and attending the annual conference to be held at Chung-king during January next.

The Yamên telegraphed the instructions; but on the 17th instant the viceroy requested that, because of existing disturbances in the province, the conference be postponed.

I telegraphed this request to Rev. Spencer Lewis and asked him to notify Bishop Cranston. He replied that it was too late to postpone the conference, as some parties had already arrived safely at Chung king and others were en route. I therefore communicated this fact to the Tsung-li Yamên, and insisted that extraordinary precautions must be taken to protect these people, in accordance with treaty obligations, etc., which they have promised to do.

The situation in Szechuan is most distnrbed; but due and ample warning has been given the Chinese Government, and it is to be hoped that no trouble will result.

I inclose copies of correspondence between the Tsung-li Yamên and the legation on the subject.

I have, etc., E. H. CONGER.

[Inclosure 1 in No. 124.]

Mr. Conger to the Tsung-li Yamên.

No. 35.] LEGATION OF THE UNITED STATES,
Peking, China, November 9, 1898.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to inform your highness and your excellencies that in January next there will be held, at the city of Chung-king, the general annual conference of all the Protestant missionaries in western China, and that of the Methodist Episcopal missionaries. The former will continue from eight to twelve days, and the latter from four to six.

The missionaries from all west China are expected to gather there, and in going and coming will probably occupy the most of the months of January and February. In order, therefore, to allay any fears that just now may possess any of the missionaries, and to avoid the possibility of trouble or danger, the undersigned would respectfully request that your highness and your excellencies take the precaution to cause such timely proclamations to be issued, and such prompt, special, and explicit orders given to the provincial and local officials as will insure the safety of all the missions in west China and the security and protection of all parties going to and returning from the above-mentioned meetings.

The undersigned avails himself of the occasion to assure your highness and your excellencies of his highest consideration.

E. H. CONGER.

[Inclosure 2 in No. 124.]

The Tsung-li Yamên to Mr. Conger.

No. 26.] PEKING, *November 13, 1898.*

YOUR EXCELLENCY: The Yamên has the honor to acknowledge the receipt of your excellency's note, wherein you state—

that in January next there will be held, at the city of Chung-king, the general annual conference of all the Protestant missionaries in western China, and that of the Methodist Episcopal missionaries. The former will continue from eight to twelve days, and the latter from four to six.

The missionaries from all west China are expected to gather there, and in going and coming will probably occupy two months. In order, therefore, to allay any fears that just now may possess any of the missionaries, and to avoid the possibility of any trouble, the undersigned would respectfully request that your highness and your excellencies take the precaution to cause such timely proclamations to be issued and such prompt, special, and explicit orders given to the provincial and local officials as will insure the safety of all the missions in west China and the security of all parties going to and returning from the above-mentioned meetings, etc.

Upon receipt of your excellency's note, the Yamên immediately telegraphed the viceroy of Szechuan to instruct the local authorities to afford satisfactory protection at the time mentioned.

A necessary reply to your excellency's communication.

[Inclosure 3 in No. 124.]

The Tsung-li Yamên to Mr. Conger.

No. 45.] PEKING, *December 17, 1898.*

YOUR EXCELLENCY: We have the honor to inform you that on the 15th instant this Yamên received from the viceroy of Szechuan the following telegram:

I am in receipt of the Tsung-li Yamên's communication stating that they have received a dispatch from Minister Conger to the effect "that in January next there will be held, at the city of Chung-king, the general annual conference of all the Protestant missionaries in western China, and that of the Methodist Episcopal missionaries, and that instructions be sent to the local officials to insure protection to all those parties going to and returning from the conferences." I then ordered the local officials to act accordingly, and the case is on record.

Moreover, before the Yu Man-tzu were pacified, banditti everywhere, feigning the names of Yu Man-tzu, have been creating trouble, and the state of affairs is very grave, so that it will be necessary to move troops. Chung-king is a place where trouble frequently occurs, and it is difficult to preserve quietness. Although the missionaries have decided to hold their conferences in January, there is a possibility that these worthless fellows will take this opportunity to cause trouble, making it even more difficult to rectify matters. Therefore, would it not be well to address Minister Conger with the request that he will telegraph the chairman of the forthcoming conferences to delay their meetings temporarily until quiet is restored? etc.

Upon investigation we find that the facts given in the viceroy's telegram are truly so. The special object in view is to prevent any misfortune from springing up in order that the missionaries may be protected.

We send this note for your excellency's information, and would beg you to telegraph the chairman of said conferences to put off their meetings in Chung-king for the present, in order that any future trouble may be avoided.

Cards of ministers, with compliments.

[Inclosure 4 in No. 124.]

Mr. Conger to the Tsung-li Yamên.

LEGATION OF THE UNITED STATES,
Peking, China, December 19, 1898.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has to-day received the note of your highness and your excellencies, in which it is stated that the viceroy of Szechuan telegraphs, in reference to the proposed missionary conference to be held in Chung-king in January next, that the—

State of affairs is very grave and that there is a possibility that worthless fellows will take this opportunity to cause trouble, and he therefore recommends that Minister Conger be requested to telegraph the chairman of said conference to postpone their meetings for the present, etc.

The viceroy's suggestion has been telegraphed to Rev. Spencer Lewis, a leading American missionary at Chung king; but he must inform your highness and your excellencies that only one of the conferences is wholly American. The other is a general conference, composed of English, Americans, and all other Protestant missionaries.

He, however, apprehends that it is now too late to stop the gathering of these people at Chung-king, because some of the delegates are already en route thither, and others are sure to start before they can be communicated with, so that whether or not the conferences are held many of the missionaries will be going to or from their homes and will require protection. Besides, it is the annual meeting of the American Episcopal Mission, over which the bishop presides and makes important communications and suggestions. For this supervisory purpose Bishop Earle Cranston has come from the United States and is now somewhere on his way from Shanghai to Chung-king, and it will be very difficult, if not impossible, to reach him

It seems, therefore, that it is not likely that the gathering of the missionaries at Chun-king can now be prevented, and having once gathered there a quiet and orderly conference could do no harm.

The undersigned feels that he is in duty bound to lay before your highness and your excellencies these facts, in order that such further precautionary measures may be taken as the exigencies of the occasion require.

Since the viceroy himself acknowledges the existence of danger from some worthless fellows, any lack of watchfulness or failure on his part to provide means to restrain and control these fellows will be inexcusable and indefensible.

Although the undersigned has telegraphed the missionaries at Chung-king, yet because of the several nationalities interested and of the impossibility of informing the delegates in time, a postponement of the gathering may be impossible, he insists that under these extraordinary circumstances extraordinary efforts should be put forth by the Chinese Government to meet the obligations which treaty obligations fix upon it.

The undersigned avails himself, etc.,

E. H. CONGER.

[Inclosure 5 in No. 124.]

Mr. Conger to The Tsung-li Yamên.

LEGATION OF THE UNITED STATES,
Peking, China, December 22, 1898.

In reference to the proposed missionary conference to be held in January at Chung-king, and in reply to his telegram suggesting a postponement thereof, the undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has this day received a telegram from Rev. Spencer Lewis, of Chung-king, as follows:

Too late postpone conference. Parties arriving safely. Others already starting, require viceroy's protection,

which he has the honor to bring to the immediate attention of your highness and your excellencies.

Since the conference can not be postponed, the undersigned requests that the viceroy may be ordered to take whatever extra precautions may be necessary to prevent trouble.

The undersigned avails himself, etc.,

E. H. CONGER.

[Inclosure 6 in No. 121.]

The Tsung-li Yamên to Mr. Conger.

PEKING, *December 26, 1898.*

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your excellency's communications of the 19th and 22d instants, respectively, relative to the missionary conferences to be held at Chung-king in January next.

You therein state that you have wired Rev. Spencer Lewis to postpone said conference and that you have received his reply as follows:

Too late postpone conference. Parties arriving safely. Others already starting, require Viceroy's protection.

Since the conference can not be postponed, your excellency requests that the viceroy may be ordered to take whatever extra precautions may be necessary to prevent trouble.

In addition to wiring the viceroy to adopt measures for protection, as in duty bound, we sent this note for your excellency's consideration.

Cards of ministers with compliments.

ROTECTION OF MISSIONARIES IN CHINA

Mr. Denby to Mr. Sherman.

No. 2861.] LEGATION OF THE UNITED STATES,
Peking, February 4, 1898.

SIR: I have the honor to inclose a translation of an imperial decree relating to the recent riots in Shantung.

It will be seen that the various officials concerned have been degraded. Churches are to be erected at three places and dwelling houses at seven. The most important part of the decree, however, is the clause announcing that the local authorities will be held solely responsible for riots.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2861.]

A decree from the Emperor of China, promulgated in the Peking Gazette, February 1, 1898.

In obedience to our commands, the officers of the board of civil office have submitted a memorial embodying the conclusions they have arrived at respecting the penalties that should be imposed on certain officials.

In the matter of the Chu Yeh case, the governor of Shantung, Li Ping Heng, failed to take protective measures, and it was only after he received a telegram from the Tsung li Yâmen to hold an investigation, that he reported the matter to the Throne. He is certainly deserving of blame and should be censured. Let him be degraded two steps and transferred to another post. This punishment can not be commuted.

Hsi Liang, Taotai of the Yan I Tsao Chi circuit, is hereby removed from his post. The brigade general of Tsaochou, Wan Pen-han, and the prefect of Tsao Chao, Shao Cheng-chuo, are deprived of their official rank, but allowed to remain in office.

The propagation of religion by Westerners is provided by the treaties. The missionaries come to China from afar—several thousands of miles—and our officials and people should with especial care befriend them. In spite of all, the case of the murderer of two missionaries, in the Chu Yeh district in Shantung, occurred—an affair greatly to be lamented. The persons concerned in the murder have already, according to law, been rigorously dealt with. We have authorized churches to be

erected at three places and dwelling houses at seven places, in order to make known the fact that we entertain a feeling of compassion for persons coming from afar.

In future, Chang Ju-mei, the governor of Shantung, must instruct his subordinate officers that they are, in good earnest, to give proper protection to the missionaries. In the event of worthless and reckless fellows again making trouble and committing acts of violence, the local authorities of the place will be held solely responsible. Beware!

Mr. Denby to Mr. Sherman.

No. 2857.] LEGATION OF THE UNITED STATES,
Peking, January 18, 1898.

SIR: I have the honor to inclose a translation of a decree issued by the Emperor of China, on the 16th instant, ordering that Li Ping Heng, late governor of Shantung, be handed over to the proper board for the determination of a penalty, in consequence of the murder of two German missionaries some time since in Chu Yeh Hsien, Shantung. This officer is practically retired into private life, as he has been deprived of the viceroyship of Szechuan, to which office he was promoted some time previous to the Shantung riot.

Other officers, as you will observe by the decree, are to be punished for being relax in the discharge of their duties so far as missionaries are concerned.

The decree, it is believed, will have a beneficial effect, as its promulgation through the Peking Gazette will no doubt be a severe warning to the officials and people against further missionary attacks.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2857.]

Translation of decree published in Peking Gazette, January 17, 1898.

On account of the murder of some missionaries at Chu Yeh Hsien, in Shantung, capital punishment has already been inflicted on the murderers.

Li Ping Heng, formerly governor of Shantung and appointed viceroy of Szechuan, which latter office he has been deprived of, failed to assume the responsibility confided in him and take precautionary measures, hence a serious affair occurred. Let him be handed over to the proper board for the determination of a penalty. The Taotai, Hsi Liang, of the Yen, I Tsao and Chi circuit, Wan Pen-hua, brigade general of Tsaochao and Shao Chenchao, prefect of Tsao Chao, are also ordered to be handed over to the proper board for the determination of a penalty.

Hsu Ting-jen, magistrate of Chu Yeh Hsien, was very lax in arresting the murderers and reporting the matter to his superior officers. Let him at once be degraded. Robberies have occurred at the missionary chapels in Shou-Chang Hsien. Let the governor investigate into the conduct of the magistrate, Chuang Wei-lieh and report him to the Throne for impeachment. Trouble has occurred between the Christians and non-Christians at Chi Ting, Ho Che, Shan Hsien, and Cheng Wu. Let the magistrates either be removed from office or transferred to other posts.

Shantung is a State famous for carrying out the observances of civilization. Her scholars and high ministers of state have practiced the principles of Confucianism and have always understood the meaning of "self-respect."

But the ignorant people of the rustic districts, not knowing the underlying principles of matters, have beaten and insulted the missionaries and destroyed their churches. This condition of affairs can not, on any account, be allowed to continue. Let the authorities of Shantung take action in good earnest to suppress such acts and use every endeavor to protect the missionaries.

Let all the Tartar generals, viceroys and governors of the various provinces take heed that whenever the people assemble together for the purpose of causing trouble to the missionaries they must take action in the matter as commanded by imperial decree of July, 1891. Should there be any further procrastination or idleness shown in the discharge of their duties, the negligent officials will be severely punished and not the least leniency will be shown them.

Mr. Sherman to Mr. Denby.

No. 1549.] DEPARTMENT OF STATE,
Washington, March 8, 1898.

SIR: I have to acknowledge, with much satisfaction, your dispatch No. 2857, of the 18th of January last, transmitting the translation of the decree of the Emperor of China ordering the punishment of the officials in Shantung for delinquency in connection with the recent murder of the two German missionaries in that province.

It is expected that good results will follow from this exemplary action, which in similar cases affecting American citizens, has been so strenuously urged by this Government.

Respectfully, yours, JOHN SHERMAN.

Mr. Sherman to Mr. Denby.

No. 1553.] DEPARTMENT OF STATE,
Washington, March 21, 1898.

SIR: I have to acknowledge the receipt of your dispatch No. 2861, of the 4th ultimo, inclosing a copy of a decree of the Emperor of China relating to the antiforeign riots in Shantung.

The provision ~~in the~~ decree, that "in the event of worthless and reckless fellows again making trouble and committing acts of violence, the local authorities of the place will be held solely responsible," has been read with satisfaction, as it affords a long-demanded guaranty for the future.

Respectfully, yours, JOHN SHERMAN.

RESIDENCE OF MISSIONARIES IN HUNAN.

Mr. Denby to Mr. Sherman.

No. 2845.] LEGATION OF THE UNITED STATES,
Peking, December 16, 1897.

SIR: I have the honor to inclose a copy of a letter from Rev. F. B. Brown, an American missionary, to Consul Child, setting forth that he has taken up his permanent residence in the Province of Hunan; also a copy of the governor's proclamation touching that event. This is the first permanent lodgment made in Hunan by foreigners, and is, therefore, worthy of notice. Hunan is about the size of the State of Kansas. Its population has been intensely hostile to foreigners. The main exports are tea and coal. Other exports are tea oil, ground-nut oil, hemp, tobacco, rice, iron, copper, tin, and coarse paper. The timber trade in pine, fir, laurel, and other woods is important. The province is well watered. The capital, Changsha, lies on the River Siang. Siangtan, at the confluence of the Lien-ki, is a city of 1,000,000 people, and one of the greatest tea mats in China.

I have requested the consul to give some account of Ch'ang Teh Fu.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2845.]

Mr. Brown to Mr. Child.

CH'ANG TEH FU, *November 12, 1897.*

DEAR SIR: Inclosed you will find copy of the proclamation put out by the officials here. I think it is all that could be desired in recognizing our rights to rent here. Everything continues very quiet here, and the people are friendly, while the officials are diligent to see that we have no trouble. Between ten and twenty of these proclamations have been posted at various places in the city that I know of. Yamên runners are detailed daily to look after us. Also a small official called "wei uln" has told us he has taken up residence in a temple close at hand to protect us. Besides this, ten soldiers have been quartered close at hand to be at our disposal should they be needed.

This is the present favorable state of things here, and resulting largely, I believe, from your representations on our behalf.

I believe that the putting out of these proclamations is a token of the opening of this closed province to the Gospel and to the foreigner in a way that has not been heretofore.

Very truly, yours, F. B. BROWN.

[Inclosure 2 in No. 2845.]

Copy of proclamation.

JOH TEH HU LING, MAGISTRATE,
15th 10 Moon Kwansu, 23d Year.

Notification is hereby given to notify all nations' missionaries who are going inland to rent houses or ground. I have had a dispatch from the Emperor stating that it is legal, according to the treaty, to rent houses or ground, and also I had a dispatch from the viceroy instructing me to protect all missionaries coming to my district.

There are two American missionaries, Mr. "Kiang A Teh," "Be Liang Jing," who have rented a house outside of the west gate, and have made a written agreement for the house; therefore I have sent my proclamation around, instructing and prohibiting my subjects from troubling them in any way.

Mr. Denby to Mr. Sherman.

No. 2864.] LEGATION OF THE UNITED STATES,
Peking, February 14, 1898.

SIR: In my dispatch No. 2845, of December 16 last, I informed you that American missionaries had effected a lodgment at Ch'ang Teh Fu, in the province of Hunan.

I have now the honor to inclose a copy of a paper describing this town, which was transmitted by Mr. E. D. Chapin.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 2864.]

Description of Ch'ang Teh Fu.

Ch'ang Teh Fu, the largest and most important city in the western part of the Province of Hunan, is situated on the Yuen River near where it empties into the Tung Ting Lake. Its position is thus an important one, commanding, as it does,

the trade of almost the whole western part of the province. Of this trade the most important item is the great quantities of timber which is rafted down from the mountain districts and exported to every part of the Yangtze Valley, also coal, rice, oils, tea, and other products.

The population of Ch'ang Teh Fu, at a rough guess, may be between 200,000 and 300,000, and for a Chinese city it seems to be fairly healthy.

The people are more friendly to foreigners than in almost any other place in the province, and the past year has seen a great awakening and a new demand for western knowledge and things. Already such articles as condensed milk, foreign flour, lamps, glassware, cutlery, dry goods, toys, etc., can be purchased in the shops, and doubtless other goods would find a market as the demand for them is created.

The literary men of the city are forming classes for the study of English and are asking for foreign books, while there is talk among the more progressive of a line of steam launches to ply between Ch'ang Teh and Hankow. Owing to the insufficient depth of the Tung Ting Lake none but small launches could be used; but all these things are evidences of a great change and forward movement which, we are glad to say, is not confined to matters of trade or science, for there is also a new interest in the Christian religion. A few have been baptized as converts, and others are showing an interest and inquiring concerning the truth. There can be no doubt that both for purposes of trade and for missionary work the city of Ch'ang Teh Fu is a most important center.

E. D. CHAPIN.

Mr. Conger to Mr. Day.

No. 34.] LEGATION OF THE UNITED STATES,
Peking, China, September 1, 1898.

SIR: I have the honor to transmit to you herewith copies of the correspondence with the United States consul-general at Shanghai, and my note to the Tsung-li Yamên, in regard to a complaint of maltreatment by the Chinese made by Mr. E. D. Chapin, a citizen of the United States and a missionary residing at Wuhu.

I have, etc., E. H. CONGER.

[Inclosure 1 in No. 34.]

Mr. Goodnow to Mr. Conger.

CONSULATE-GENERAL OF THE UNITED STATES,
Shanghai, China, August 17, 1898.

SIR: I hand you herewith letter to me from Z. Charles Beale, superintendent of the Christian and Missionary Alliance, Wuhu, and letter from the Rev. E. D. Chapin, missionary of that alliance, which explain themselves. I see by Dr. Wilcox's dispatches that they have submitted to him practically the same papers which he forwarded to Washington for instructions. It seems to me (and Mr. Chapin, who is here in Shanghai, agrees with me) that no further monetary damages, either for the missionary in person or for the mission, can be asked for. Mr. Chapin would be well satisfied if an escort could be given him to the town where the trouble occurred and the authorities there be instructed to obtain for him a building which he could lease for missionary purposes, and if the authorities be instructed from Peking to protect him fully. Mr. Chapin desires to make no further claim for damages for himself and believes it would weaken his influence in that region if exemplary damages were asked for the mission. Mr. Chapin leaves here shortly for Wuhu, and if you ask and obtain the escort and the instructions to the local Chinese officials I have indicated above, he desires to be

notified either by you directly or through me, at Wuhu, in care of the Christian and Missionary Alliance.

I have, etc.,

JOHN GOODNOW,
Consul-General.

[Sub-inclosure.]

Mr. Beale to Mr. Goodnow.

THE CHRISTIAN AND MISSIONARY ALLIANCE,
Wuhu, China, August 5, 1898.

DEAR SIR: Your favor of the 2d to hand. Mr. Chapin and Mr. Alexander have written out a full account of their trouble to Mr. Wilcox. He said that he thought it would have to go to Washington; I don't think so. Mr. Chapin came this a. m., and he says that the officials begged them to accept a fixed amount for their damages, which they did; but this will not cover the mission's demand. I believe also that if there is to be peace in Hunan some strong protest should be made, and these men returned in honor with a strong escort; if not, there will be future trouble. However, I am sure that our Government will take it up in a wise and vigorous manner.

I have nothing new to add about the trouble myself. Mr. Chapin is forwarding to you a detailed account.

Thanking you for the interest you have taken, I am, etc.,

Z. CHAS. BEALE,
Supt. Christian and Missionary Alliance in Central China.

[Subinclosure No. 2.]

Mr. Chapin to Mr. Goodnow.

THE CHRISTIAN AND MISSIONARY ALLIANCE,
Wuhu, China, August 5, 1898.

DEAR SIR: Having reached Wuhu and consulted with our local superintendent, he has asked me to prepare a written statement of our troubles in western Hunan for transmission to you.

On May the 17th, of this year, Mr. B. Alexander, a British subject, and myself (E. D. Chapin), an American subject, left Ch'ang-teh-fu, where we have a mission station, for a bookselling and preaching trip up the Uen River, in western Hunan, traveling in our own boat, a large native one. After a comparatively quiet trip, with some trouble at a few places, we reached Hong-Kiang, a large and busy place, on the 17th of June. Wishing to remain at that place for a time we dismissed our crew and lived in our boat, going ashore to sell books and tracts on the streets; we also had hopes of being able to rent a place for a mission station. We had two days of comparative quiet, selling books, but the local officials showed a secretly hostile spirit from the first—outwardly friendly, but doing as little as possible in the way protection, in the hope of driving us from the place. The bad element of the city crowded the river banks, shouting that they would beat and kill the "foreign devil." We suggested to the officials that the people, if thus freely permitted to curse and threaten us without restraint, would have sufficient courage for something more than words, but they did nothing to put a stop to it.

The 23d of June being the dragon-boat festival, the officials requested us to remain on board, and we consented, merely asking that they prevent roughs from making us trouble on the boat. In the afternoon, however, a crowd gathered, and while the few soldiers on duty stood and looked on with scarcely a protest, they began stoning the boat. One of the soldiers did seize an offender, but his superior struck him and made him release his prisoner. Seeing the weakness of the authorities the mob redoubled their attack, and were in a fair way to demolish our boat had not the soldiers from the gunboats nearby succeeded in getting her away from the bank and taking us across the river. We were anchored beside three native gunboats at the time of the disturbance, but they were as useless as washtubs. We were kept anchored below the city for ten days, while the officials used every plea and excuse they could invent to induce us to leave. Feeling that they could protect us if they chose we refused to go, and they asked us then to give them time to quiet the people before we returned to the city. We told them we would wait any reasonable time.

Hong-Kiang, being neither a Fu nor a Hsien city, has only subordinate officials,

and is governed by the magistrate of Huei-tong-hsien. This magistrate came down in person to investigate the difficulty, and showed an apparent readiness to suppress the trouble. His methods, however, seemed to us rather mild; he contented himself with exhorting the people not to molest us, and although in his proclamation he threatened offenders with punishment, yet he made no arrests. We ventured to suggest that more rigid measures than mere exhortation would be more effectual; but he said that to make any arrests, or to use force at that time, would cause a wholesale uprising, in which not only we, but also himself, would be killed; in fact, the city was being nightly posted with placards to that effect. The magistrate claimed that his forces were insufficient, but two garrisons of soldiers were within call if he had chosen to call them; he assured us, however, that all that was necessary was to thoroughly exhort the people and all would be well. So on the 4th of July he sent down men to take our boat back to the city. A short time after arriving back a crowd gathered as before, beginning with words, proceeding to deeds, giving us a very severe stoning. At the time there was hardly a man on the scene from any of the officials on the shore, and the gunboat did scarcely anything. We were anchored outside the official boat of the commander in chief of the gunboats of the place; but seeing that his own boat was being damaged, his men, instead of doing anything to disperse the mob, simply pushed our boat forward so that his escaped, while ours was exposed to the full force of the stoning. They then began to beg us to go aboard one of the smaller gunboats, as before, and escape. We at first refused to do so, as we knew that they were well able to protect us on our own boat if they chose to do so; however, as the side of the boat was crushed in, and very large stones coming into the cabin, we found that we could no longer stay aboard safely, so we went on board one of the gunboats on their promise that they would also, as soon as possible, push off our boat as well. However, we had hardly left our boat before some of the mob got aboard, armed with swords and knives. The natives with us had a very narrow escape in getting off the boat. As soon as the mob began getting aboard our boat the soldiers on her immediately jumped into the water and swam away to safety. Finding that we were not on board, the mob, after smashing our boxes open and looting whatever they could find, broke open a case of kerosene and, firing that, soon reduced the boat and its contents to ashes; all this within an oar's length of three gunboats armed with small cannon, muskets, swords, and spears. We were meanwhile some distance below on another gunboat, and as the people were putting off in small boats to follow us, as soon as our natives had joined us we dropped down the stream some distance, the captain of the gunboat absolutely refusing to take us to Ch'ang-teh-fu, as he said he would be killed on the road as well as we. We could not procure a boat ourselves, and so we were kept waiting there, not knowing how soon we might be attacked.

The secret society called the Ko-lao-huei is very strong in western Hunan, and it is freely confessed that many of the soldiers, and even of the smaller officials themselves, are members of it, which doubtless accounts in part for their unwillingness to do anything against their fellow-members. After dark that night the magistrate of Huei-tong-hsien came down the river and said that if we would not put the matter in the hands of our consul he would pay any amount of damages we chose to ask, and would guarantee that as soon as he could quiet the people we would be able to return in peace, and that he himself would rent us a house and protect us in it. We told him, however, that we could not then discuss those matters; that the first thing was to get us down the river in safety. He then procured us a small boat, in which, escorted by a gunboat, we came down to Ch'ang-teh-fu. We were told that the Ko-lao-huei had sent messengers ahead for the people to kill us, but by traveling night and day, and taking the oars ourselves much of the way, we succeeded in getting ahead of their messengers, and reached Ch'ang-teh-fu safely on the 8th of July. The magistrate sent a man down to Ch'ang-teh-fu to settle with us, the negotiations being carried on through the Hsien magistrate of that place. Ten days were spent in trying to get us by all manner of means to promise that we would not refer the matter to our consul, but we told them we should make them no such promise, as we considered that they had failed in their duty and should be reported. They then asked if we would allow them to settle the matter as far as cash compensation was concerned, and we consented, on the distinct understanding that it would not affect the question of reporting their remissness. They accordingly paid us, on July 19, the equivalent of $1,864 (Mexican) for the loss of boat, all our personal effects, money in cash, traveling expenses, etc. They endeavored to obtain from us a receipt for the amount made out in such a form as to practically acknowledge the settlement of the whole matter, but we gave them a receipt which simply stated that, having received payment in full for pecuniary losses, we would not again make claim for them.

In stating the matter for your consideration, we would just say that so far as concerned the magistrate of Huei-tong-hsien we have no complaint to make, unless it be for weakness in his dealing with the matter. He appeared honest in his endeavors to suppress the trouble, but was certainly mistaken in thinking that merely exhort-

ing the people was sufficient. Since we left the place we have heard that he has made a number of arrests, but can not say whether it is true.

As to the smaller local officials, however, they were determined to drive us away, if possible, and were largely responsible for the trouble. If their local forces were insufficient, which is not the case, there was a garrison of soldiers within a day's journey of the place, at Uen-cheo-fu, and another at Tsing-cheo.

The officials also tried to shift the blame upon us by accusing one of our native colporteurs of quarreling with the people on the streets, destroying their property, etc. We, however, investigated these things, and while it may be that he was somewhat rash in his words against idolatry, yet the ridiculous charges they made, we are convinced, are utterly untrue.

I inclose Mr. Alexander's Chinese name and my own; also the names of the officials concerned.

Having, I believe, covered the ground, I will close.

Yours, very respectfully, E. D. CHAPIN

[Inclosure 2 in No. 34.]

Mr. Conger to the Tsung-li Yamên.

LEGATION OF THE UNITED STATES,
Peking, China, August 25, 1898.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to inform your highness and your excellencies of the Tsung-li Yamên that he has received through the United States consul-general at Shanghai a detailed report, which is inclosed herewith, of an unjustifiable and unprovoked attack upon an American missionary, Mr. E. D. Chapin, and his English associate, Mr. B. H. Alexander, by a riotous mob at Hong-Kiang, in the Province of Hunan, which resulted in the burning of their boat, the loss of their clothes, books, and other belongings, great personal violence, and, with their lives threatened, their final expulsion from the locality.

The details of the affair are very carefully given in the inclosed report, together with a frank account of a prompt and satisfactory settlement between the local officials and Mr. Chapin of the pecuniary damage sustained.

But in view of the oft-repeated injunctions of His Imperial Majesty, and your own keen sense of justice, I am sure that your highness and your excellencies will readily agree with me that a matter of such grave importance should not be permitted to end thus.

The peace and safety of the missionaries who are in China pursuing their calling under sacred treaty rights must be assured, good order among your people should be preserved, and respect for authority and compliance with law ought to be enforced, to the end that more serious future trouble may be avoided, life spared, and property protected.

In order, therefore, that the missionaries may peaceably teach and practice their faith at Hong-kiang, and that the people of said place may definitely understand that they must not harass or persecute them, and especially because of the facts set forth, the undersigned is constrained to respectfully request that Mr. Chapin be furnished a strong escort and be honorably conducted into Hong-kiang, and the authorities there directed to find a safe and suitable place which he can lease for missionary purposes, and that they be peremptorily instructed to render him and his associates full and complete protection in their work.

That this procedure may have the fullest potency, and its result be

that which is best and most to be desired, it should be speedy and effective.

Hence it is requested that the matter shall have the immediate consideration of your highness and your excellencies and the undersigned notified of the result.

The undersigned avails, etc.,

E. H. CONGER.

Mr. Conger to Mr. Day.

No. 35.] LEGATION OF THE UNITED STATES,
Peking, China, September 5, 1898.

SIR: Referring to my dispatch No. 34, of the 1st instant, I have the honor to inform you that I have to-day received a reply from the Tsung-li Yamên, a translation of which is herewith inclosed, in which I am informed that orders have been sent to the governor of Hunan, directing him to instruct the local officials to make a prompt and satisfactory settlement of the case and to offer Mr. Chapin and his associates every protection, to escort them back to Hong-kiang, and give them every assistance in the purchase of property.

Mr. Chapin has been advised to call upon the local officials for the necessary escort, protection, and aid in securing a place for missionary work and to make an early report to this legation.

The Department will be informed of the final settlement of this case.

I have, etc.,

E. H. CONGER.

[Inclosure.—Translation.]

Tsung-li Yamên to Mr. Conger.

PEKING, *September 2, 1898.*

YOUR EXCELLENCY: On the 27th of August last the prince and ministers had the honor to receive your excellency's note, wherein you state that you have received, through the United States consul-general at Shanghai, a detailed report of an attack upon an American missionary, Mr. E. D. Chapin, and his English associate, Mr. B. H. Alexander, by a mob, which resulted in the loss of their clothes, books, and the burning of their boat, etc. You further state that the details of the affair are very carefully given in the report, together with a frank account of a prompt and satisfactory settlement between the local officials and Mr. Chapin.

Upon perusing the above report the Yamên was greatly grieved, and immediately sent orders to the governor of Hunan ordering him to instruct the local officials to make a hasty and satisfactory settlement of the case, and to afford Mr. Chapin and his associate every protection, to escort them back to Hong-kiang, and give them every assistance in purchasing property.

As soon as a reply is received from the local officials your excellency will be further notified. As in duty bound, we send this communication for your information.

A necessary communication sent to the minister of the United States.

Mr. Adee to Mr. Conger.

No. 36.] DEPARTMENT OF STATE,
Washington, September 19, 1898.

SIR: I send you copy of a dispatch from the United States consul at Hankow,[1] communicating the statements of the Rev. Z. Charles Beale and E. D. Chapin, of the Christian and Missionary Alliance, regarding a riot which occurred at Hong-kiang, in Hunan, and which resulted in their being driven from the scene of their labors and suffering injury, for which they have been in part indemnified by the local authorities.

Mr. Wilcox has been instructed to lay all the facts of the case before you. The inclosures with his dispatch are, however, herewith communicated, inasmuch as they have been received in original from Mr. Wilcox, and it does not appear that he has retained copies.

The instructions of the Department to your predecessor in 1895, with respect to the protection of missionaries in the interior provinces, the punishment of any persons guilty of interfering with them or injuring them in person or property, and the necessary discipline to be imposed on all provincial and local authorities who may have failed in their duty on such occasions, will afford you all proper guidance for dealing with the present question, which for the time appears to have passed from the acute stage to one of formal complaint and demand for exemplary action by the Chinese Government. (See Foreign Relations, 1895, correspondence concerning antiforeign riots, pp. 87–194.)

Respectfully, yours,

ALVEY A. ADEE,
Acting Secretary.

Mr. Conger to Mr. Hay.

No. 87.] LEGATION OF THE UNITED STATES,
Peking, China, November 8, 1898.

SIR: Acknowledging receipt of Department's instruction No. 36, of September 19, concerning the case of E. D. Chapin, a missionary, who in June last was driven from his labors by a mob at Hong-kiang, in Hunan, I beg to call your attention to my dispatches Nos. 34 and 35, of September 1 and 5, respectively, from which it will appear that the Tsung-li Yamên had instructed the local officials to furnish Mr. Chapin necessary protection, escort him back to Hong-kiang, and give him every assistance in the purchase of property there.

If there shall be any failure in carrying out the instructions of the Tsung-li Yamên, I will renew my demand as soon as such information reaches me.

I have, etc., E. H. CONGER.

STATE AFFAIRS IN CHINA.

Mr. Denby to Mr. Day.

No. 2949.] LEGATION OF THE UNITED STATES,
Peking, China, June 20, 1898.

SIR: I have the honor to report that in accordance with an imperial decree important changes have recently been made in the Government.

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[1] Not printed.

Wang Tung-ho, a grand councilor, and a member of the Tsungli Yamên, has been degraded and directed to return to his home in the south. It is said that he was impeached by no less than twenty four censors, and that the Emperor was thus lenient owing to his having been his tutor. He has not for some time worked in accord with the other ministers, especially Li Hung chang. This change will very much strengthen the latter's position, as Wang Tung-ho has always been his most bitter enemy, having recommended during the Japanese war that he be recalled and beheaded.

Wang Wen-shao, viceroy of the province of Chihli, has been appointed to this vacancy. He was at one time a cabinet minister, but fell into disgrace and was sent south as governor. After the Japanese war he was appointed viceroy to succeed Li Hung Chang. He was a special favorite of the late Prince Kung, who always desired his return to the cabinet. He is neither anti nor pro foreign, and has never taken any interest in foreign affairs.

The other change is the appointment of Jung Lu, a member of the Tsungli Yâmên, as acting viceroy of the province of Chihli, to succeed Wang Wen-shao. No one has as yet been named to fill this vacancy.

I have, etc.,

CHARLES DENBY.

Mr. Conger to Mr. Day.

[Telegram.]

LEGATION OF THE UNITED STATES,
Peking, China, September 23, 1898.

DAY, *Washington:*

Emperor has been compelled to decree the Empress Dowager co-regent. She assumes full power to-day.

CONGER.

Mr. Conger to Mr. Day.

No. 49.] LEGATION OF THE UNITED STATES,
Peking, China, September 24, 1898.

SIR: I have the honor to confirm, on the overleaf, my telegram of yesterday, and to inclose a copy of the imperial decree upon which it was based.

E. H. CONGER.

[Inclosure in No. 49.]

Translation of a decree published in the Peking Gazette, September 21, 1898.

At the present time many difficult national questions are waiting to be settled. Night and day we have labored diligently and cautiously managing these multitudinous affairs, and even when at leisure have taken great pains to avoid making any mistake.

In looking back, we find that since the time of the Emperor Tung Chih, the Empress Dowager has, upon two occasions, conducted the affairs of the Government most excellently. Therefore, reflecting upon the importance and dignity of our country, we have very earnestly besought the Empress Dowager to compassionately assist us in the administration of the Government and to condescend to our request. This would be for the happiness of all the officials and people of the Empire.

Beginning with to-day, the administration of the Government will be carried on in a side hall. On the 8th of this moon (September 23) the princes and ministers will follow us into the Ch'in Cheng Hall, where the proper ceremonials will be observed, the various Yamêns which have control of these ceremonials having been instructed to make due preparation.

Mr. Conger to Mr. Day.

No. 54.] LEGATION OF THE UNITED STATES,
Peking, China, September 30, 1898.

SIR: I have the honor to inclose copies of six imperial decrees published since my dispatch of the 24th instant.

I have, etc., E. H. CONGER.

[Inclosure 1 in No. 54.]

Translation of an imperial decree published in the Peking Gazette, September 26, 1898.

Ever since the fourth moon we have constantly been indisposed, and although for a long time have been under treatment there has been no improvement. Therefore if there is any person who is skilled in the science of medicine, let him be recommended immediately by any official in the Empire, and if he is now residing in some other province, let him come to Peking speedily and without delay.

[Inclosure 2 in No. 54.]

Translation of an imperial decree published in the Peking Gazette, September 26, 1898.

The various reforms which have recently been proposed by the court for the prosperity of the nation were considered with the hope that at this time the Empire might become rich and powerful, that the people might secure a livelihood, and have not originated out of a desire simply to adopt new methods and abandon old ones. We have been very reluctant to do all this, and therefore our subjects should sympathize with us. Upon consideration, we find that the people are in a state of doubt and fear, having been brought about by those in authority not acting in accordance with orders and not being in sympathy with us. The result has been that the ignorant have made false conjectures and many erroneous reports have arisen. Take, for example, the matter of dispensing with the official posts. The object was to sift out and reduce the number of supernumeraries, but because the provincial officials did not investigate the matter there have been numerous memorials recommending that great changes be made in the administration of the Government.

Reasoning from this, falsehoods have been propagated. What will be the end? Therefore, if the truth is not made known there is reason to fear that the people will become excited by this random talk, and tranquillity will cease to prevail, and all our efforts for the prosperity of the Empire will avail nothing.

In dispensing with the imperial supervisorate of instruction and the various other departments, our design was to separate the business of these departments and in this way abolish all unnecessary duties. Now, upon consideration, we believe that by adding this and cutting out that, a roundabout method is the result, and the state of affairs is not different than formerly. Therefore let the imperial supervisorate of instruction, the office of transmission, the grand court of revision, the court of imperial entertainments, the court of the imperial stud, and the court of state ceremonial be replaced and conduct their duties as usual. Let all those official posts and offices in the various provinces which ought to be abolished and incorporated and all unemployed officials be dispensed with by the governors and governors-general.

In regard to the establishment of the Chinese Progress Magazine, giving the literati permission to memorialize, the original design was to make us clearly see and understand the feelings of the people. But now the court has made ample provision for freedom of speech to the officials that they may be able to petition in regard to the administration of the Government, and if there is anything worthy of selection it will be acted on without delay. However, the memorialists have been emulating each other and sending in petitions containing merely superficial phrases, and have plagiarized even to the extent of spreading falsehoods.

Hereafter only those officials who have the right to memorialize shall use respectful and proper language for the enlightenment of the people, and shall proclaim the real truth as to the Government. But those officials who are not authorized to memorialize will not be allowed to present sealed petitions, but will conform to the fixed laws.

Since the Chinese Progress Magazine is of no use to our person and is misleading to the people, let it be immediately abolished.

The Imperial Chinese University, being for the culture of the people and others in the provincial capitals, having already been established, in addition let the smaller schools in the various departments, prefectures, and districts be established according to the pleasure of the people.

The temples in the provinces which are not on the imperial list, if they are not illegal, shall continue as formerly, and need not be converted into schools, that the people may not be offended.

In addition to this, those things already under discussion and put into operation in order to improve military affairs and to increase the sources of revenue, must be carried out in good earnest. That which is of no benefit to the present administration, and that which is a hindrance to our person, let the six boards and the foreign office carefully investigate and report clearly on the different methods of procedure. Now that the affairs of the Government are in great difficulty, all business must be deliberated upon with the greatest care in order to decide what should be introduced and what rejected, that the good may be retained and not a single flaw remain.

We shall endeavor to arrive at a happy medium, and not simply follow our own inclinations. Therefore all officials, great and small, ought to sympathize with us, and earnestly strive to aid us in the administration of the Government and to proclaim the truth.

[Inclosure 3 in No. 54.]

Translation of an imperial decree published in the Peking Gazette, September 26, 1898.

The board of punishments has memorialized the throne upon a very important case, and requests the appointment of high officials to conduct the trial.

Let the offending officials, Hsü Chih-Ching, Yang Shen-Hsiu, Yang Jui, Liu Hsü, T'an Ssu-T'ung, Liu Kuang-Ti, and K'ang Kuang-Jen, the brother of K'ang Yu Wei, be strictly tried by the grand council, together with the board of punishments and the board of censors.

Chang Yin Huan has been frequently censured on the ground that his reputation has been very reprehensible, although he did not belong to K'ang Yu Wei's faction. Therefore let him be turned over to the board of punishments to be looked after temporarily and wait for the imperial decree.

K'ang Yu Wei formed a party for his own selfish purposes. Therefore his offense is very grave.

All of K'ang Yu Wei's adherents, Hsü Chih-Ching and others, have already been turned over to the board of punishments that they may undergo a very strict trial. Further, it would be difficult to guarantee that there are not others among the officials and gentry who have been beguiled by K'ang Yu Wei, but the court is very lenient, and will not make further investigations.

[Inclosure 4 in No. 54.]

Translation of an imperial decree published in the Peking Gazette, September 28, 1898.

Let Jung Lu officiate in the grand council and let Yü Lu fill the appointment of viceroy of the province of Chihli and also fill the position of the superintendent of northern trade.

Let all the northern forces remain under the control of Jung Lu, who will be assisted by Yü Lu.

[Inclosure 5 in No. 54.]

Translation of an imperial decree published in the Peking Gazette, September 29, 1898.

Chang Yin Huan, who was junior vice-president of the board of revenue, having already been degraded, was very clever at imposing on people, his actions were deceitful, mysterious, and fickle, and he sought after the rich and powerful. Therefore let him be banished to Hsin-chiang, and turned over to the various governors, who are ordered to use the utmost care in guarding him on his journey.

[Inclosure 6 in No. 54.]

Translation of an imperial decree published in the Peking Gazette, September 29, 1898.

Whereas the present times and affairs are full of difficulties, the court has diligently planned for the Government, seeking reforms for its prosperity according to the plans for the welfare of the people as handed down by our ancestors. The Emperor has labored night and day with unwearied diligence, but unexpectedly there appeared a manager of affairs, K'ang Yu Wei, a leader of false doctrines, a deceiver of the age, a slanderer of men, who led a crowd of low followers and took advantage of the attempt at reforms to impose his own rebellious schemes, covering up his conspiracy and secretly irregular conduct. Some days ago he gathered together his band to surround the I Ho Palace, to capture the Empress Dowager and also the Emperor, but he was discovered and his conspiracy broken. It is also reported that his murderous band had formed a society to preserve China, but not the Manchu dynasty. This rebellious conduct is certainly to be detested. My great filial affection for the Empress Dowager must be known to foreigners and Chinese. K'ang Yu Wei's learning is crafty and false. Those books which he constantly made were opposed to the classics, misleading and destructive of the sages and laws. Because of his constant advocacy of reforms he was appointed to a post in the foreign office, and we appointed him to immediately repair to Shanghai to take charge of the Government press, but he lingered in the capital to stir up strife and practice his dark designs. Unless the protection of our ancestors had enabled us to clearly see his schemes beforehand there is no telling what would have happened. K'ang Yu Wei, the chief of rebels, has now absconded; therefore let all the provincials strenuously seek him out and arrest him for severest punishment.

The Chü-jen (M. A.) Liang Chi-Chao was an accomplice of K'ang Yu Wei, and his writings are full of falsehoods and rebellion; therefore let him also be apprehended for punishment. K'ang Yu Wei's brother, Kang Kuang-Jen, and the Censor Yang Shen-hsin and clerks of Grand Council, I'an-ssu-tung, Lin-Shu, Yang Jui, Liu Kuang-ti, and others, were truly associates and abettors of K'ang Yu Wei, Yang Jui and others at every audience sought to deceive and disobey the Emperor. They secretly protected ruffians and joined with them in their evil deeds, so their crime is of the gravest character. They have been degraded, examined, and lodged in the board of punishments. Immediately memorialists declared that if there was any delay in this trial there was great danger of a riot. We meditated carefully on the investigation of said rebels. Their crime was great, without precedent, and they must not escape the net of the law. If they were permitted to speak they would involve many others; therefore we could not await the report from the board of punishment, and yesterday we decreed that the guilty persons be immediately executed. This affair is no common occurrence, hence this band of criminals were immediately executed. K'ang Yu Wei is the leader and originator of these rebellious schemes; his crime is exceeding great, and he must not be permitted to escape a public execution. The crime of these men has now been fixed and it must be published over the Empire that all men may know that we establish the throne upon ancient rites and teaching.

If K'ang Yu Wei be not brought under the law, both men and gods must detest him as beyond the pale of forgiveness, and he would succeed in influencing others to imitate him, and thus there would be many rebellious subjects. As the court is thoroughly informed, our heart is very compassionate, and we have issued a decree not to pursue them further. Hereafter let all officials and people be warned by the example of K'ang Yu Wei. Let all obey the teachings (of Confucius) and assist in the present difficulties, and in all reforms that are beneficial to Government and people; not only such reforms as are already in operation, but to adopt such others as may be found necessary to do away with effete and useless customs. Let them proceed in regular order. The Emperor hopes that this may be made widely known to all.

Mr. Conger to Mr. Hay.

No. 119.] LEGATION OF THE UNITED STATES,
Peking, China, December 21, 1898.

SIR: I have the honor to inform you that the following appointments to the grand council and the Tsung-li Yamên have been announced in the Pekin Gazette. They are of no special interest beyond the fact that the grand council now has more members than at any time since the Ming dynasty, six having been the limit.

To the grand council, Chi Hsiu.

To the Tsung-li Yamên, Kuei Ch'un, Chao Shu-ch'iao, and Lien Yuan.

I have, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

No. 120.] LEGATION OF THE UNITED STATES,
Peking, China, December 21, 1898.

SIR: I have the honor to inclose to you a list of the members of the grand council, the Tsung-li Yamên, and of the six boards, which make up the central Government of China.

The list has been prepared with considerable care, especially as to the spelling of the Chinese names.

I have, etc.,

E. H. CONGER.

[Inclosure in No. 120.]

Chinese official list.

Grand council or cabinet, seven members, four Manchu and three Chinese, arranged in order of precedence:

President.—(1) Prince Li (Manchu), hereditary prince, a distant branch of the Imperial family.

Members.—(2) Jung Lu (Manchu), a grand secretary of state, supervisor of board of war, commander in chief of the northern armies, member of the Tsung-li Yamên, ex-viceroy of Province of Chihli, ex-military governor of Peking. (3) Kang Yi (Manchu), junior grand secretary of state, president of board of war, ex-president of board of punishments, ex-governor of Provinces of Shansi, Kiang, and Kwang-tung. (4) Wang Wen-shao (Chinese), of Chekiang Province, president of board of revenue, member of Tsung-li Yamên, commissioner of railway and mining bureau, ex-viceroy Provinces of Yunnan and Kuei-cheu, ex-viceroy Province of Chihli. (5) Chi Hsiu (Manchu), president of board of ceremonies, president of household office. (6) Ch'ien Ying-p'u (Chinese of Chekiang), president of board of works, ex-president of censorate. (7) Liao Shou-heng (Chinese of Province of Kiang-su), junior guardian of heir apparent, president of board of ceremonies, member of the Tsung-li Yamên, ex-president of board of punishments.

The Tsung-li Yamên (foreign office), ten members, six Chinese and four Manchus, arranged in order of precedence:

Presidents.—(1) Prince Ch'ing (Manchu), lord chamberlain of the Imperial court, commandant of the Peking field force.

Members.—(2) Wang Wen-shao member of grand council. (3) Liao Shou-heng member of grand council. (4) Ch'ung Li (Manchu), junior guardian of the heir apparent, president of the board of punishments, military governor of Peking. (5) Chao Shu-ch'iao (Chinese), president of board of punishments, commissioner of railway and mining bureau. (6) Hsu Yung-e (Chinese), vice-president of board of civil office. (7) Hsü Ching-ch'eng (Chinese), vice-president of board of works, ex-minister to Germany and Russia. (8) Yuan Ch'ang (Chinese), ex-treasurer, Nankin. (9) Kuei Ch'un (Manchu), ex-provincial judge, Kansu; ex-taotai of grain transport, Shantung. (10) Lien Yuan (Manchu), ex-provincial judge, An-hui.

In addition to the above members there is a staff of 4 chief secretaries, 4 assistant secretaries, 9 secretaries in the bureau for Great Britain, 12 in the bureau for France, 12 in the bureau for Russia, 12 in the bureau for the United States, 7 in the coast-defense office, and various others, making a total staff, with official rank, of 79.

The six boards in order of precedence:

THE BOARD OF CIVIL OFFICE.

Presidents, senior.—Hsi Ching, Manchu; Sun Chia-nai, Chinese.
Vice-presidents.—Ch'ung Kuang, Hsü Yung-e.
Junior vice-presidents.—P'u Shan, Hsü Hui-feng.

THE BOARD OF REVENUE.

Presidents.—Ching Hsin, Manchu; Wang Wen-shao, Chinese.
Senior vice-presidents.—Li Shan, Manchu; Wu Shu-mei, Chinese; Tsong Kuang Han (acting).
Junior vice-presidents.—P'u Liang, Manchu; Ch'en Hsueh-fen, Chinese.

THE BOARD OF CEREMONIES.

Presidents.—Chi Hsin, Manchu; Liao Shou-heng, Chinese.
Senior vice-presidents.—Kuo P'u T'ung Wu, Manchu; Wang Hsi Fan (acting).
Junior vice-presidents.—Sa Lien, Manchu; Tang Ching-ch'ung, Chinese.

THE BOARD OF WAR.

Presidents.—Kang Yi, Manchu; Hsü P'u, Chinese.
Senior vice-presidents.—Jung Hui, Manchu; Hsü Hui-feng, Chinese (acting).
Junior vice-presidents.—Wen Chih, Manchu; Shou Ch'ang, Manchu.

THE BOARD OF PUNISHMENTS.

Presidents.—Ch'ung Li, Manchu; Shu-ch'iao, Chinese.
Senior vice-presidents.—A-k'o-tan, Manchu; Li Pei-yuan, Chinese.
Junior vice-presidents.—K'un Hsui, Manchu; Liang Chung-heng, Chinese.

THE BOARD OF WORKS.

Presidents.—Sung Kuei, Manchu; Ying-p'u, Chinese; Hsu Shu ming (acting).
Senior vice-presidents.—Feng Ming, Manchu; Hsu Ching-ch'eng, Chinese.
Junior vice-presidents.—Ying Nien, Manchu; Yang Ju, Chinese.

In addition to the presidents, etc., there is a staff of 144 secretaries, 185 under secretaries, 163 assistant secretaries, and 553 clerks, making a total staff of the six boards, with official rank, of 1,081, besides about 1,000 clerks and copyists without rank.

WIVES OF FOREIGN MINISTERS AT PEKING RECEIVED BY THE EMPRESS DOWAGER.

Mr. Conger to Mr. Hay.

No. 114.] LEGATION OF THE UNITED STATES,
Peking, China, December 14, 1898.

SIR: I have the honor to report that on yesterday, the 13th instant, the wives of all the foreign ministers in Peking paid a visit to the Empress Dowager.

They were received in the "I Luan Hall" in the presence of the Emperor, and were most cordially welcomed. A brief address was made by the wife of the British minister, she being of senior rank, and responded to by the Empress Dowager, copies of which are inclosed.

They were then entertained at a most sumptuous breakfast, with Prince and Princess Ching and several other princesses, at the conclusion of which the Empress Dowager appeared again and presented the Empress; afterwards with some theatricals, at which the Empress Dowager was also present; and finally they returned to the banquet hall, where, over cups of fragrant tea and other Chinese delicacies, a cordial leave-taking occurred.

This is the first time in the history of China that an Empress or an Empress Dowager has met foreign ladies, and it is to be hoped that some good may result therefrom.

It is believed that it will inspire within the Imperial Palace a desire to see and know more of Western people and Western things; and that when it is once known by the Chinese people generally that the Empress Dowager is herself willing to see and entertain foreigners, some of their antipathy will be allayed.

This audience was brought about, primarily, from a suggestion made last spring to the Empress Dowager by Prince Henry of Prussia, and followed finally by a request made on behalf of the ladies by the dean of the diplomatic corps.

The visit on the part of the ladies was originally intended, and the audience requested, for the purpose of felicitating the Empress Dowager on her 64th birthday, which occurred the 23d ultimo; but because of the absence of one of the ladies, and the fact that the new Russian minister had not then presented his credentials, it was postponed; however, to be made for the same purpose.

The occasion is wholly unique, and the record of it worth preserving.

I inclose a copy of the ceremonial conditions previously agreed upon, and which were substantially carried out.

I have, etc., E. H. CONGER.

[Inclosure 1 in No. 114.]

May it please Your Imperial Majesty:

It is with the deepest feelings of respect and pleasure that we, the wives of the foreign representatives at Pekin, have received Your Imperial Majesty's gracious permission to offer personally our congratulations upon the 64th birthday of Your Imperial Majesty.

We rejoice exceedingly that Your Imperial Majesty has taken this first step toward a personal acquaintance with the ladies of foreign nations. We venture to express the hope that your august example will be followed by the ladies of China, and that the peoples of the East and West will continue to draw nearer to each other in social intercourse.

Permit us, in conclusion, to express our most respectful and sincere wishes for Your Imperial Majesty's long-continued health and happiness.

Delivered by Lady MacDonald, Doyenne, to the Empress Dowager at her audience given to the wives of the foreign ministers at Pekin on December 13, 1898.

Lady MACDONALD, *British Legation.*
Baroness HEYKING, *German Legation.*
Madame YANO, *Japanese Legation.*
Madame PICHON, *French Legation.*
Madame CONGER, *United States Legation.*
Madame DE GIERS, *Russian Legation.*
Madame KNOBEL, *Netherlands Legation.*

A reverent record of the Empress Dowager's reply:

The wives of the foreign representatives this day received by me in audience have presented their united congratulations. Their words were propitious and pleased me greatly.

China and foreign nations are now in harmony, and the world is at peace. My sincere wish is that the wives of the foreign representatives may find their sojourn in China agreeable, and that all their affairs may prosper.

[Inclosure 2 in No. 114.]

Ceremonies to be observed on the occasion of the wives of the foreign ministers calling upon the Empress Dowager.

1. In accordance with the ceremonies fixed upon at the request sent to the Tsung-li Yamên by the dean for the various foreign ministers requesting an audience, and for the Empress Dowager to fix a day for the same, the Tsung-li Yamên returns the reply:

2. At the time fixed upon the Tsung-li Yamên will send a guard to each legation to escort the ladies.

3. Each of the ladies and their interpreters will leave their chairs at the "Chiao Yuan Gate." Thence the interpreters will proceed on foot; the ladies will take chairs, carried by two bearers, across the bridge to the "Fu Hua Gate." (This distance between gates is about 100 paces.) Thence they will be conveyed in wheeled vehicles to the "Ying Hsin Gate."

4. Outside of the "Ying Hsin Gate," at the imperial rest house, they will be met by the chief eunuch and ladies in waiting and served with tea. At the proper time they will proceed (walk) to the "I Luan Hall," the interpreters accompanying.

5. On entering the "I Luan Hall" each will bow toward the Empress Dowager, and then proceed from the right toward the left and stand in regular order, and then their interpreters will hand the names of each to Prince Ching to present to the Empress Dowager. The lady of senior rank will read the address, to which the Empress Dowager will reply. The interpreters will conduct the ladies to the steps of the throne, and each will ascend from right to left to the side of the Empress Dowager, where the Empress Dowager will address a few remarks to them, and the interpreters will stand near the steps to interpret. When the ceremony ends the Empress Dowager will signify her desire for them to retire.

6. The princesses will conduct the ladies to the banqueting hall. After the banquet the Empress Dowager will come in her chair to this hall. The interpreters will banquet at a separate table in the same hall. There will be Chinese interpreters to interpret into English and French for each lady, and the conversation will be at their pleasure.

7. There must be at least three foreign interpreters.

8. The interpreter of the lady of senior rank shall, if desired, accompany each lady to the "Chiao Yuan Gate," where they leave their sedans; and also to the "Fu Hua Gate," where they take the wheeled carriages.

The ministers of the Tsung-li Yamên will banquet with the interpreters.

9. At the close of the audience each of the ladies will again take the carriages and the chairs, carried by two bearers, to the "Chiao Yuan Gate," where they take up their sedans.

MARINE GUARD AT THE LEGATION AT PEKING.

Mr. Conger to Mr. Hay.

[Telegram.]

LEGATION OF THE UNITED STATES,
Peking, China, October 1, 1898.

HAY, *Washington:*

Street mob yesterday attacked foreigners en route railway to city, including Bishop Cranston's family. No one seriously hurt. The Government promises adequate measures to prevent recurrence.

CONGER.

Mr. Conger to Mr. Hay.

[Telegram.]

UNITED STATES LEGATION,
Peking, China, October 1, 1898.

HAY, *Washington:*

No serious danger yet. Considerable anxiety for future. Foreign fleets assembling Tientsin. Some ministers ordering marines to Peking for legation guards. We should have war vessel Tientsin instructed to send marines at my order if necessary.

CONGER.

Mr. Conger to Mr. Hay.

No. 56.] LEGATION OF THE UNITED STATES,
Peking, China, October 1, 1898.

SIR: I have the honor to confirm, on the overleaf, my cipher telegram of October 1, and to inclose a copy of letter of Rev. H. H. Lowry giving a succinct account of the attack upon his party.

At about the same time, or at least while they were coming from the same train, three other attacks were made by the same crowd and near the same place—one on a couple of Japanese students, another on an English gentleman and lady, and still another upon the English customs or postal agent. None were seriously injured, but all were roughly handled and their carts and chairs badly damaged.

September 30 was the great day of the mid-autumn festival; nobody at work, and the streets, especially this highway of the railway station, were thronged with idle and hilarious people.

As this is the first time an attack of this magnitude has occurred in Peking, it was at first thought to have been a spontaneous movement of the crowd, following the lead of some thoughtless loafer, and all without any premeditation; but it was afterwards learned that, besides the above-mentioned attacks, on the same day and in different parts of the city, a French priest was attacked and the Marquise Salvago, wife of the Italian chargé d'affaires, was jeered and insulted while passing along the streets in her chair. Then it was concluded that there must be some new and general occasion for this unexpected outburst here against foreigners.

The attack was reported to me while yet in progress, and I immediately sent messengers both to the Tsung-li Yamên and the gendarmerie, demanding aid; but it was over before help had time to arrive. However, a messenger arrived about 8 p. m. with information that six persons had been arrested and other arrests would follow. I have by the note, a copy of which I inclose, also made formal presentation of the case to the Tsung-li Yamên, and demanded that immediate and adequate measures be taken to insure the safety of our people along this thoroughfare and also elsewhere where their legitimate business may call them.

After my note had already gone to the Tsung-li Yamên a meeting of the diplomatic corps was called, a note prepared, unanimously approved, and the dean instructed to transmit it to the Tsung-li Yamên.

I will inclose a copy of the note, as well as the reply of the Tsung-li Yamên thereto, in a succeeding dispatch.

I have, etc.

E. H. CONGER.

[Inclosure 1 in No. 56.]

Mr. Lowry to Mr. Conger.

PEKING, *September 30, 1898.*

MY DEAR MR. CONGER: To-day, as Mabel and myself were on the way to the station to meet Mrs. Cranston and daughters, we were set upon by an immense crowd on the Ch'ien-men great street. They began by throwing clods and then large stones and anything they could get hold of. In order to protect my daughter from the fierceness of the attack I dismounted and urged her to go on ahead. I was struck a large number of times both by the clods and stones. I received one very severe blow on the side and several cuts on the head. I met some mounted soldiers led by a mandarin with a white button. I accosted him and asked for his protection. He would not even give me his name, but told me to go on. After he passed the attack was more fierce than ever and the crowd followed us nearly to the Yung ting gate. At the gate I went to the police station and informed them of what had occurred and requested that as we returned they should give us an escort. The policeman said it was not in his district.

On the return journey Mrs. Cranston and Miss Cranston were in chairs. Bishop Cranston's other two daughters and myself and daughter were in carts. In order to avoid the crowd we followed close along the wall of the Temple of Heaven. When more than a quarter of a mile away the crowd saw the chairs and made a rush for them. They at once began stoning the chairs, and the bearers, being hit, put the chairs down. I got out of the cart in order to give protection to the ladies. The chairs were severely damaged by the stones. I again ran to the police house near by and asked for protection, but the policeman said that he could not do anything.

The ladies got through without being hurt.

Very respectfully, H. H. LOWRY.

P. S.—The police station that I called on for protection was, first, the station just inside the Yung ting gate, and the policeman I spoke to was named Chung, and on my return a small guardhouse north of the Temple of Heaven. But friendly Chinese went to the Tung chu and Hsi chu yamêns at the T'ien ch'iao.

I think the arrest of persons without dealing severely with the police officials, who were absolutely indifferent, would be of no use. In one case the Chinese friend who sought protection for us was thrust out of the office with revilings and threats.

H. H. L.

[Inclosure 2 in No. 56.]

Mr. Conger to the Tsung-li Yamên.

LEGATION OF THE UNITED STATES,
Peking, China, October 1, 1898.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, in addition to the informal notice sent your highness and your excellencies of the Tsung-li Yamên on yesterday concerning the attack then being made upon a party of American citizens quietly proceeding from the railway station to the city, now has the honor to transmit the particulars embodied in the inclosed copy

of a communication from Rev. H. H. Lowry, a member of the party attacked, and who was personally injured by the missiles of the mob.

The undersigned is surprised that such an affair could happen at the very door of the Imperial capitol, practically in the very midst of soldiers and police, and that these officials should persistently refuse the assistance and protection requested by the parties attacked.

In view of this and the consequent danger of future troubles of like kind, it is the duty of the undersigned to demand that such immediate precautions be taken, by the increase of a properly instructed police or military force, the issuance of forcible public proclamations, arrest and punishment of offenders and derelict officers, or other energetic measures which will insure the safety of American subjects passing peaceably along the highway from the railway station to their residences or elsewhere where their legitimate business may call them.

This matter is of the gravest importance, and should have the promptest and most energetic attention.

The undersigned avails himself of the occasion to assure your highnesses and your excellencies of his highest consideration.

E. H. CONGER.

Mr. Hay to Mr. Conger.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 3, 1898.

Your course is approved. Act vigorously for the protection of Americans, demanding redress as well as prevention.

HAY.

Mr. Conger to Mr. Hay.

[Telegram.]

PEKING, *October 7, 1898.*

HAY, *Washington:*

Chinese Government increased the militia here, insuring present protection. General situation Chinese Empire growing serious. British minister, Russian minister, German minister to-day placed large guards in legations; other ministers have ordered them. I strongly urge presence of small guard at Tientsin at least before navigation closes. May I expect them?

CONGER.

Mr. Conger to the Secretary of State.

No. 61.] LEGATION OF THE UNITED STATES,
Peking, China, October 7, 1898.

SIR: I have the honor to confirm my telegrams of October 1 and 7, 1898.

I beg to report and emphasize my suggestions therein contained as to the importance of having some marines within reach of my orders, if found necessary to call them here for protection of the legation.

Though the present situation in this vicinity is not alarming, and the probability of personal danger in Peking is quite remote, still the general situation in China is very critical.

The presence alone of a small well-armed guard, in a compound, would probably insure the safety of any legation, and in any event it could protect it from a Chinese mob of almost any size.

The other legations are already so impressed with the gravity of the situation and consequent necessity of legation guards that the Russians have to-day placed in their compound twenty-five mounted Cossacks, the British thirty marines with a machine gun, the Germans twenty or thirty marines, and the French, Japanese, and Italians have ordered guards for theirs.

I do not regard the danger imminent, but the possibilities of the future are sufficiently threatening to warrant the presence, at least as near as Tientsin, of a guard that could be quickly brought to Peking, if necessary, before winter sets in, closes navigation, and cuts off all possibility of aid.

A guard of from twelve to twenty picked marines would, in my judgment, prove sufficient.

Our compound is small and already crowded, but accommodations can, in some way, be made for them if required.

I would, however, advise, if practicable, that one of the small vessels be ordered to proceed to and remain at Tientsin for the winter, so that the marines might stay on board until absolutely needed.

The Chinese Government at first protested against the bringing of any foreign troops to Peking, but upon the unanimous request of the diplomatic corps, through its dean, a special train, a Chinese military escort, and other courtesies and facilities for their transportation were furnished.

I will transmit the correspondence between the dean of the diplomatic corps and the foreign office as soon as I can obtain copies from him.

I venture to express the hope that the Department will, on the receipt of my telegram, agree to the propriety and necessity of my suggestion and will, long before the receipt of this dispatch, have arranged with the Navy Department for the dispatch of the requisite instructions to Admiral Dewey; but if not, there would still be time for a ship to reach Tientsin from Manila or Hongkong before the Bay of Pechili freezes, if telegraphic orders are at once given on receipt of this dispatch.

I have not yet communicated with Admiral Dewey, but shall immediately send him the substance of this dispatch.

I inclose herewith copy of note received from the foreign office, setting forth the precautions taken by the Chinese Government to preserve order here.

I have, etc., E. H. CONGER.

[Inclosure 1 in No. 61.]

The Tsung-li Yamên to Mr. Conger.

No. 17.] PEKING, *October 4, 1898.*

YOUR EXCELLENCY: The prince and ministers have the honor to inform your excellency that on the 4th instant the grand council memorialized the Throne that in the several localities of the five districts of Peking there are both good and bad men, and the other day some foreigners were on their way from the railway station

and were set upon by a mob. The gendarmerie have been commanded and have already appointed over 100 soldiers to guard the road from the station to the Yungting gate and up to the T'ien bridge, and to keep a sharp lookout to arrest offenders and preserve the peace. All the police stations within and without the city are commanded to protect foreigners who may be passing, and they shall not be delayed.

On the same day the censors were likewise ordered by the imperial decree to guard the road from the station, etc. (same as above).

This yamen has therefore ordered the gendarmerie and censors to obey the imperial mandate and take the necessary measures.

In addition, as in duty bound, we forward the above copy of the decree for your excellency's information.

Mr. Conger to Mr. Hay.

[Telegram.]

PEKING, CHINA, *October 9, 1898.*

Chinese Government increased the militia here, insuring present protection. General situation Chinese Empire growing serious. British minister, Russian minister, German minister, to-day placed large guards in legations. Other ministers have ordered them. I strongly urge presence of marine guard at Tientsin, at least, before navigation closes. May I expect them?

CONGER.

Mr. Hay to Mr. Conger.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 10, 1898.

Yours of 9th received. *Boston* and *Petrel* with marine guards left Manila for Taku October 4. Should arrive October 14. Order guards to Peking only in case of necessity.

HAY.

Mr. Conger to Mr. Hay.

No. 64.] LEGATION OF THE UNITED STATES,
Peking, China, October 12, 1898.

SIR: I have the honor to inclose a translation of a decree which appeared in the Peking Gazette of the 6th instant, in regard to the treatment of foreigners, especially missionaries, living in China.

I have, etc.,

E. H. CONGER.

[Inclosure in No. 64.]

Translation of a decree of the Empress Dowager which appeared in the Peking Gazette of October 6, 1898.

From the opening of ports to foreign trade to the present time foreigners and Chinese have been as one family, with undivided interests, and since missionaries from foreign countries are living in the interior, we have decreed, not three or four times, but many times, that the local officials must protect them; that the gentry

and people of all the provinces must sympathize with our desire for mutual benevolence; that they must treat them truthfully and honestly, without dislike or suspicion, with the hope of lasting peaceful relations.

Recently there have been disturbances in the provinces which it has been impossible to avoid. There have been several cases of riot in Szuchuan which have not been settled. The stupid and ignorant people who circulate rumors and stir up strife, proceeding from light to grave differences, are most truly to be detested. On the other hand, the officials, who have not been able at convenient seasons to properly instruct the people and prevent disturbances, can not be excused from censure.

We now especially decree again that all high provincial officials, wherever there are churches, shall distinctly instruct the local officials to most respectfully obey our several decrees, to truly recognize and protect the foreign missionaries as they go to and fro, and to treat them with all courtesy.

If lawsuits arise between Chinese and native Christians they must be conducted with justice and speedily concluded. Moreover, they must command and instruct the gentry and people to fulfill their duties, that there may be no quarrels or disagreements.

Wherever there are foreigners traveling from place to place, they must surely be protected and the extreme limit of our hospitality extended.

After the issue of this decree, if there is any lack of preparation, and disturbances should arise, the officials of that locality will be severely dealt with. Whether they be viceroys or governors, they shall be punished, and it will not avail to say "We have not informed you."

Respectfully received.

Mr. Conger to the Secretary of State.

No. 75.] LEGATION OF THE UNITED STATES,
Peking, China, October 21, 1868.

SIR: I have the honor to report the arrival at Taku, on the 19th instant, of the cruiser *Boston*, the gunboat *Petrel*, and the collier *Nero*.

On yesterday Captain Wildes came to Peking with instructions from Admiral Dewey to furnish to the legation, either as a temporary or permanent guard, whatever number of marines I deemed necessary.

As already reported, the medical examination of the Emperor and the public knowledge of his life and safety have done much toward allaying the fear of future trouble or disturbance. This fact, in connection with the great concentration of their best soldiers in the vicinity of this capital, makes it reasonably certain that if danger shall come to foreigners here it will be the result of uprisings at distant interior points, and will take considerable time to reach Peking. I do not therefore consider the present necessity for a guard sufficient to order marines here at this time. Besides, our compound is so small and already so crowded that the addition to our number of even a small guard would be very inconvenient and uncomfortable.

I suggested to Captain Wildes that the *Petrel* might be left at Tangku for the winter, so that in case of unexpected trouble a guard could be quickly brought here; but he thinks the *Petrel* could not cross the bar at the mouth of river, and that if she could, the admiral would not be willing to fasten a vessel up in the ice there where it could not be used if needed.

However, upon the assurance of Captain Wildes that he will remain in the vicinity of Taku as long as freedom from ice will permit, I have agreed with him that if before that time conditions should change sufficiently for the worse to justify the precautions, I will telegraph him to send up the guards, and I will make preparations to take care of them; otherwise, he may take them with him again to the south.

I have, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

[Telegram.]

PEKING, *November 1, 1898.*

Have requested *Boston* to send 18 marines Peking and 30 Tientsin.

CONGER.

Mr. Conger to Mr. Hay.

No. 81.] LEGATION OF THE UNITED STATES,
Peking, China, November 3, 1898.

SIR: As promised in my dispatch No. 56, of October 1 last, I have now the honor to inclose copies of the complete correspondence between the dean of the diplomatic corps and the Tsung-li Yamên, together with translations, on the question of bringing the foreign legations' guards to Peking.

It will be observed that at first the Yamên objected, but finally they arranged for and permitted the use of a train, and in every case have furnished escorts from the railway station, which is several miles outside the city wall, to the gates of the legations.

I have, etc., E. H. CONGER.

[Inclosure 1 in No. 81.]

Sir Claude MacDonald to the Dean of the diplomatic corps.

BRITISH LEGATION, *September 30, 1898.*

MY DEAR DOYEN: This afternoon, in coming from the station, Mr. Mortimore, a member of this legation, and an English lady whom he was escorting from the station were, without any reason whatever, severely pelted with mud and stones. They fortunately escaped without very serious injury, but had the mob been able to procure more stones the results might have been very serious, indeed fatal.

I am, of course, taking steps for redress in this matter vis-a-vis the Chinese Government, but I venture to think that this is a matter which does not affect this legation alone. This lady was not pelted with stones and mud because she was English, but because she was an European. I therefore am of opinion that it is a question which should be taken up by the whole diplomatic body as a body, as well as by myself. I would feel greatly obliged, therefore, if you kindly call a meeting to-morrow to take the views of the other representatives in this matter.

Believe me, etc., CLAUDE MACDONALD.

Mr. Cologan to the Tsung-li Yamên.

[Translation.]

HIGHNESS AND EXCELLENCIES: It is with pain that in my capacity as dean of the diplomatic corps, and by direction of all the foreign representatives, I have to inform your highness and your excellencies that on yesterday afternoon some very violent and disgraceful attacks were committed against foreigners.

It is not necessary to mention them in detail. It is sufficient to state that the father of a member of the legation of the United States of America was severely wounded, and that a member of the British legation and an English lady, a French citizen, and two Japanese subjects were wounded or attacked and insulted—all while proceeding from the railroad station.

I must add that the police officials who were present, and from whom protection was demanded, refused to interfere.

About the same time the Marchioness Salvago Raggi, a lady of the diplomatic corps, was the victim of railleries, threats, and annoying insults as she passed in her chair, going from the Pei t'ang to the Hsi t'ang.

All of my honorable colleagues charge me to communicate to your highness and your excellencies that acts of this character are absolutely intolerable. That they were committed by a mob is not a sufficient excuse to reach the gravity and responsibility of the case, because there are evidently leaders of this agitation against foreigners. In fact, for several days we have been informed that such threats were being made against us.

I therefore, in the name of my honorable colleagues, request of the Tsung-li Yamên that without loss of a single moment the Chinese Government take energetic measures to guarantee the security of the representatives of foreign nations, the free circulation of their staffs, and of foreigners of every nationality in Peking.

The diplomatic corps require also an immediate reply to this note, which should make known to us what are the measures and precautions taken to the end of enabling me to examine and understand them.

This affair is a very serious one for China, and I can not recommend too strongly to your highness and your excellencies that you give it prompt and very serious consideration.

I improve the occasion to reiterate to your highness and your excellencies the assurance of my high consideration.

COLOGAN.

The Tsung-li Yamên to the Dean of the diplomatic corps.

[Translation.]

PEKING, *October 2, 1898.*

We have the honor to acknowledge the receipt of the letter by which your excellency announces his intention of coming to the Yamên to-day at a quarter past 4 to make a verbal communication to the members of the Yamên.

To-day we must preside at the board of justice, and we can not meet your excellency at the hour named. We have already sent to your legation a letter to notify you.

However, since your excellency has a verbal communication to make to us, we propose to go to your legation to-morrow, the 3d instant, at 2 o'clock, and we hope that your excellency will have the goodness to await us there.

With the cards of Wang Wen-Hao, Hsü Yung-i, Liao Shou-Hong, and Ch'ang Li.

[Inclosure 2 in No. 81.—Translation.]

Red letter of the Yamên to the Dean of the diplomatic corps.

PEKING, *October 4, 1898.*

Referring to the incident of brick and stone throwing at Tien-ciao, the Yamên has already given orders for the arrest and severe punishment of the offenders and to establish certain measures of protection in order to avoid troubles which may follow.

Just now we have heard that all the foreign ministers who reside at Peking have spoken of a project to call troops to Peking for the purpose of guarding themselves.

If this is true, we believe the popular sentiment will be excited by it and it will be likely to produce new incidents.

In a word, China must avow absolutely the right which she has to protect, and to find means to that end without inconsideration or hurry.

We must therefore beg your excellency to be kind enough to request the ministers, your colleagues, to telegraph in order to stop the soldiers, whom it is not necessary to call to Peking.

Please accept, etc.

[Inclosure 3 in No. 81.—Translation.]

The Tsung-li Yamên to the Dean of the diplomatic corps.

PEKING, *October 2, 1898.*

We have the honor to acknowledge receipt of the note sent by your excellency to the Yamên on the 1st of October. (Here follows an abridged text of the note.)

We have to say that on the same day, even before we had received the note sent by your excellency, we had already received an imperial edict in the following terms:

"We order that the prince and ministers of the Yamên should immediately proceed with an investigation and treat this affair in a satisfactory manner."

Then the Yamên wrote to the chief officer of the gendarmerie to forthwith arrest and severely punish those responsible for the disorder and to establish such protective measures as will prevent the repetition of like disorders.

The gendarmerie has already arrested and punished the offenders, upon the necks of whom they have put kangs, to serve as a salutary warning to the crowd.

They have also sent a great number of pickets of selected soldiers, who, within their sphere, will look after the security, allay the disturbances, and furnish protection.

Then there will be no further trouble.

[Inclosure 4 in No. 81.—Translation.]

Doyen of the diplomatic corps to the Tsung-li Yamên.

PEKING, *October 5, 1898.*

I have had the honor of receiving the note which your highness and your excellencies have yesterday addressed me in reply to mine of October 1, and I must inform the Yamên that all my honorable col-

leagues think that this reply is not very satisfactory from several points of view.

The diplomatic corps does not deduct from it sufficient cause to be sure of the protection of foreigners in Peking, and it remarks very especially that its tenor does not at all correspond with the expression of regret and courtesy which it had a right to expect from the Chinese Government.

The foreign representatives at Peking, after having examined the matter which is discussed in the Red Letter of this date, have decided to bring to the capital, as they have already proposed, some marines or soldiers, as well to guard the personnel of their legations as for a guaranty to all foreigners, of which they reserve the right to judge for themselves.

They direct me to say to the Yamên that day after to-morrow the first three detachments, composed each of about thirty men—Germans, English, and Russians—will be ready to leave Tientsin for Peking.

In the name of the diplomatic corps, I request the Yamên to give the necessary orders for a special train to be placed at their disposal in order that they may accomplish the journey. The military escorts belonging to other nations will follow as soon thereafter as they are disembarked.

[Inclosure 5 in No. 81.—Translation.]

The Tsung-li Yamên to the Dean of the diplomatic corps.

PEKING, *October 5, 1898.*

We acknowledge receipt of the note of your excellency of yesterday's date on the subject of the escorts it is still desired to call to Peking. (Follows an abridgment of the note.)

The Yamên notes that your excellency, in his note of the 1st instant, informed the Yamên of the several incidents which occurred on September 30, but that on the same day, and even before the note of your excellency had been sent, we had already received an imperial edict which ordered us, the prince and ministers of the Tsung-li Yamên, to proceed immediately to an inquiry, and to definitely determine that affair.

In conformity with that order, we have written to the director-general of the gendarmerie to immediately ascertain the responsible authors of the disturbances, and to cause them to be very severely punished, as well as to fix the responsibility and degrade the underofficers and soldiers who have shown themselves negligent in their police duties.

On the 4th instant the council of state received a verbal edict from His Majesty the Emperor, part of which we have already brought to the attention of your excellency and to all the foreign representatives.

These troubles have come unexpectedly, but His Majesty the Emperor, at once on being informed of the affair, even before your note had arrived, had given immediate orders to treat promptly and definitely this matter.

This furnishes a sincere proof of their intention to protect.

However, we, the prince and the ministers, infinitely regretting the disturbances, and in conformity with the imperial decree, and with the aid of the gendarmerie and the censors of Peking, are going to establish sure means of protection.

Henceforth the responsibility of protection will rest with China, who will find with certainty a satisfactory way, with the hope of enjoying an uninterrupted peace.

We hope that your excellency will ask your colleagues to be kind enough not to bring their soldiers for protection. This for the purpose of preventing the spirit of the people from being excited, the circulation of false rumors, and provoking, we fear, other troubles.

[Inclosure 6 in No. 81.—Translation.]

Red Letter of the Yamên to the Dean of the diplomatic corps.

We acknowledge receipt of dispatch by which your excellency informs us that the legations of Russia, Germany, and England had issued new orders, as they before proposed, for their escorts to come to Peking, etc.

We, prince and ministers, after having read this note, have decided to ask you to temporarily stop the coming of these troops to Peking.

To-morrow at 9 o'clock we will repair to your legation to discuss verbally these questions, and we hope your excellency will kindly await us.

[Inclosure 7 in No. 81.—Translation.]

The dean of the diplomatic corps to the Tsung-li Yamên.

PEKING, *October 5, 1898.*

I have received the note and letter of your highness and your excellencies in regard to the departure of the German, English, and Russian escorts for Peking.

Your highness and your excellencies announce also your visit for to-morrow, at 9.30 o'clock, for the purpose of discussing that affair with me, with the object of suspending the voyage.

I hasten to reply that to-morrow at 9.30 I will have nothing to discuss or argue with your highness and your excellencies upon that question, because I must carry out the resolutions taken by the diplomatic corps yesterday, and which I had the honor to communicate to your highness and your excellencies in my note of this morning.

This note was approved by the ministers of Germany and England and by the chargé d'affaires of Russia, on the night of the 5th instant, to whom it was submitted, as being directly interested in the voyage of these three detachments, it being impossible to make it known to the other colleagues without devoting the entire night to it.

Peking, midnight, October 5, 1898.

[Inclosure 8 in No. 81.]

Sir Claude MacDonald to the Dean of the diplomatic body.

PEKING, *October 6, 1898.*

MY DEAR DEAN: I beg to report, for the information of my colleagues, that this morning I received a visit from His Highness Prince Ching and three members of the Chinese Government.

After a discussion lasting over two hours they agreed to allow the

passage of the legation escorts and to provide a special train for their conveyance, and also to grant any other facilities which might be necessary. They also stated that they would guarantee that order would be preserved during the passage of the escorts.

The prince and ministers stated that the bringing of troops to Peking was my initiative, and if the English detachment did not leave Tientsin no other detachments would.

I said that the entire diplomatic body were in accord in this matter, and we were acting as one, no single power taking the lead in any way.

They told me that they had been informed that the contrary was the case, but they declined to tell me who had been their informant. Under the circumstances, I shall feel obliged if your excellency will write a letter to the prince and ministers stating, in the name of all the foreign representatives, that in the matter of bringing legation guards to Peking the entire diplomatic body is in accord, and the action taken is not due to the initiative of any one particular legation, but is due to the deliberate and expressed wish of the entire diplomatic body.

I am, my dear Dean, yours, very sincerely,

CLAUDE MACDONALD.

Interview between Sir Claude MacDonald and Prince Ching and the ministers Hsü-Yung-i Ching Li, and Hu Yu-yi, governor of Peking, at the British legation, on October 6, 1898.

The Prince appealed to Sir Claude MacDonald to countermand his marines who were on their way to Peking to act as legation guard.

The Empress Dowager, whom he had seen that morning, was exceedingly disturbed at the intention of the foreign representatives to summon their guards to this city. Her Majesty had issued a decree that day setting forth the great importance China attached to the proper protection of foreigners and enjoining the strictest precautions. The prince thought that the Chinese Government had given quite sufficient proof of its determination to make proper arrangements for this purpose, and that the presence of foreign guards was unnecessary. He dwelt upon the slight to the dignity of China which would be involved in the action of the foreign representatives.

Sir Claude MacDonald recounted the events of the past few days in connection with this affair. He had consented, at the request of the Chinese Government, and in conjunction with the representatives of Germany and Russia, whose detachments had already arrived at Taku, to delay the arrival of his men, pending a meeting of the diplomatic body, and expressed his opinion that the foreign representatives would be guided by the action of the Chinese Government in the matter. If the Chinese Government took satisfactory steps, it was probable that the guards would not come to Peking.

Unfortunately, at this meeting of the diplomatic body on the evening of the 4th instant a dispatch was read from the Yamên treating the affair of the assaults upon foreigners very lightly; and neither in this dispatch nor in a Red Letter, which arrived at the same time, were there any expressions of regret as to what had occurred. This decided the foreign representatives at once to summon their guards from Tientsin.

Sir Claude MacDonald earnestly advised the prince that the course the Chinese Government could now adopt was to give willing assent to the arrival of the guards, provide a special train, and afford every facility to the guards during their passage to Peking. This would have a very good effect upon the foreign representatives, and, combined with proper and stringent measures for the prevention of similar assaults upon foreigners, would possibly result in an early departure of the men brought up.

The prince pleaded strongly for delay and for division of the guards into detachments to come up separately.

To all these requests Sir Claude MacDonald gave a distinct refusal. He regretted the necessity for so doing, but the Chinese had brought it upon themselves.

The ministers stated that they had heard that Sir Claude MacDonald was taking the initiative in this matter, and that he had only to agree to countermand his men for all the other foreign representatives to follow suit, but they declined to give the names of their informants.

Sir Claude MacDonald showed that this was not the case. The action of the foreign representatives had been decided upon jointly, and could only be reconsidered jointly. He again advised them to make arrangements for the transit of the men.

It was finally understood that a special train would be provided next day, so as to bring the men to Ma Chia-pu not later than 4 p. m.

The interview lasted upward of two hours.

H. E. FULFUD.

[Inclosure 9 in No. 81.—Translation.]

Dean of the diplomatic corps to the Tsung-li Yamên.

PEKING, *October 8, 1898.*

His excellency, the British minister, informs me, in a letter addressed to me in my capacity of dean, that during a visit which your highness and three other ministers of the Tsung-li Yamên made him on the morning of October 6, your highness and your excellencies said to him that the foreign escorts were coming to Peking by his sole initiation, and if the English detachment would not leave Tientsin no other would come; that he had denied this, and affirmed that the affair was considered by the whole diplomatic corps, and all the representives acted together.

Upon the request of his excellency, and with the approval of all the other colleagues, I to-day address the Yamên in order to certify that the foreign escorts are in fact coming to Peking by the unanimous decision of the whole diplomatic corps, taken at a meeting which was held for the purpose of deliberating together and carefully examining the question.

I profit, etc.

[Inclosure 10 in No. 81.—Translation.]

The Tsung-li Yamên to the Dean of the diplomatic corps.

PEKING, *October 7, 1898.*

For an official communication, it was said in your excellency's note of October 5, instant, that the number of soldiers composing each of the escorts (Russian, English, and German was about thirty. But the detachments arrived to-day; the Germans had thirty, the English less than thirty, and the Russians alone had sixty-six.

This is not in accordance with the note which your excellency sent us.

We request, therefore, that your excellency will be kind enough to reply immediately and explain to us the cause of it.

This is important.

[Inclosure 11 in No. 81.—Translation.]

The dean of the diplomatic corps to the Tsung-li Yamên.

PEKING, *October 8, 1898.*

I have had the honor to receive the note of yesterday in which your highness and your excellencies presented to me a question concerning the composition of the detachments which had arrived.

In my note of the 5th instant I brought to the knowledge of your highness and your excellencies the firm decision taken by all my colleagues to bring to Peking the escorts which they had requested for the

protection of the legations, and I requested you, in accordance with the desire of the diplomatic corps, to take the necessary steps to have a special train placed at the disposition of the three first detachments which should leave Tientsin on the 6th instant.

It was in view of the composition of the train that I deemed it necessary to indicate the approximate number of men in each detachment.

As to the question of the exact number of men of each of the three nationalities which arrived yesterday, your highness and your excellencies have only to address yourselves to the legations which this concerns if you deem it necessary and useful.

Mr. Conger to Mr. Hay.

[Telegram.]

LEGATION OF THE UNITED STATES,
Peking, November 6, 1898.

HAY, *Washington:*

The concentration of large body of troops from Kansu, without any discipline, in vicinity of Peking and railroad to Tientsin, threatens grave danger to all foreigners. October 29 Chinese Government promised to remove the objectionable corps. This not yet done. Diplomatic corps to-day notified foreign office if not removed by November 15 the foreign powers must devise measures to guarantee security for foreigners, travel, and telegraph. Have you instructions for me?

CONGER.

Mr. Conger to Mr. Hay.

[Telegram.]

LEGATION OF THE UNITED STATES,
Peking, November 8, 1898.

Marine guard here.

CONGER

Mr. Conger to the Secretary of State.

No. 91.] LEGATION OF THE UNITED STATES,
Peking, November 10, 1898.

SIR: Confirming, on the overleaf, my telegram of November 8 last, I have the honor to report the arrival here on 5th instant, from the United States cruiser *Boston*, Lieut. R. M. Dutton, 18 well-armed marines, and a Gatling gun.

I had previously notified the Tsung-li Yamên of their coming, and requested train accommodations from Tientsin and a military escort from the station to the legation, which were duly and courteously furnished, as had been done upon the arrival of the other legation guards.

I inclose a copy of my note to the Tsung-li Yamên and a translation of its reply.

I have, etc., E. H. CONGER.

[Inclosure 1 in No. 91.]

Mr. Conger to Prince Ching, etc.

No. 31.] LEGATION OF THE UNITED STATES,
Peking, November 3, 1898.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to inform your highness and your excellencies of the Tsung-li Yamên that he is bringing to Peking a legation escort of 20 men.

They will be ready to leave Tientsin very early Saturday morning, the 5th instant. He therefore respectfully requests that your highness and your excellencies will kindly have arranged for them such train accommodations and provide such military escort as has so courteously been done for the guards which his colleagues have already brought to their legations.

The undersigned avails himself of the occasion to assure your highness and your excellencies of his highest consideration.

E. H. CONGER.

[Enclosure 2 in No. 91.]

The Tsung-li Yamên to Mr. Conger.

No. 24.] PEKING, *November 8, 1898.*

YOUR EXCELLENCY: The Yamên has the honor to acknowledge the receipt of your excellency's communication of the 3d instant, wherein you stated that you were bringing to Peking a legation escort of 20 men; that they would be ready to leave Tientsin in the morning of the 5th instant, and you therefore requested that the Yamen have arranged for them such train accommodation and provide such military escort as has been done for the guards of the other legations.

Upon receipt of your excellency's communication the Yamên telegraphed, on the 4th instant, to the superintendent of northern trade to instruct his subordinates to take proper care and the governor of Peking was also instructed to have suitable train accommodations furnished the escort.

A necessary reply to your excellency's communication.

Mr. Hay to Mr. Conger.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 28, 1898.

CONGER, *Minister, Peking:*

Chinese minister represents troops removed from line and quiet restored in Peking. If, in your opinion, there is no necessity for guard remaining, they may be ordered back to their ship.

HAY.

Mr. Conger to Mr. Hay.

No. 102.] LEGATION OF THE UNITED STATES,
Peking, China, November 30, 1898.

SIR: I have the honor to confirm, on the overleaf, your telegram of the 28th instant and my reply of this date.

Perfect quiet prevails at present, but the same reasons exist for having the guards here and at Tientsin as did when I wrote my dispatch No. (81) of November 3, to which I respectfully refer without repeating its contents.

The effect of the presence of the foreign guards here has been an increased respect for the foreign Governments by the Chinese, and an

inspiration on the part of the Government to take such increased precautionary measures as will probably insure protection to foreigners.

I have, etc., E. H. CONGER.

Mr. Conger to Mr. Hay.

[Telegram.]

LEGATION OF THE UNITED STATES,
Peking, November 30, 1898.

HAY, *Washington:*

Quiet at present, but guards should remain all the winter.

CONGER.

Mr. Hay to Mr. Conger.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 2, 1898.

CONGER, *Minister, Peking:*

Boston sails soon. If marines do not return before navigation closes they must remain at Peking indefinitely.

HAY.

Mr. Conger to Mr. Hay.

No 135.] LEGATION OF THE UNITED STATES,
Peking, China, January 25, 1899.

SIR: I have the honor to report that the present condition of affairs indicates that the presence of marine guards here and at Tientsin will not be necessary after navigation opens and it is known to the Chinese that war ships can again approach Taku.

By that date they will have served the purpose for which they were called, and I have therefore requested Admiral Dewey to arrange, if possible, to take them away at that time unless I shall, in the mean time, wire him that unexpected conditions render their retention necessary.

I inclose herewith copy of my letter mailed him to-day.

I have, etc.,

E. H. CONGER.

[Inclosure in No. 135.]

Mr. Conger to Admiral Dewey.

LEGATION OF THE UNITED STATES,
Peking, China, January 25, 1899.

SIR: I am glad to be able to report that we are having a very quiet winter here. How much is due to the presence of the several legation

guards is not actually known, but, we all believe, very much; at any rate, they have afforded us a constant feeling of security.

However, unless some unforeseen complications arise, I think they can safely be spared just as soon as the freedom from ice makes it possible for ships to approach Taku, which usually happens about or very soon after March 1.

The breaking up of winter at Peking, when the first warm weather begins to dissolve the great masses of filth accumulated during the winter, is the most dangerous season to health. Therefore I respectfully request that the guards may be removed just as early in the spring as possible. Should any unexpected danger arise or threaten, making their withdrawal inadvisable, I will promptly wire; otherwise, you will not hear from me again on the subject.

I will thank you to write or wire me as early as possible about when I may expect their removal.

Acknowledging again the courteous cooperation of the Navy Department, and thanking you personally for the part you have so kindly taken in the matter,

I am, sir, etc., E. H. CONGER.

[Telegram.]

Mr. Conger to Mr. Hay.

LEGATION OF THE UNITED STATES,
Peking, March 13, 1899.

HAY, *Washington:*

Our marines left Pekin to-day. CONGER.

Mr. Conger to Mr. Hay.

No. 159.] LEGATION OF THE UNITED STATES,
Peking, China, March 13, 1899.

SIR: I have the honor to confirm, on the overleaf, my telegram of this date and to report that Lieut. R. M. Dutton and the marines who have been guarding this legation during the past winter proceeded to-day to Tientsin, whence they will, with the guards there stationed, complying with orders from Admiral Dewey, sail at once for Shanghai to join the *Monocacy*.

None of the guards have as yet left the other legations, but it is expected that the most of them will leave soon.

The guards have served a good purpose here this winter. Both officers and men have behaved admirably, and I beg you to express my grateful acknowledgments to the honorable Secretary of the Navy for this courtesy from his Department.

In continuation of my dispatch No. 135, of January 25, I inclose herewith further correspondence between Admiral Dewey and this legation, together with a letter handed Lieutenant Dutton on his departure.

I have, etc.,

E. H. CONGER.

[Inclosure 1 in No. 159.]

Admiral Dewey to Mr. Conger.

UNITED STATES NAVAL FORCE ON ASIATIC STATION,
Flagship Olympia, Manila, Philippine Islands, February 17, 1899.

SIR: Referring to your letter No. 83, of the 25th ultimo, I have the honor to inform you that I have this day telegraphed to Lieutenant Gibson, United States Navy, commanding the marine guard at Tientsin, to withdraw both guards to the U. S. S. *Monocacy* at Shanghai as soon as transportation by sea is obtainable. I have directed Lieutenant Gibson to inform you of these orders.

It has given me much pleasure to assist, with the forces under my command, in the protection of your legation and of American lives and interests in the vicinity of Peking, and I beg to thank you for your courtesy and assistance in all matters connected with the visits of the naval vessels and marine guards to China.

I have, etc.,

GEORGE DEWEY,
Rear-Admiral, United States Navy,
Commanding United States Naval Force on Asiatic Station.

[Inclosure 2 in No. 159.]

Mr. Conger to Admiral Dewey.

LEGATION OF THE UNITED STATES,
Peking, China, March 11, 1899.

SIR: I have the honor to confirm, on the overleaf, my telegram of the 11th instant and yours of March 3, and to say that the marine guard will leave here for Tientsin on Monday morning, the 13th instant.

The presence of the several legation guards here this winter has given all a feeling of security, and served generally a good purpose. For ours I pray you again to accept my grateful acknowledgments. I improve the opportunity to express my complete satisfaction with their service and to bear willing testimony to their soldierly bearing, their excellent conduct, and their faithful performance of every duty.

Lieutenant Dutton's discipline, control of, and care for his men are above criticism, and it is a genuine pleasure for me to bear witness to his uniform courtesy, high character, and excellent official equipment.

I have not seen that portion of the guard at Tientsin, but I have heard only words of praise for Lieutenant Gibson and his men, and I beg to add mine in largest measure to the general testimony of commendation.

I have, etc., E. H. CONGER.

[Inclosure 3 in No. 159.]

Mr. Conger to Mr. Dutton.

LEGATION OF THE UNITED STATES,
Peking, China, March 11, 1899.

SIR: I can not permit you to leave this legation with your marine guard without expressing my complete satisfaction with the service

rendered and most heartily commending both you and your men for the incomparable manner in which it has been performed.

The conduct of the men has uniformly been above criticism, and their duties at all times admirably performed.

This all evidences remarkable discipline and most constant, careful, and intelligent official supervision.

For all of which I desire to express my sincere appreciation, and to offer to you, personally, my grateful acknowledgments.

I am, etc.,

E. H. CONGER.

COLOMBIA.

CERRUTI AWARD.

Award of the President of the United States, under the protocol concluded the eighteenth day of August, in the year one thousand eight hundred and ninety-four, between the Government of the Kingdom of Italy and the Government of the Republic of Colombia.

This protocol, concluded August 18th, 1894, between the Kingdom of Italy and the Republic of Colombia, was entered into for the purpose of putting an end to the subjects of disagreement between the two governments growing out of the claims of Signor Ernesto Cerruti against the Government of Colombia for losses and damages to his property in the State (now Department) of Cauca in the said Republic, during the political troubles of 1885, and for the further purpose of making a just disposition of said claims. By the terms of the protocol each government agreed to submit to arbitration the matter and claims above referred to for the purpose of arriving at a settlement thereof as between the two governments, and they joined in asking me, Grover Cleveland, President of the United States of America, to accept the position of arbitrator in the case and discharge the duties pertaining thereto as a friendly act to both governments, vesting in me full power, authority, and jurisdiction to do and perform and cause to be done and performed all things without any limitation whatsoever which in my judgment might be necessary or conducive to the attainment in a fair and equitable manner of the ends and purposes the agreement is intended to secure.

Pursuant to the terms of the said protocol, the two governments, and the claimant, Signor Ernesto Cerruti, as one of the two parties interested in the suit, have submitted to me within the time specified in said protocol the documents and evidence in support of their several asserted rights.

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 as aforesaid, having duly examined the documents and evidence submitted by the respective parties pursuant to the provisions of said protocol, and having considered the arguments addressed to me in relation thereto, do hereby decide and award:

I. That the claims made by Signor Ernesto Cerruti against the Republic of Colombia for losses of and damages to the real and personal property owned by him individually in the said State of Cauca, and the claims of said Signor Ernesto Cerruti for injury sustained by him by reason of losses of and damages to his interest in the firm of E. Cerruti & Company, are proper claims for international adjudication.

II. That the claim submitted to me by Signor Ernesto Cerruti for personal damages resulting from imprisonment, arrest, enforced separation from his family, and sufferings and privations endured by himself and family is disallowed. I therefore make no award on account of this claim.

III. The claim of Signor Ernesto Cerruti for moneys expended and obligations incurred for legal expenses in the preparation and prosecution of this claim, including former and present proceedings, is disallowed by me.

IV. I award for losses and damages to the individual property of Signor Ernesto Cerruti in the State of Cauca and to his interest in the copartnership of E. Cerruti & Company, of which he was a member, including interest, the net sum of sixty thousand pounds sterling, of which sum ten thousand having already been paid, the Government of the Republic of Colombia will, in addition, pay to the Government of the Kingdom of Italy, for the use of Signor Ernesto Cerruti, ten thousand pounds sterling thereof within sixty days from the date hereof, and the remainder, being forty thousand pounds, within nine months from the date hereof, with interest from the date of this award at the rate of six per cent per annum until paid, both payments to be made by draft payable in London, England, with exchange from Bogota at the time of payment.

V. It being my judgment that Signor Ernesto Cerruti is, as between himself and the Government of the Republic of Colombia, which I find has by its acts destroyed his means of liquidating the debts of the copartnership of E. Cerruti & Company, for which he may be held personally liable, entitled to enjoy and be protected in the net sum awarded him hereby, I do, under the protocol which vests me with full power, authority, and jurisdiction to do and perform and to cause to be done and performed all things without any limitation whatsoever which, in my judgment, may be necessary or conducive to the attainment in a fair and equitable manner of the ends and purposes which the protocol is intended to secure, decide and adjudge to the Government of Colombia all rights, legal and equitable, of the said Senor Ernesto Cerruti in and to all property, real, personal, and mixed, in the Department of Cauca, and which has been called in question in this proceeding; and I further adjudge and decide that the Government of the Republic of Colombia shall guarantee and protect Signor Ernesto Cerruti against any and all liability on account of the debts of the said copartnership, and shall reimburse Senor Ernesto Cerruti to the extent that he may be compelled to pay such bona fide copartnership debts duly established against all proper defences which could and ought to have been made, and such guaranty and reimbursement shall include all necessary expenses for properly contesting such partnership debts.

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

Done in duplicate at the city of Washington on the second day of March in the year One thousand eight hundred and ninety-seven, and of the Independence of the United States the 121st.

[SEAL.] GROVER CLEVELAND.

By the President of the United States:

RICHARD OLNEY,
Secretary of State.

Señor Rengifo to Mr. Olney.

LEGATION OF COLOMBIA,
Washington, March 3, 1897.

SIR: The undersigned, Julio Rengifo, chargé d'affaires ad interim of the Republic of Colombia, has the honor to acknowledge the receipt

by the hand of the honorable Secretary of State, at half past 10 o'clock this morning, of the award of the President of the United States, as arbitrator under the protocol of August 18, 1894, between the Government of the Kingdom of Italy and the Government of the Republic of Colombia.

The undersigned begs to repeat to the honorable Secretary of State, in the name of his Government, the expression of his thanks to the President for having discharged the duty of arbitrator under the protocol aforesaid, but he finds upon reading the award that it is his painful but peremptory duty on behalf of his country to solemnly and earnestly protest against the fifth paragraph of the said award as being invalid and without the submission of the protocol of August 18, 1894, because—

First, it does not determine and declare any amount of indemnity which the claimant, Signor Ernesto Cerruti, is entitled to receive from the Government of Colombia through diplomatic action;

Second, because it does not put an end to any subject of disagreement between the two governments;

Third, because it is not a final disposition by the President of the United States of any claim or claims of Signor Ernesto Cerruti;

Fourth, because said fifth paragraph imposes upon the Government of Colombia an uncertain liability, the amount of which is not determined or declared by the President of the United States, as arbitrator;

Fifth, because it provides a prolific source of disagreements growing out of the claims of Signor Ernesto Cerruti, to which disagreements the President of the United States was invited by both Governments in the protocol of August 18, 1894, to put an end; and

Sixth, because the said fifth paragraph is a delegation of the authority of the President to determine and declare the amounts of any indemnity due by Colombia to Signor Ernesto Cerruti, to others, in that it leaves to be ascertained by some other persons and tribunals, not named in the protocol nor specifically provided for in the award, at times and in modes undefined and unauthorized, the amounts and conditions of further liability of Colombia to Signor Ernesto Cerruti by reason of the claims submitted to the President.

The undersigned deems it proper to add that he has communicated by cable to his Government the provisions of the award and of the foregoing protest, but that it is impossible to receive an answer from the Republic of Colombia before the end of the term of the Hon. Grover Cleveland as President of the United States.

The undersigned is forced to ask the aid of the honorable Secretary of State in performing this duty imposed upon him as the representative of his country within the very brief time available, by acknowledging the receipt of this communication on this date.

I have, etc.,

JULIO RENGIFO.

Señor Rengifo to Mr. Sherman.

LEGATION OF COLOMBIA,
Washington, May 1, 1897.

SIR: The undersigned, Julio Rengifo, chargé d'affaires ad interim of the Republic of Colombia, has the honor to inform the honorable the Secretary of State of the United States that he is instructed by his

Government to announce that it has expressly approved and adopted the protest which the undersigned had the honor to make on behalf of his Government on the 3d of March, 1897, in a communication of that date addressed to and acknowledged by the Hon. Richard Olney, Secretary of State of the United States, against the fifth paragraph or article of the award of the President of the United States, as arbitrator under the protocol of August 18, 1894, between the Government of the Kingdom of Italy and the Government of the Republic of Colombia.

The undersigned is, however, expressly instructed to say that the approval and adoption of this protest by the Government of the Republic of Colombia does not in anywise imply the ignoring by it of the award in other respects, and while he is instructed to ask the rectification in toto of said fifth article, he is also instructed to announce that the £10,000 sterling directed to be paid within sixty days from the 2d day of March, 1897, the date of the award, will be paid on condition that the right to seek this rectification is admitted by the Government of Italy.

The undersigned is further instructed to inform the Government of the United States that the minister of Colombia at Rome has been instructed to invite the Government of Italy to join in asking the rectification or reconsideration of article 5 of the award.

The disposition of the Italian Government as to the subject-matter of the fifth article is fairly indicated by certain documents which the Italian Government itself thought proper to lay before the President of the United States in this arbitration, and for that reason alone the undersigned permits himself to invite attention to these documents, which consist of an exchange of notes between the British ambassador at Rome and the Italian minister of foreign affairs, found on pages 156 and 157 of the Italian Green Book. A copy of the letter of the British ambassador and a translation of the reply of the Italian minister of foreign affairs are appended to this note for the convenience of the honorable Secretary of State.

The undersigned desires expressly to reserve the right to lay before the Secretary of State of the United States a more extended statement of the views of his Government, when he shall receive the same by mail, which at this season of the year is subject to considerable delays, but he thinks it his duty now to state that the position of the Republic of Colombia is, broadly, that the declared purpose of the protocol of August 18, 1894, was to put an end to the subjects of disagreement as between the two Governments and incidentally to make a just disposition of the claims of Signor E. Cerruti.

The President of the United States undoubtedly had the right to determine all subjects of disagreement as between the two Governments, and furthermore to make a just disposition of the claims; but he could only accomplish the last purpose by proceeding "to determine and declare the amount of indemnity, if any, which the claimant, Signor E. Cerruti, be entitled to receive through diplomatic action."

To use the language of Vattell, the protocol did—

> precisely specify the subjects in dispute, the restrictive and opposite pretensions of the parties, the demands of one and the objections of the other; these constitute the whole of what is submitted to the decision of the arbitrators, and it is upon these points alone that the parties promise to abide by their judgment.

The fifth article of the award is, however, as it seems to the Government of Colombia, outside of the submission of the protocol. In principle it is as clearly beyond the scope, purpose, and authority of

the protocol, both as to the questions decided and the manner of disposing of them, as the extreme case supposed by Vattel, when he asks:

> Suppose a board of arbitrators should, by way of reparation for some offense, condemn a sovereign state to become subject to the state she has offended. Will any man of sense assert that she is bound to submit to such a decision?

With the information and reservations above set forth, the undersigned has now the honor solemnly and earnestly to renew, in the name and on behalf of the Government of the Republic of Colombia, and by its express order, the protest of March 3, 1897, against the fifth paragraph of the award of the President of the United States, dated March 2, 1897, as arbitrator under the protocol of August 18, 1894, for the reason that the said fifth paragraph is invalid and outside of the submission of said protocol of August 18, 1894:

First, because it does not determine and declare any amount of indemnity which the claimant, Signor Ernesto Cerruti, is entitled to receive from the Government of Colombia through diplomatic action.

Second, because it does not put an end to any subject of disagreement between the two Governments.

Third, because it is not a final disposition by the President of the United States of any claim or claims of Signor Ernesto Cerruti.

Fourth, because said fifth paragraph imposes upon the Government of Colombia an uncertain liability, the amount of which is not determined or declared by the President of the United States as arbitrator.

Fifth, because it provides a prolific source of disagreements growing out of the claims of Signor Ernesto Cerruti, to which disagreements the President of the United States was invited by both Governments, in the protocol of August 18, 1894, to put an end; and

Sixth, because the said fifth paragraph is a delegation of the authority of the President to determine and declare the amounts of the indemnity due by Colombia to Signor Ernesto Cerruti, to others, in that it leaves to be ascertained by some other persons and tribunals, not named in the protocol nor specifically provided for in the award, at times and in modes undefined and unauthorized, the amounts and conditions of further liability of Colombia to Signor Ernesto Cerruti by reason of the claims submitted to the President.

I have, etc., JULIO RENGIFO.

[Inclosure.]

The Ambassador of Great Britain to the Minister of Foreign Affairs.

ROME, *January 11, 1895.*

MONSIEUR LE BARON: I have been requested to approach your excellency on the subject of the claims of Signor Cerruti against the Columbian Government, and to state that it appears from a report addressed by M. Fenner, Her Majesty's representative at Bogotá, that the protocol signed by your excellency and Monsieur Hurtado provides that the President of the United States shall be invited to give a final decision, which must be acted upon without any discussion or delay, as to which of the Cerruti claims are to be paid directly by the Colombian Government and which are to be referred to the Colombian courts.

The President is to state the exact amount to be paid at once of those claims, for which he holds the Colombian Government immediately responsible.

It seems probable that the claims thus assessed will be those for debts incurred by Signor Cerruti personally.

With regard to the claims against Cerruti & Co., it appears that the Italian Government have agreed to allow the arbitrator to decide whether the Colombian Government are directly liable, and in that case to assess the amount, or whether the assessment of the claims of the company should be left to the Colombian tribunals.

The Colombian Government, however, will not admit that the creditors of Signor Cerruti or of Cerruti & Co. have any claim against them, and it is therefore desirable that some arrangement should, if possible, be made to protect the interests of the creditors, especially in the event of delay consequent on reference to the tribunals, and to secure the proper application of the amount which may be recovered from the Colombian Government.

In the opinion of Her Majesty's Government, the best means of attaining this object would be that the Italian Government should receive and distribute "pro rata" among the creditors of whatever nationality any sum which may be paid by the Colombian Government either in pursuance of the President's award or as the result of proceedings in the courts, and I have been directed by the Earl of Kimberley to make this proposal to your excellency.

I avail myself, etc., FRANCIS CLARE FORD.

[Inclosure No. 2.]

The Minister of Foreign Affairs to the Ambassador of Great Britain.

ROME, *January 28, 1895.*

MR. AMBASSADOR: In your excellency's letter of the 11th instant you make known to me the remarks which the Government of the Queen considers proper to present to that of S. S. M. the King with reference to protecting the rights which the creditors of Signor Cerruti may have in the eventuality of an indemnity being allowed in favor of our said countryman, either directly by the arbitrating judge or by the Colombian court to which the arbitrator may refer the liquidation.

The purpose of the Royal Government has been to secure to its citizen an equitable and definitive jurisdiction over international questions which concern him, and this object will be considered realized by the exercise of that jurisdiction—that is to say, by the arbitral award.

All that concerns the rights of the creditors of Cerruti with reference to his eventual indemnity lies within the sphere of municipal law, nor does the Government of the King possess the right or the authority to interfere (sostituirsi) with the ordinary competent jurisdiction in order to modify or regulate the relations which, based on civil obligations (in base ad obligazioni private), already exist between the creditors of Cerruti, or of the firm which bears his name, and Cerruti himself.

I avail myself, etc., BLANC.

No. 35.] *Mr. Sherman to Señor Rengifo.*

DEPARTMENT OF STATE,
Washington, May 5, 1897.

SIR: I have the honor to acknowledge the receipt of a communication which, under date of the 1st instant, you have addressed to me

informing me that your Government has approved and adopted the protest which you made in behalf of your Government in a communication of March 3, 1897, to my predecessor against the fifth paragraph of article of the award of the President of the United States as arbitrator under the protocol of August 18, 1894, between the Government of the Kingdom of Italy and the Government of the Republic of Colombia. It further appears from your note that you are instructed "to ask the rectification in toto of said fifth article," and that the minister of Colombia at Rome has been instructed to invite the Government of Italy to join in asking the reconsideration of said article.

The President of the United States, whether he be the individual who acted as arbitrator or his successor in office, became, under any circumstances, functus officio, so far as the arbitration was concerned, upon the rendition of his award, and could not undertake to reopen the arbitration and reconsider the award under any just view of the powers conferred upon him as arbitrator by the protocol under which he acted. Should the parties to the arbitration invite the reconsideration of the award in question, in whole or part, or request its interpretation in any respect, that could only be accomplished by a new submission and arbitration.

This circumstance precludes me from considering in any way the statements made by you in support of the protest of your Government against the said fifth article of President Cleveland's award. Your note of the 1st instant, as well as the preceding note of March 3, addressed to my predecessor, will be placed on record for convenient reference and the proper effects should a joint request for a new arbitral proceeding be made by the parties to the original arbitration in the manner you foreshadow.

Accept, etc., JOHN SHERMAN.

Señor Rengifo to Mr. Sherman.

LEGATION OF COLOMBIA,
Washington, May 15, 1897.

SIR: The undersigned, Julio Rangifo, chargé d'affaires ad interim of the Republic of Colombia, has the honor to acknowledge the receipt of the communication of the honorable Secretary of State of the 5th instant, in which is acknowledged the receipt of the communication which the undersigned had the honor to address him on the 1st instant.

The circumstances that the honorable Secretary of State entertains certain views as to the law of arbitrament and award which he conceives to be applicable to the present situation, and which he states in the paragraph immediately succeeding the acknowledgement of the communication of the undersigned of May the 1st, is said to be a circumstance which precludes the honorable Secretary of State from considering in any way the statements made by the undersigned in support of the protest of his Government against the fifth article of the award of the President of the United States.

The undersigned can only infer that with this view of the subject the honorable Secretary of State has inadvertently omitted to notice that the undersigned in his note of May 1 scrupulously abstained from asking any action or expression by the President of the United States, or the Secretary of State on his behalf, but at the same time expressly reserved, as he conceived he might properly do, the right to lay before

the Secretary of State of the United States a more extended statement of the views of his Government when he should receive the same by mail.

Without doubt the undersigned has failed to express himself with sufficient clearness in his previous communication, and he takes the liberty of now explaining that it was his intention to promptly convey to the President of the United States, through the Secretary of State (through whom alone the undersigned is permitted to communicate with the President), the information that his Government has approved the protest of March 3 against the fifth article of the award of the President of the United States under the protocol of August 18, 1894, and while he also thought it right to communicate the fact that he had been instructed to ask the rectification in toto of said article, he purposely refrained from preferring any request on the subject at this time, and it was his intention to indicate a reason for this attitude by giving the further information that the minister of Colombia at Rome had been instructed to invite the Government of Italy to join in asking the rectification or reconsideration of article 5 of the award.

The undersigned was, however, expressly instructed to say, and did say in his note of May 1, that the approval and adoption of the protest of March 3 by the Government of the Republic of Colombia did not in any wise involve the ignoring by it of the award in other respects, and that the £10,000 sterling directed to be paid within sixty days from the 2d day of March, 1897, the date of the award, would be paid on condition that the right to seek the rectification of the fifth article was admitted by the Government of Italy.

The purpose of the undersigned, which through the infirmity of his own language he has failed to accomplish, was to make clear to the President of the United States, through the honorable Secretary of State, three points:

First, that as to so much of the award as was within the submission of the protocol of August 18, 1894, that is to say, the first four articles, Colombia felt bound to announce her prompt acquiescence therein, if they were to be separately considered.

Second, that so much of the award as was without the submission of the protocol of August 18, 1894, that is to say, the fifth article, Colombia felt bound to announce that she could not accept under any circumstances as part of the award.

Third, that the Colombian minister at Rome had been instructed to begin negotiations as to this fifth article with the Government of Italy, which might well result in relieving the President of the United States from any responsibility in the premises.

But lest the matter should take such a course that it would be necessary for the President to understand fully the views of the Government of Colombia, the undersigned deemed it his duty to expressly reserve the right to lay before the Honorable Secretary of State, always for the information of the President of the United States as arbitrator under the protocol of August 18, 1894, a more extended statement of these views, when he should receive the same by mail.

If the undersigned has now succeeded in making clear the scope and purpose of his former communication he can not doubt that the reservation, which he had the honor to make in his note of May 1 on behalf of his Government of the right to be heard, will be recognized by the President of the United States, and that the well-known justice and courtesy of the honorable Secretary of State will lead him to the conclusion that the scope of the representations which Colombia may feel

bound to make to the President of the United States should not be limited in advance.

It is at least possible that the representations of Colombia alone or in conjunction with a joint request from the Governments of Italy and Colombia might convince the President of the United States that he is not functus officio as to the matter in hand.

It is also possible that the President might on full consideration hesitate to apply the technical principles recited by the Secretary of State if he should become convinced that the matter is one in which the two Governments might find many insuperable objections to a new submission and arbitration, but could well agree in asking the discharge under the original submission and arbitration of an admitted duty pertaining to the office of arbitrator, accepted by the President of the United States as a friendly act to both Governments.

If in either of these modes it shall be made to appear that by the fifth article of the award the President of the United States has, through error or misapprehension, clearly exceeded the power and jurisdiction conferred on him by the two parties to the protocol, it is conceived that the chosen arbitrator, who is the President of the United States, and not the individual who made the award, or his successor in office as an individual, can not hesitate as to the question of power or duty in the premises.

And in this connection the undersigned with great deference invites the attention of the honorable Secretary of State to the fact that Colombia and Italy desiring to put an end to the subjects of disagreement between them, and for the purpose of arriving at a settlement as between the two Governments of the matters submitted, selected as arbitrator under the protocol of August 18, 1894, not a natural person, nor yet a tribunal of limited duration, but the President of the United States, who accepted the office as a friendly act to both Governments, and who can never be said to be functus officio until the arbitrator himself has made a valid and final award.

As already stated, the first four articles of the award, if separately considered, may well be said to be both valid and final; but the fifth article Colombia can not admit to be either valid or final. And unless with or without the cooperation of Italy the fifth article can be eliminated, the deplorable result will follow that the whole award would be void, because it would not be a final determination by the President of the United States of a controversy submitted to the President of the United States alone, and to no other person or tribunal.

In the light of the explanations which the undersigned has had the honor to offer, he ventures to hope that he may expect from the honorable Secretary of State some assurance that his note of May 5 was not intended to deny in advance to the Government of Colombia the right to present to the President of the United States its views with reference to the fifth article of the award, nor to decide in advance of receiving said views what would be the action of the President. Such assurance would be most gratefully appreciated by the undersigned as an evidence that his own unfortunate choice of language in his note of May 1 had not misled the honorable Secretary of State to the injury of the country which the undersigned represents, and by his Government as a proof of that consideration which Colombia has always endeavored to deserve, and which the United States is accustomed to accord to all nations, great or small.

If the honorable Secretary of State could at the same time assure the undersigned that the President, without in any way committing

himself to any particular action, authorizes the honorable Secretary of State to receive and lay before him the representations which the Government of Colombia may feel itself bound to make, or any request which the Governments of Colombia and Italy may agree to present for his consideration, relative to the fifth article of the award, no question would be prejudged, and it might well be that only a formal acquiescence in the wishes of both Governments, to befriend which the President of the United States agreed to act as arbitrator, might be necessary to completely discharge the duties of that office.

I have, etc.,

JULIO RENGIFO.

Mr. Sherman to Señor Rengifo.

No. 36.] DEPARTMENT OF STATE,
Washington, May 19, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 15th in further relation to the protest filed in behalf of the Government of Colombia on March 3 and May 1 of this year against article 5 of the recent award of President Cleveland in the Italio-Colombia arbitration of the Cerruti case.

In view of the fact that the arbitration was undertaken by President Cleveland and closed by an award under his Administration and by his direction; it is only proper to state now the views of the present incumbent of the Presidency of the United States; nor is it necessary to discuss whether the submission to arbitration having been accepted by Mr. Cleveland could be taken up by his successor in office. It was intended to state in the note of May 5 the views entertained by President McKinley as to the application to take action in this award, which was supposed to have been completed under Mr. Cleveland. These views are: The President would not undertake to reinvest himself with the function of arbitrator after an award, particularly after a change in the Presidential office, but could only be invited to assume arbitral powers by the joint action of the two parties to the arbitration. Whether this would technically amount to a new submission or not is of little consequence.

The subject of new action, if any, would have to be defined by the joint request of the parties to the arbitration. It is not here intended to suggest that it would not be competent for them to agree in asking new consideration, and with their joint consent it might properly be asked of the late arbitrator, Mr. Cleveland. Should they see fit, however, to make a joint request of the present incumbent of the Presidential office, the agreement of the parties should define how, and to what extent, the powers conferred are to be exercised, and how far the arbitration is to cover new ground, if at all. As the international function of arbitrator is not one springing from any duty of the Presidential office under the laws of the United States, so the President does not wish to constrain in any way the course of friendly States in jointly resorting to these good offices for the disposition of their disputes among themselves. The point to be emphasized is that President Cleveland having undertaken to dispose of the matter, nothing short of the joint request of the contracting parties could invoke the action of the present Executive.

Trusting that these statements may serve to dispel the misapprehension to which your note of the 1st instant and my reply of the 5th

appear to have unintentionally given rise, I take pleasure in informing you, by the President's direction, that he will be happy to consider any request which the Governments of Colombia and Italy may jointly agree to submit to him relative to the fifth article of President Cleveland's award, and to further state that it is impossible now for him to subject himself to acquiescence in such request, or to say that he would undertake any further duty in the matter. It will be impossible for him to consider any representations by either party alone in that regard, or in any wise prejudice full liberty of action should a joint request be made to him by the former contracting parties.

Accept, etc.,

JOHN SHERMAN.

Señor Rengifo to Mr. Sherman.

LEGATION OF COLOMBIA,
Washington, June 29, 1897.

HONORABLE MR. SECRETARY: I have the honor to address you for the purpose of informing you that yesterday, at 3 o'clock p. m., I was informed by his excellency the ambassador of Italy at this capital that in obedience to instructions from his Government he had addressed a communication to you, requesting, through you, the President of the United States of America, as arbitrator in the Cerruti case, to explain the concluding portion of article 4 of the decision rendered on the subject by his predecessor, the Hon. Grover Cleveland, concerning which measure the Government of Italy and that of Colombia are in full accord.

I was under the impression that I was to proceed in concert with his excellency the ambassador aforesaid, but since he has acted independently in laying the views of his Government before the President of the United States, I shall do the same; only, as I shall have to prepare the necessary document, for which I shall need some days, I have deemed it my duty to explain to you the reason of the delay that must take place before I can have the honor to submit to you the respectful request of my Government to the President of the United States of America, together with a statement of the grounds on which it bases its interpretation of the concluding portion of article 4 of the decision of March 2, 1897, and in doing so I trust that you will kindly accept this explanation.

With sentiments of the highest and most distinguished consideration, I have the honor again to sign myself, honorable Mr. Secretary,

Your obedient servant,

JULIO RENGIFO,
Chargé d'Affaires ad interim of Colombia.

Señor Rengifo to Mr. Sherman.

[Translation.]

LEGATION OF COLOMBIA,
Washington, July 13, 1897.

HONORABLE MR. SECRETARY: My Government being desirous scrupulously to carry out the decision pronounced on the 2d of March last

by the President of the United States of America, as arbitrator, according to the protocol of Castellamare of August 18, 1894, with the exception of article 5, the validity of which it has been under the painful necessity of denying, has endeavored, through its representative at Rome, to reach an agreement with the Royal Government of Italy with respect to the manner and form in which and the terms on which payment is to be made of the £50,000 which in article 4 of the aforesaid decision Colombia is sentenced to pay to the Royal Government of Italy for the use of Mr. Ernesto Cerruti for the losses and damages occasioned to his private property and to his interests as a member of the firm of E. Cerruti & Co., in the State of Cauca.

With the aforesaid object in view, the diplomatic representative of Colombia at Rome addressed his excellency the minister of foreign affairs of the Kingdom of Italy, under date of the 29th of May last, stating the wishes of his Government on this subject, setting forth the manner in which, in the opinion of the aforesaid Government, based upon its interpretation of article 4 of the decision, the payment of the £50,000 was to be made, and requesting him to be pleased to express his views concerning said interpretation that it might be carried out if the Royal Government accepted it, and, in case of a disagreement, that it might request the President of the United States of America, as arbitrator, to furnish a suitable explanation, which plan it formally proposed.

His excellency the minister of foreign affairs of the Kingdom of Italy replied to the representative of Colombia on the 3d ultimo, stating that the Royal Government did not consider correct the interpretation which that of Colombia gave to article 4 of the decision as regarded the manner, form, and terms of payment of the £50,000 sterling; he stated the views of the Italian Government on the subject, and expressly accepted the suggestion of the representative of Colombia in respect of making application to the President of the United States of America, as arbitrator, according to the aforesaid protocol, for the desired explanation.

The result of the aforesaid antecedents, which I have thought proper to state, is the present respectful request which, through you, as Secretary of State, I have the honor to address to the President of the United States of America, in the name of my Government, that, in performance of his functions as arbitrator, and in kind compliance with the request of the two Governments interested in the aforesaid decision, he will be pleased to explain that portion of article 4 of the decision of March 2 of the present year which I will hereafter state.

As my Government, in view of the high respect which it feels for the President of the United States of America, and the lofty idea which it has of his spirit of justice, can not doubt for a moment that he will continue to fulfill the friendly mission which was accepted by his honorable predecessor, and that he will prevent, as far as possible, any differences from remaining pending, or any new differences from arising with respect to the decision between the signatory Governments of the protocol of Castellamare in which his powers had their origin, I have received instructions to set forth in this same communication the reasons on which it bases the interpretation which it gives to the controverted portion of article 4 of the decision now under consideration, which instructions I am about to have the honor to obey, proceeding in so doing with the proper method.

I should, however, be wanting in my duty to the President of the United States of America and to my Government if I were to state the

fundamental reasons for the explanation of article 4 of the decision, and were to omit any reference to another point to which I alluded in the first paragraph of this note—that is to say, to the attitude of my Government as regards article 5 of the same decision.

I therefore deem it my duty to inform the President of the United States of America that my Government, in paying to the Royal Government of Italy—as it has already done—the £10,000 sterling, which constitute the first installment of the indemnity which article 4 of the decision of March 2, 1897, required it to pay, simply desired to execute in good faith that portion of the said decision which it has expressly recognized as valid and obligatory, and to avoid subjecting the parties entitled to that sum to annoying delays; but that it made said payment to the Royal Government of Italy under the most positive reservations as regards the validity of article 5 of the decision, and without changing, abandoning, or in any way modifying the position which it assumed toward the President of the United States of America by means of my communications of March 3 and May 1 last, and toward the Government of the Kingdom of Italy in the notes addressed by its representative at Rome to his excellency the minister of foreign affairs, bearing date of May 1, 12, 29, and of June 5 and 12 of the present year, of which I have the honor herewith to inclose copies, since they are directly connected with the present request for an explanation of article 4 of the decision, and also of the replies made to them by his excellency the minister of foreign affairs of the Kingdom of Italy on the 10th and 15th of May and the 3d of June, highly important correspondence, an informal translation of which into English I likewise take the liberty herewith to inclose, respectfully requesting you, honorable Mr. Secretary, to call the attention of the President of the United States of America to its contents.

With a view to avoiding the misunderstanding which might arise from the circumstance that in informing the President of the United States of America, through you, of the views of my Government concerning article 4, I omit making any statement relative to the objections of my Government as regards the validity of article 5, I deem it my duty to the President of the United States and to my Government to call attention to the fact that this circumstance, like the payment of the £10,000 sterling to the Royal Government of Italy, does not arise from any change, abandonment, or modification of the attitude assumed by my Government in respect to article 5 in my communications of March 3 and May 1 last, to which I have already referred, and is solely due to the restrictions which were imposed upon me in the notes which you did me the honor to address to me under date of May 5 and 19 last, in reply to those which I had the honor to write to you on the 1st and 15th of the aforesaid month, which notes, as I understand them, prevent me from laying stress, in addressing the President of the United States of America, upon the nature and reasons of the objections of my Government as regards the validity of article 5 of the decision.

Being compelled by the aforesaid circumstances to refer in this communication to article 5 of the decision only in the manner in which my duty gives me the right to refer thereto and imposes upon me the obligation to do so, I have the honor to proceed to state to you, for the information of the President of the United States of America, the opinions of my Government concerning the interpretation of article 4 of that decision.

As I stated at the beginning, the manner and form in which, and the

terms on which the payment of the £50,000 sterling is to be made is the origin of the difference of opinion which has arisen between the two Governments in respect to article 4 of the decision, and as any explanation will necessarily be based upon the provisions of the decision on the subject, I think proper to transcribe in full article 4 of that document, which article reads as follows:

ARTICLE 4. I award for losses and damages to the individual property of Signor Ernesto Cerruti in the State of Cauca, and to his interests in the copartnership of E. Cerruti and Company, of which he was a member, including interest, the net sum of sixty thousand pounds sterling, of which sum ten thousand having been already paid, the Government of the Republic of Colombia will, in addition, pay to the Government of the Kingdom of Italy, for the use of Signor Ernesto Cerruti, ten thousand pounds sterling thereof within sixty days from the date hereof, and the remainder, being forty thousand pounds, within nine months from the date hereof, with interest from the date of this award at the rate of six per cent per annum, until paid, both payments to be made by draft payable in London, England, with exchange from Bogotá at the time of payment.

In view of this provision, the Government of Colombia maintains: (1) that the delivery of the drafts or bills on London, with exchange from Bogotá at the time of payment, in which it is provided that the indemnity granted must be paid, is to take place at Bogotá, and that such drafts or bills are to be those which are common and current in Colombia—that is, payable at ninety days' sight; (2) that the day on which the proper draft or bill is paid to the representative of the Kingdom of Italy at Bogotá is to be considered as that of the date of the payments, and (3) that to the second installment of £40,000 sterling shall be added only the interest on that sum computed at 6 per cent per annum, reckoning from the 2d day of March of the present year until the time of payment—that is to say, the time when the corresponding draft on London is delivered to the representative of the Kingdom of Italy at Bogotá.

Judging from the note received by the representative of Colombia at Rome from his excellency the minister of foreign affairs of the Kingdom of Italy, dated June 3, 1897, the Royal Government declares: (1) That the drafts on London which are to pay the indemnity that the decision requires Colombia to pay are to be delivered at Rome; (2) that those drafts are to be computed in accordance with the exchange fixed by the decision of the arbitrator, and (3) that they are to include, in addition to the interest due, the condition of payment at sight in London.

Keeping in view article 4 of the decision, which is transcribed above, calling to mind the very clear antecedents of that decision and stating certain special circumstances which will doubtless not escape the notice of the honorable arbitrator, I do not think that it will be difficult to carry to the mind of the President of the United States of America the conviction that the interpretation, which is in harmony with its letter and spirit, but which is also equitable and just.

I will call attention in the first place to two facts which are very well known to all who have commercial business with Colombia: (1) That gold coin is rarely obtained, unless in very insignificant sums; that it is an article of commerce and not a factor in monetary circulation; (2) that in Colombia sight drafts on foreign countries are not in use and can not be obtained at any price or on any terms and that all the bills of exchange which are sold are at ninety days' sight. The cause of the absolute lack of gold coin is the obligatory circulation of the treasury note, which has been in use in the Republic since 1885, and the precise term for which bills of exchange are sold is perhaps due to the fact that

exporters draw upon bills of lading of the produce which they send to foreign countries and are obliged to make a careful calculation of the time allowed for the voyage and of that which is necessary for the sale of the article exported; but, whatever that cause may be, it is not necessary to examine it now, but it is necessary to state that invariable commercial practice. Under these circumstances it would be very difficult for the Government of Colombia to give drafts at Rome payable at sight in London on the day when each installment became due, without accepting burdens additional to those which the decision imposes upon it, since it would be obliged to purchase such drafts more than three months beforehand, thus losing the interest on the amount.

But if the payments were to be made at Rome on the terms demanded by the Government of Italy, not only would this imply, as I have already remarked, an additional burden, which would greatly increase the indemnity which my Government is bound to pay, but what is still more important, it would render impossible the strict execution of a part of the decision of the arbitrator, and in documents of this kind it can not be supposed, even for the sake of argument, that anything is decided the execution of which is not possible under normal circumstances. Article 4 of the decision says: "The Government of Colombia will, in addition, pay to the Government of the Kingdom of Italy, for the use of Signor Ernesto Cerruti, ten thousand pounds sterling thereof within sixty days from the date hereof," and it was not natural or supposable that a knowledge of the entire document should reach my Government otherwise than through the ordinary channel (the mail), which requires nearly thirty days, as is well known. Now, although I received notice of the decision on the day after it was pronounced, that is to say, March 3, that notice was not sufficient to enable my Government to purchase the draft necessary for the payment of the first £10,000 sterling, because in a matter so important in every point of view, it was necessary for the party directly interested to have full knowledge of the decision, and to have the time necessary to study and examine it before taking any step, which it was impossible to secure by means of a mere telegraphic dispatch, which is always unsatisfactory and likely to give rise to doubt and perplexity. On the basis of what has been stated, the correctness of which I consider incontrovertible, my Government could only acquire full and definite knowledge of the decision, together with the necessary illustrative report from its diplomatic representative at this capital, and from its special counsel here, at the close of the month of March (as was the case), and then it had to hear the advisers whom the constitution of the Republic requires it to hear, and fulfill all the legal formalities before proceeding to execute the obligations which were imposed upon it. That my Government could not, under such circumstances, and in view of the conditions to which reference has been made, of the exchange of the Republic with foreign countries, deliver to the Royal Government of Italy at Rome, on the 2d day of May, the last of the term of sixty days fixed for the first payment, bills of exchange payable at sight in London is, I am sure, obvious to the President of the United States of America. But as the honorable arbitrator could not desire to have that impossible thing done, it must be concluded that the intention of the eminent magistrate who pronounced the sentence was that the payment should be made at Bogotá, at the rate of exchange of the day in (on?) London, and that the delivery of the bill of exchange at ninety days' sight—in accordance with the only commercial practice of the country—to the representative of the Kingdom of Italy, consti-

tuted a complete fulfillment of the obligation; to suppose the contrary in accordance with the claims of the Royal Government of Italy would imply the consequence above referred to, to which it can not, and is not to be supposed that the honorable arbitrator desired to give rise.

And let it not be thought that in describing the situation in which the Government of Colombia necessarily finds itself, when it received its copy of the decision by mail, together with the reports of its representatives, there is anything exaggerated or unjustifiable, because the same would have been the case in any country in which the chief magistrate—whatever may be the form of government—does not have free control of the public revenues. In the United States of America the formalities are well known which, according to the Constitution, the President would have to fulfill before making a payment of such origin and nature, and although in Colombia the President is authorized to decree certain appropriations in addition to the budget of expenditures, his sphere of action is limited by restrictive rules which he can not disregard. Nay, more; a real commercial draft is not at sight in any country in the world, and when the obligation is contracted or imposed to pay a sum of money by means of a draft or bill on a foreign country, it is understood—unless the contrary is expressly stipulated—that the payment is to be effected by the delivery of the bill of exchange at so many days' sight, agreeably to the commercial custom which is observed between the two countries. In the United States of America, for instance, it is well known that any obligation to pay a sum of money in drafts on London is satisfied by the delivery of a bill for the amount of the same at sixty days' sight; in Colombia drafts on the aforesaid place are at ninety days' sight, as I have already stated, and the honorable arbitrator certainly did not forget the rules that govern international exchange when he ordered, in a general way, that the payment of the indemnity should be made in drafts on London; if his intention had been different he would have stated it unmistakably, since he was thereby about to constitute a case of decided exception.

Supposing now, for the sake of argument on the one hand, that the notice which was given to me of the decision on the 3d of March had been sufficient for my Government, and that the cablegram which I sent it on the same day, giving in general terms an account of the provisions of said decision, could be considered as information sufficient to induce it to proceed to its execution; and on the other, that my Government had been able, without difficulty of any kind, to order the immediate purchase of the drafts for £10,000, being the amount of the first installment of the indemnity, and that said drafts having been purchased, it had sent them to Italy by the earliest mail—as nearly forty days are necessary for a letter sent from Bogotá to reach Rome—the drafts in question would have been in the hands of the representative of Colombia in the capital aforesaid, say, on the 12th of April; but as they were to be paid at ninety days' sight—the only kind which, I repeat, are obtainable in the Republic—the result would have been that even under those imaginary circumstances it would have been wholly impossible to execute the part under consideration of article 4 of the decision in the manner in which the Royal Government of Italy interprets it—that is to say, to pay at Rome sight drafts on London at the dates of the payment. And let it not be said that drafts by telegraph might have been procured, because that form of drafts on foreign countries has never existed in Colombia. Moreover, as sight drafts on foreign countries are not in use and not obtainable in Colombia, the necessary preliminary arrangements between Colombia and

England could not have been effected within the sixty days following the notification concerning the decision in such a way as to render possible the drawing and delivery at Bogotá of a bill of exchange payable at sight, and the delivery of such a bill of exchange at Rome would have been totally impossible.

It seems unnecessary to add that since the decision establishes no difference between the terms of payment of the first installment of £10,000 and the second of £40,000, what is applicable to the former is also applicable to the latter, and that consequently my Government will duly and properly fulfill its obligation if on the day when the nine months expire, which are reckoned from the 2d day of March, 1897, which is the date of the decision now under consideration, it delivers to the representative of the Kingdom of Italy at Bogotá the drafts on London, with the exchange of the day in that capital, to the value of the aforesaid £40,000, with interest thereon for nine months at 6 per cent per annum.

That the delivery of the drafts in question is to take place at Bogotá and not at Rome, as is claimed by the Royal Government of Italy, is easy of demonstration. In the first place, the decision, in fixing the manner in which the payment of the indemnity granted by it is to be made, says: "Both payments to be made by draft on London, England, with the exchange from Bogotá at the time of the payment," which clearly shows the intention of the honorable arbitrator with respect to the place of payment—Bogotá; since, if his intention had been that it should be made at Rome, he would have fixed as the basis the exchange of the latter city, as would have been natural, and would not have referred to Bogotá.

But this is not all. I will call attention to the fact that what my Government really owes to the claimant are Colombian dollars of commercial value equal to that which such money had in 1885, when the occurrences took place out of which the claim has grown, since, in the natural order of events, the damaged property could only be estimated according to that monetary unit; and that if the honorable arbitrator ordered the indemnity to be paid by draft on London, making, certainly, the corresponding conversion of the amount in Colombian dollars into its equivalent in pounds sterling, his proceeding can have no other object than to subject my Government to the burden which is implied by the depreciation which its circulating medium, owing to various circumstances, has undergone during the past twelve years and to protect the claimant from the losses which the aforesaid fluctuation in the commercial values of the Colombian dollar might cause to him in the nine months intervening between the date of the decision and that of the payment of the second installment of £40,000. Only thus can be explained the obligation which has been imposed upon my Government to pay the indemnity in drafts on London, and this interpretation is still further strengthened by the fact that it is provided in the decision that such drafts are to be purchased at the rate of exchange in Bogotá on the day of their delivery. Surely if Colombian money had had during the past twelve years and now preserved an unalterable value, the honorable arbitrator would have ordered the payment of the indemnity to be made in it, as well justified practice establishes in similar cases, and there would then have been no ground for arguing as to the place where the payment was to be made. The fact, however, that the foregoing considerations led him to make the conversion of Colombian money into English money, to which I have already referred, can not reasonably be taken as ground to maintain that the obligation is to

be fulfilled at Rome, which interpretation is opposed by the letter and spirit of the decision, its clear antecedents, and the important circumstances which I have examined in detail.

The payment is to be made within the period designated in the obligation, or in the decision whereby judgment is pronounced against it; but of course the obligation to pay can only be made effective in this latter case after the debtor has received information of the decision which imposes this obligation upon him.

The notice of the arbitrator's decision which was given to the representative of each party, or to the attorney appointed ad hoc by each of them, can not be considered to produce at the same moment all the effects that would be produced by a notice given directly to the governments whom they represent. The diplomatic representative, or the attorney ad hoc of a government, is but an intermediary between the arbitrator and the government which he represents, and his mission, so far as the notice of an award is concerned, is confined to bringing such award to the knowledge of his mandator with as little delay as possible. So that an award can not begin to produce its effects until the government against whom decision is pronounced has had full and complete knowledge of it.

It is entirely reasonable to suppose that the President of the United States of America, when he fixed the time of the first payment, took this necessity into consideration; that is to say, that the Government of Colombia should receive from its representative here, by the ordinary means of communication, the full text of the award and the suggestions pertinent thereto of its agent at Washington; that the time granted for such communication should be sufficient for the purpose and should not be limited to the shortest possible period, and that the term that was fixed, viz, sixty days, should render possible the payment at Bogotá by means of a draft on London, according to the usual commercial custom of the country, but that it would be wholly insufficient, or rather impossible, to deliver at Rome a sight draft on London within the same period.

My argument acquires greater force when international arbitration is concerned, because the chief magistrates of every country do not dispose of incomes which are their own, and are obliged, in order to dispose of those of the nation, to be governed by the constitutional provisions on the subject; and unless an award conforms to that essential requisite, and consequently fixes a period sufficient to enable the Government which is bound to pay to place itself in condition to meet the obligations that are imposed upon it, the decision of the arbitrator will, in the majority of cases, be disregarded, because, according to its own terms, its fulfillment will be impossible.

The telegraphic communication that diplomatic officers may have with their respective governments in regard to the notice received by them of the decision of an arbitrator can in no case result in obliging such government to carry out the decision immediately. So that, as I have already remarked, it can not be maintained that a government is obliged to perform the duty imposed upon it by the decision of an arbitrator until after it has had full knowledge thereof in a formal manner and by the ordinary means of communication.

The debtor is bound to deliver to the creditor the very thing that he has obligated himself to deliver, or which he has been obliged to deliver by a competent sentence.

The decision, in its fourth article, which I have analyzed, condemns

Colombia to pay a determinate sum of money, in drafts on London, with exchange from Bogotá at the time of payment.

The honorable arbitrator has specified the manner in which payment is to be made, viz, by draft; but he has failed to determine when it becomes due.

The codes of commerce of all countries specify the ways in which it is to be made known when such documents become due, and the commercial customs of every people establish, on the ground of the conditions of exchange, preferences for some one of these methods. This being the case, and as the honorable arbitrator has in nowise stated when the drafts become due which Colombia is to deliver in payment, it is reasonable to understand that the drafts to which article 4 refers can not be at sight, or payable at a certain time, or on a fixed day, or at any other time that is accepted by the commerce of the world, but at that which is normal and current in the commercial markets of Colombia. To maintain anything else would be to distort the intentions of the honorable arbitrator, which are clearly indicated by the fact that he fixed no time when the drafts were to become due, or would be, supposing that he left it to a third party to determine when they became due, which is inadmissible.

The honorable arbitrator, who can not have been ignorant of the fact that the fixing of a time when a bill of exchange becomes due is a requisite essential to its validity, omitted to do so because, not being perhaps acquainted with the time usually adopted for this purpose as regards bills of exchange by business men in Colombia, was unwilling to fall into error or to create difficulties in the performance of his task, and manifested by his silence that he referred to the bill of exchange current between Colombia and the London market.

If this had not been the purpose of the honorable arbitrator, he would have stated with precision that the bills were to be at sight, or that they were to be payable in some of the other ways which are customary, especially since sight drafts are exceptional papers of credit in the commercial transactions of nations.

If the foregoing interpretation of the fourth article of the award were not the true one, the Royal Government of Italy would have the same reason to maintain that the bills of exchange to which it refers should be at sight that Colombia has to think that they should be at a fixed day; but as the honorable arbitrator could not leave to the will or caprice of the parties the determination of an essential requisite of the manner of payment fixed by him, the natural thing is for the interpretation which I have stated to be accepted.

I therefore respectfully call attention to the fact that there is no just ground for doubt as to the place, time, and form of payment in view of the terms of article 4 and of the intention had when it was written; that is to say, that the payment is to be made at Bogotá at the expiration of the time fixed in the award, provided that the Government of Colombia has had within that time the opportunity to acquire full knowledge of the decision which imposed obligations upon it with respect to Mr. Cerruti, and that it has been able within the time aforesaid to perform its constitutional duties so as to be able to dispose of a portion of the public revenues, and that the bills of exchange which it must deliver in fulfillment of those obligations are the same that are used and purchased in market at Bogatá, and at the current rate of exchange of that market on the day of their purchase, which will be that of the payment.

I feel confident, honorable Mr. Secretary, that you will kindly be

pleased to bring the contents of the present communication to the notice of the President of the United States of America for such purposes as may be necessary, and for this I take pleasure in expressing in advance the sincere gratitude of my Government.

With sentiments, etc.,

JULIO RENGIFO,
Chargé d'Affaires ad interim of Colombia.

[Inclosure No. 1.—Translation.]

Señor Hurtado to Marquis Visconti-Venosta.

LEGATION OF COLOMBIA,
Rome, May 1, 1897.

MR. MINISTER: In the course of the interviews I have had with your excellency during reception days of the diplomatic corps last March I mentioned the reservations made by the chargé d'affaires of Colombia at Washington upon the arbitral decision pronounced by the President of the United States of America, conformably to the convention of Castellamare, when the sentence was communicated to him. On the occasions to which I refer I spoke informally, having then received no instructions from my Government upon that subject. I was convinced, however, that I was interpreting its sentiments in expressing to your excellency the regret felt by my Government that the arbitrator had not confined himself to decide the questions submitted to him, in accordance with the terms of the convention, and which would have put an end to the controversies between Governments relative to the Cerruti case. I was equally convinced that I would have been able to give your excellency the assurance that my Government would be happy to find some means to remedy the inconveniences caused by the reservations made to the sentence without raising, on that account, the least objection to the part of the arbitral decision bearing upon the questions submitted to the arbitration.

Therefore I am happy, Mr. Minister, to be able now to confirm to you officially the good disposition of my Government, such as I interpreted it, relating to the reservations made by the chargé d'affaires at Washington. The Colombian Government feels the deepest regret that in raising questions in the convention not submitted to him the arbitrator should have lost sight of the sole and well-defined object of his mandate, the aim of which was to close finally and to settle completely, the differences between the Government of Italy and that of Colombia arising from the Cerruti case, by the simple "declaration of the amount of the indemnity that the claimant, Cerruti, was entitled to receive from the Government of Colombia by diplomatic means."

That object would have been obtained through the provisions contained in the first four clauses of the sentence; but the arbitrator thought proper afterwards to take into consideration a question which, as he acknowledges, arose in his mind—a question about which, the two contracting Governments agreed perfectly, was outside of the convention, as it appears in the documents laid before the tribunal. Proceeding to settle it, he imposed upon the Government of Colombia some obligations of a prospective, undertermined, and incidental nature, accompanied by conditions some of which being unrealizable and others prejudicial to the rights of the independence of the Republic.

It is therefore scarcely possible for my Government to accept the

arbitral sentence in all its latitude; nevertheless, it is animated by the greatest desire to reach an agreement that will enable it to accomplish to its full extent the object proposed by the convention. To that effect I must appeal to the good will and high sentiments of justice which characterize the Royal Government to obtain a satisfactory settlement, and I beg your excellency to have the kindness to grant me an interview, on the day and hour most convenient to him, to confer upon this important matter.

Be pleased, etc., HURTADO.

[Inclosure No. 2.—Translation.]

Marquis Visconti-Venosta to Señor Hurtado.

MINISTRY OF FOREIGN AFFAIRS,
Rome, May 10, 1897.

MR. MINISTER: In the letter of the 1st instant you were pleased to write to me relating to the Cerruti case which the President of the United States of America has recently decided by his arbitral sentence of the 2d of March last.

You affirm in your letter that in raising questions which were not submitted to him the arbitrator had lost sight of the sole and well-defined object of his mandate, and that in proceeding to settle them he had imposed upon the Government of Colombia some obligations of a prospective, undetermined, and incidental nature, accompanied by conditions some of which being unrealizable and others prejudicial to the rights of the independence of the Republic.

That, consequently, it is not possible, such is the conclusion of your letter, for your Government to accept the arbitral sentence in all its latitude, but that its greatest desire is to reach an agreement which will enable it to accomplish to its full extent the object to be attained by the convention of Castellamare. To that effect you ask me the day and hour most convenient to me to confer together upon this important matter.

The King's Government is far from sharing the opinion of the Government of Colombia concerning the arbitral decision of the 2d of March last.

In delivering it the President of the United States has, so we think, only fulfilled the high mandate of confidence intrusted to him. To attempt to seek an agreement upon other basis—an attempt which, moreover, is prohibited by the protocol of Castellamare itself—could not, therefore, be considered by us; on the contrary, we must insist upon the execution pure and simple of the decision rendered by the arbitrator.

If, however, the interview you are pleased to solicit is for the purpose of informing me of the facts and considerations upon which rest the grave affirmations stated in your letter relating to the manner with which the supreme Magistrate of the North American Federation discharged his mission, I could not, naturally, oppose your wishes; but in order to prevent any misunderstanding in such a delicate matter I must ask you to present me in writing what had formed, according to your intention, the object of your verbal explanations.

Be pleased, etc.,

VISCONTI-VENOSTA.

[Inclosure No. 3.—Translation.]

Señor Hurtado to Marquis Visconti-Venosta.

LEGATION OF COLOMBIA,
Rome, May 12, 1897.

MR. MINISTER: I have the honor to acknowledge receipt of the note of the 10th instant, in which your excellency invites me to state in writing what was to form the subject of the interview I asked him to grant me in my letter of the 1st of May, to confer upon the arbitral decision pronounced by the President of the United States of America in conformity with the Convention of Castellamare.

I appreciate the motive which prompts your excellency to prefer that this matter be treated in writing rather than verbally. I must say, however, that in asking a conference my purpose was only to give to your excellency a simple summary of the objections of my Government to the arbitral decision, in the hope of bringing about an exchange of ideas which would have served as a starting point for a final examination of the question.

Conforming myself to the desire expressed by your excellency, I shall write a statement of the views of my Government upon that important matter, and which I shall have the honor to deliver to your excellency. To that effect and in order that this work may not be incomplete, I deem it preferable to wait until the arrival of the communications, the transmission of which has already been announced to me from Bogota, acquainting me with the exact views of my Government concerning the arbitral decision of the 2d of March, which shall reach me shortly.

Be pleased, etc.

HURTADO.

[Inclosure No. 4.—Translation.]

Marquis Visconti-Venosta to Señor Hurtado.

MINISTRY OF FOREIGN AFFAIRS,
Rome, May 15, 1897.

MR. MINISTER: I owe an immediate answer to the letter you did me the honor to address to me on the 12th instant.

As I carefully stated in my letter of the 10th, we could not, after the arbitral decision of the 2d March last—a decision having, in our opinion, an absolutely final character—admit an attempt to seek an ulterior understanding upon a different basis. An exchange of views to that end would, therefore, fail in its object. It is only in deference to what I supposed was your desire that I consented to receive, in writing, the commentary of the grave affirmations stated in your letter of the 1st of this month, relating to the decision made by the President of the United States.

The execution of the arbitral decision is already delayed. It is an abnormal situation which could not be prolonged without affecting the good relations between the two countries. We must insist upon a complete execution. I hope that you will soon be able to inform us of it.

Be pleased to accept, etc.,

VISCONTI-VENOSTA.

[Inclosure No. 5.—Translation.]

Señor Hurtado to Marquis Visconti-Venosta.

LEGATION OF COLOMBIA,
Rome, May 29, 1897.

MR. MINISTER: The Government of Colombia having made reservations in regard to the arbitral decision pronounced on the 2d of March, 1897 by the President of the United States of America exclusively as to what concerns the disposition contained in the last article, No. 5, of the said decision, is desirous of proceeding to the fulfillment of the obligations which are imposed by the other articles, notably by article 4, relative to the payment of £50,000, which should be remitted to the Royal Government as indemnity adjudged to Mr. Cerruti.

For this purpose I have the honor to submit to your excellency the manner in which my Government considers that it should proceed to the payment of the £50,000 conformably to what is prescribed in said article 4 of the arbitral decision.

As the payments are to be effected in drafts on London with addition of the premium of exchange on the day of payment at Bogotá, it follows (1) that the drafts on London in question are the customary drafts, or at ninety days sight; (2) that the day of the delivery of the drafts to the representative of the Royal Government at Bogotá will be held to be the day of payment.

The payment of the second installment of £40,000 should be made with the addition of interest at the rate of 6 per cent per annum, from the 2d of March, 1897, up to the day of payment.

Have the kindness, Mr. Minister, to inform me of your view of the preceding interpretation given to the provisions of article 4 of the arbitral sentence, in order that in case of an agreement their execution may be proceeded with without delay.

In the event that your excellency should find that the sense given by my Government to the final part of article 4 differs from the correct signification of the text, I am authorized to propose to your excellency that the Royal Government and that of Colombia, by the intervention of their respective representatives in Washington, ask the President of the United States of America to have the kindness in his character as arbitrator to declare what are the precise terms according to which the payments in question ought to be effected, to which my Government will conform.

If the proposition which I have had the honor to formulate is accepted by your excellency, and inasmuch as it would not be just to delay the payments whilst the question submitted to the arbitrator was considered, my Government would be disposed to hand to your excellency by the intervention of this legation, as soon as you have informed me of your decision, a check on London for the sum of £10,000 sterling on account of the indemnity, and to be taken into account in the final settlement.

Be pleased to accept, etc., HURTADO.

[Inclosure No. 6.—Translation.]

Marquis Visconti-Venosta to Señor Hurtado.

MINISTRY OF FOREIGN AFFAIRS,
Rome, June 3, 1897.

MR. MINISTER: By your note dated the 29th of May last you have had the kindness to inform me that the Government of Colombia hav-

ing only made reservations as to the arbitral decision of the 2d of March, 1897, so far as concerns the dispositions of the fifth article of the said decision, it is desirous of proceeding to the fulfillment of the obligations which are imposed on it by the other articles, notably by article 4, relative to the payment of £50,000 sterling, which should be remitted to the Royal Government.

Such a distinction between the different articles of the arbitral decision of the 2d of March is not only a final act but it is furthermore an act which can not be divided and of which we ought to claim the integral observation. It is only upon condition, that is to say, as an announcement of an integral execution, that we accept the payments which you have the kindness to announce to us.

Your note of the 29th of May indicates the views of the Government of Colombia in regard to the payment of the £50,000 sterling adjudged to Mr. Cerruti by article 4 of the arbitral decision. The cabinet of Bogotá thinks that the drafts on London mentioned in said article ought to be according to custom, that is ninety days' sight, and that the day of the sending of the drafts to the representative of the Royal Government at Bogotá ought to be held for the day of payment.

The Government of the King does not share this view. We think, on the contrary, that the drafts on London ought to be delivered to us in Rome; that they ought to be remitted according to the exchange established by the arbitral decision, and that they ought, in fine, to provide besides the interest the payment at sight in London respectively of the £10,000 and £40,000 sterling.

The two parties thus not finding themselves in accord on this question of interpretation, there is reason, as you propose, to submit it to the arbitrator, to the end that he should have the kindness himself to fix on this point the sense of his decision. Instructions to this effect will be immediately given to the ambassador of the King at Washington.

You are kind enough to add in your note that in case of disagreement, and whilst awaiting the interpretation of the arbitrator, a check of £10,000 sterling will be now delivered to us without prejudice to a definitive settlement of the account. I can only in this regard refer to the declaration contained in the beginning of my present note.

Have the kindness to receive, etc.,

VISCONTI VENOSTA.

[Inclosure No. 7.—Translation.]

Señor Hurtado to Marquis Visconti-Venosta.

LEGATION OF COLOMBIA,
Rome, June 5, 1897.

MR. MINISTER: Your excellency has done me the honor to say to me in his note of the 3d of June that our respective Governments, not being in accord as to the mode of payment of the £50,000 sterling adjudged to Mr. Cerruti in conformity with the terms of the fourth article of the arbitral decision of the 2d of March, 1897, there is occasion to submit the question of interpretation to the decision of the arbitrator, as I had proposed. Your excellency has the goodness to add that instructions for this purpose will be immediately given to the ambassador of the King at Washington. On my side, I will hasten to send to the chargé d'affaires of Colombia at Washington copies of the notes referring to this subject, to the end that he shall be informed

of what is agreed upon, and can address himself to the President through the Department of State.

In accordance with the agreement made in my note of the 20th of May in the name of my Government, in case the proposition submitted to your excellency should be accepted, as in fact it has been, I have the honor to remit to your excellency herewith a check on Messrs. Coutts & Co., bankers, London, for the sum of £10,000 sterling, which I have permitted myself to draw to your order. But this payment can have no other significance than that which follows from the antecedents whence flows the duty of making it as soon as the acceptance of the proposition of which it was a part should be made known to me.

I permit myself to call the attention of your excellency to the fact that, as expressed in my last note, this provision of funds is made wholly with the idea, entirely equitable, of not exposing the claimants to the indemnity to await the explanations which are going to be asked of the arbitrator before being put in possession of what is due them.

This measure does not prejudice any question, and in the same manner that it could not in any way affect the views of the Government of the King in regard to the effect of the arbitral decision, neither can it alter the reservations made by the Government of Colombia, which will soon be submitted to the consideration of your excellency.

Have the kindness to receive, etc.,

J. M. HURTADO.

[Inclosure No. 8.—Translation.]

Marquis Visconti-Venosta to Señor Hurtado.

MINISTRY OF FOREIGN AFFAIRS,
Rome, June 8, 1897.

MR. MINISTER: I acknowledge the receipt of the check for £10,000 sterling inclosed in the note which you did me the honor to address to me on the 5th of this month.

With reference to the contents of this note, I am obliged to declare to you that the payment of the £10,000 sterling can only be considered as the beginning of the execution of the arbitral decision of the 2d of March last, and that, being unable to admit in view of that decision any reservations (or protests) whatsoever, I ought to ask you not to present to me those which you have the goodness to announce to me.

Be good enough to receive, etc.,

VISCONTI-VENOSTA.

[Inclosure No. 9.—Translation.]

Señor Hurtado to Marquis Visconti-Venosta.

LEGATION OF COLOMBIA,
Rome, June 12, 1897.

MR. MINISTER: I have had the honor to receive the note of the 8th instant, in which your excellency acknowledges receipt of the draft on London for the sum of £10,000 inclosed in my note of the 5th of this month.

As to the spirit and intention with which the said sum has been placed at the disposal of your excellency, I must refer to the contents of the

communication accompanying the draft and to the preceding one dated the 29th of the past month.

Your excellency kindly asked me not to present him the statement of the motives upon which the Government of Colombia bases its objections to article 5 of the arbitral decision of the 2d of March last, which, by the way, I could not do, the document having not reached me; but had the case presented itself I would have begged your excellency to allow me to perform my duty, if the statement referred to had come with the instructions to bring it to the knowledge of the King's Government.

Be pleased to accept, etc.,

J. M. HURTADO.

Mr. Sherman to Señor Rengifo.

No. 44.] DEPARTMENT OF STATE,
Washington, January 12, 1898.

SIR: Under date of the 22d of June last, His Excellency Baron de Fava addressed me in the matter of President Cleveland's award in the claim of the Italian subject, Ernesto Cerruti, against the Government of Colombia, informing me that, as appeared by correspondence had at Rome with the Colombian minister, controversy had arisen as to the manner of making the payments provided in the fourth article of said award, and that, the two parties being unable to agree upon the interpretation thereof, his Government had accepted Mr. Hurtado's proposal "to refer it indefinitely to the arbitrator for decision." Baron de Fava accordingly, under his instructions, requested the President, through the Secretary of State, to be pleased to determine himself, in his capacity as arbitrator, and inform the embassy "the true meaning of his decision as regards the manner of payment and the computation of the amount due."

The request so conveyed was not without embarrassment from the merely formal point of view, in that the request was not jointly preferred on behalf of the two Governments concerned, and I awaited the corresponding identical request from your Government before giving the subject its regular course of submission to the President with a view to ascertaining his disposition in the matter.

A week later you, as Colombian chargé d'affaires at this capital, addressed me a note, under date of June 29, stating that as the Italian Government, in lieu of a concerted application, had presented its request independently you would follow the same course on behalf of your Government, but that you would need time in order to accompany your presentation of such request by a statement of the ground on which the Colombian Government based its interpretation of the concluding portion of article 4 of the decision of March 2, 1897. A further delay in the matter thus became necessary.

On the 13th of July last you addressed to me an elaborate argument setting forth the interpretation which, according to the view of your Government, should prevail in deciding the intendment of article 4 of President Cleveland's award.

This diverse manner of presentation of the matter by the two representatives of the Governments at issue did not remove the embarrassment under which I had labored from the outset; but rather than provoke discussion of a formal point of procedure I endeavored, through unofficial suggestion to the respective counsel of the Colombian Gov-

ernment and of the claimant, Cerruti, to pave the way for a joint submission by the two Governments of a simple question of interpretation of the language of article 4 of President Cleveland's award, which the actual President might take up and render an opinion upon as an independent act of friendliness to both the parties, without regarding himself as the official arbitrator, in continuing function, by whom the original award had been made. These suggestions bore no fruit, and the matter has stood in this unsatisfactory posture until now, the notes of yourself and Baron de Fava remaining unanswered, in the hope that time might bring a satisfactory solution of the problem presented. Longer silence appears, however, not now to be possible in the light of the pressure of the Italian Government for an answer, as stated in Count Vinci's note of December 5 and since by him in oral interviews.

The merely formal irregularity in the presentation of the several requests for an expression of the President's opinion as to the true intendment of President Cleveland's language in the fourth article of his award is, however, not the only embarrassment that meets me in dealing with the case. Your several notes have advised me that the Colombian Government absolutely denies the validity of the fifth article of that award, claiming that, in deciding as he did, the arbitrator went outside of the submission made to him by the two Governments under the treaty they had concluded for the arbitration of the Cerruti dispute; and, besides, the notification so made to this Government on the 3d of March and the 1st of May last, setting forth such denial and asking the rectification in toto of said fifth article, I was advised by Baron de Fava's oral inquiry of May 6, and by his note of the 30th of May last, that a similar notification had been made to the Italian Government, and had been rejected by it.

To your notification and request answer was made on the 5th of May last to the effect that the President of the United States, whether he were the individual who acted as arbitrator or his successor in office, became, under any circumstances, functus officio, so far as the arbitration was concerned, upon the rendition of his award, and could not undertake to reopen the arbitration and reconsider the award under any just view of the powers conferred upon him as arbitrator by the protocol under which he acted; but that, should the parties to the arbitration invite the reconsideration of the award in question, in whole or in part, or request its interpretation in any respect, that could only be accomplished by a new submission presenting the point or points in dispute. A note of similar tenor was addressed to Baron de Fava on the 7th of May last.

You, having subsequently raised the question as to what constituted "a new submission," were informed on May 19, 1897, that President McKinley would not undertake to reinvest himself with the function of arbitrator after an award, particularly after a change in the Presidential office, but could only be invited to assume arbitral powers by the joint action of the two parties to the arbitration, and that whether this would technically amount to a new submission or not was of little consequence, inasmuch as the subject of new action, if any, would have to be defined by the joint request of the parties to the arbitration.

The President was not moved to reach this conclusion save by weighty considerations. Apart from the sound doctrine of finality which is expressed as a binding rule in the agreement to arbitrate, and which constrains the arbitrator to regard his function and office as alike terminated on the rendition of his award, there is good precedent for such a view of his capacity and duty. It recently happened that, in the case

of an arbitration by the President of a boundary dispute between Costa Rica and Nicaragua, the parties found themselves unable to give effect to a certain detail of the award, but not until a conventional agreement between them and the express submission by them jointly of a request to that end did the President find himself in a position to aid in the determination of the controversy by appointing an expert engineer as umpire to fix the point at issue.

Had the Governments of Colombia and Italy jointly requested the President to lend his offices toward an interpretation of the stated terms of the fourth article of the award of March 2, 1897, and thereby presented that point as an independent proposition, not involving any supposed capacity or duty on his part to revise the arbitration itself in the continuing character of the original arbitrator, but by way of a particular submission, the case would have offered little difficulty as an isolated proposition. It has not, however, been so presented to him. Although the Italian request independently presented, as has been seen, is silent as to the dispute touching the fifth article of the award, except so far as to indicate that the Colombian Government adhered to the exception it had taken to said fifth article, the Colombian request of July 13 explicitly declared that the payments made by the Government of Colombia to the Royal Government of Italy, under the fourth article of the award, were—

> under the most positive reservations as regards the validity of article 5 of the decision, and without changing, abandoning, or in any way modifying the position which it has assumed towards the President of the United States of America by means of my (your) communications of March 3 and May 1 last, and towards the Government of the Kingdom of Italy in the notes addressed by its representative at Rome to his excellency the minister of foreign affairs, bearing date of May 1, 12, and 29, and of June 5 and 12 of the present year, of which I [you] have the honor herewith to inclose copies, since they are directly connected with the present request for an explanation of article 4 of the decision.

It is impossible for the President to accede to the separate and importantly variant requests of the Governments of Colombia and Italy that he interpret the controverted provisions of article 4 of the award, without encountering at the outset the existent fact of a graver dispute as to the fifth article, and without facing the inconsistency of seeming to recognize in himself a continuing, unexhausted and valid function as arbitrator for the purpose of reviewing article 4, while holding that he, as President, is *functus officio* as to article 5 thereof. He can not thus contradictorily divide his function in relation to the subject-matters. He is constrained to hold, on every sound rule applicable to the case, that he can not revive the personal character of arbitrator which his predecessor discharged by the rendition of his award.

At the same time, as the impartial friend of both the disputants, he deems it not out of place for him to point out alike to the Colombian Government and to that of Italy the superior importance of the controversy as to article 5 over that raised in regard to article 4, and to suggest to them that, even did he deem himself free to intervene in order to give the desired interpretation to the latter, his doing so would not terminate the difference between the two Governments growing out of the award made by the President of the United States. He can not lose sight of the fact that the Government of Italy, in the correspondence succeeding the award, has not in any wise admitted the invalidity of any part of the award or the right of the Republic of Colombia to seek a reconsideration of the fifth article, whatever may be its view as to an interpretation of a part of the fourth article; neither can he overlook the circumstance that more than once in that correspondence the

Government of Italy insists upon the execution of the award "pure and simple in all its parts," a proposition which the Government of Colombia in turn denies as to the fifth article.

In this view of an apparently irreconcilable situation, which he can not regard without solicitude, especially as it grows out of a service done by the President of the United States "as a friendly act to both Governments," and even setting aside further insistence upon his conviction that he possesses no continuing arbitral function in the matter, motives of delicacy and high regard would still counsel him to take no imperfect step toward a settlement of the controversies between the Governments of Colombia and Italy, which would not even palliate their essential cause of difference. Like motives of delicacy would necessarily lead him to refrain from putting forth any suggestion that the parties enlarge the request already made, and he feels that he should confine himself to expressing, for the purposes of this present communication, the gratification it would afford him were the two Governments to see their way to composing all the unfortunate issues that have sprung from the award of March 2, 1897.

It is proper for me to add that I have, under this date, addressed a substantially identical note, mutatis mutandis, to the chargé d'affaires of the Royal Government of Italy in this capital.

Be pleased to accept, etc.,

JOHN SHERMAN.

DOMINICAN REPUBLIC.

OZAMA BRIDGE CLAIM.

Mr. Sherman to Mr. Powell.

No. 9.] DEPARTMENT OF STATE,
Washington, December 17, 1897.

SIR: In connection with previous correspondence, I inclose a copy of a dispatch from Mr. Archibald H. Grimke, United States consul at Santo Domingo, No. 169, of November 23, 1897,[1] proposing a settlement of the Ozama Bridge claim.

It appears from this dispatch that President Heureaux is willing to settle the pending diplomatic claim of Henry W. Thurston against the Dominican Government relative to the Ozama Bridge by purchasing the bridge at its actual value December 20, 1895, the date of the judgment of the Dominican supreme court in the case of John Lyon, agent of Henry W. Thurston against the "La France sugar estate," the value of the structure to be ascertained by two competent engineers, one to be chosen by President Heureaux and one by Mr. Thurston, both engineers to come from the United States, the value of the franchise or concession to be deemed to constitute an important element in estimating the value of the property.

You are instructed to communicate with President Heureaux through the diplomatic channel, and to inform him that your Government, in behalf of Mr. Thurston, will agree to the adjustment of the claim as proposed, with one or two minor modifications. This Government, acting for the claimant, will accept in full settlement of the claim the actual value of the bridge, concession, and franchise on December 20, 1895, with interest thereon at the rate of 6 per cent per annum from that date to the date of payment. The value of the property shall be ascertained by two competent engineers, one to be chosen by President Heureaux and one by Mr. Thurston, both to come from the United States. In the event that the two engineers are unable to reach an agreement as to the value of the bridge and franchise, the same shall be determined by a third engineer, to be chosen by the United States Government. The engineers to be selected by President Heureaux and by Mr. Thurston shall be chosen within thirty days from the date of the acceptance of this proposal by the Dominican president, and they shall enter upon the performance of their duties within sixty days from the date of such acceptance. And within sixty days from the completion of their labors they shall, in communications signed by them jointly, notify the respective Governments of the conclusion reached by them. The amount ascertained to be the value of the property shall be paid to the Government of the United States through its diplomatic

[1] Not printed.

representative at Port au Prince, within * * * days (this period to be made as short as possible) after the two Governments shall have been notified of its ascertainment. The compensation and expenses of each engineer to be paid by the party choosing him, and the compensation and expenses of the third engineer, if it becomes necessary to select one, to be divided equally between the parties.

This Government is thoroughly satisfied that Mr. Thurston has a just claim against the Dominican Government, and you will impress upon that Government the necessity of promptly adjusting the same and removing the matter from the field of diplomatic discussion. The method of settlement above suggested would seem to afford a satisfactory way of accomplishing that end.

You will notify this Department by cable of the acceptance of the above proposal by President Heureaux, in order that the claimant may at once name the engineer to be chosen by him.

This will leave Mr. Thurston's claim for tolls for the passage of "Government men" across the bridge prior to December 20, 1895, to be adjusted otherwise.

Respectfully, yours, JOHN SHERMAN.

Mr. Powell to Mr. Sherman.

No. 24.] LEGATION OF THE UNITED STATES,
Santo Domingo, February 28, 1898.

SIR: I respectfully inform the Department the result of an interview had with his excellency Gen. U. Heureaux, President of the Republic of Santo Domingo, in reference to the "Ozama Bridge." The President, while accepting the amended proposition submitted by our Government, thinks there is still a shorter way to a complete and speedy settlement in the appointment of but one person to ascertain the value of bridge, and franchise pertaining thereto.

He waives all right of naming such person or engineer, and requests that such expert be named by our Government, one who will give an impartial decision.

He hopes that in such selection one may be named that will ascertain the value of the said bridge and its franchise, one that is acquainted with the resources of the country. I think that the person selected should not be connected in any way with either service, that he should carefully examine into all matters pertaining to the bridge, ascertain its value, the value of the franchise which has yet twenty-seven years to run, and to submit such a report to our Government and a copy of the same to this Government.

The appointment of one engineer will avoid a difference of opinion which must naturally arise if each of the interested parties selected one, necessitating the appointment of a third in case of a difference of judgment, and save expense.

I desire to state to the Department that our consul, Mr. Grimke, has rendered me valuable aid, and to him should be awarded the credit of bringing this matter so near a speedy settlement, and not to myself. He has been steadfast and diligent in guarding the interests of Mr. McKay, and at the same time has been just in his dealings toward this Government.

I have, etc., W. F. POWELL.

Mr. Powell to Mr. Sherman.

No. 35.] LEGATION OF THE UNITED STATES,
Santo Domingo, March 7, 1898.

SIR: I respectfully transmit to the Department the correspondence regarding the "Ozama Bridge," according to the instructions by cable. I have thought it best to send the reply in the writing of the minister of foreign affairs, retaining the copy here.

I have, etc. W. F. POWELL.

[Inclosure 1 in No. 35.]

Mr. Powell to General Heureaux.

No. 15.] LEGATION OF THE UNITED STATES,
Santo Domingo, March 5, 1898.

EXCELLENCY: I have received by cable this evening instructions from my Government informing me that it has named Mr. Alfred Noble, engineer, to examine and finally determine value of Ozama Bridge concession and franchise; his compensation and expenses to be borne by your Government and claimant in equal proportions.

You will kindly favor me, your excellency, in giving your assent to this proposition.

I have, etc. W. F. POWELL.

[Inclosure 2 in No. 35.—Translation.]

General Heureaux to Mr. Powell.

DOMINICAN REPUBLIC,
DEPARTMENT OF FOREIGN RELATIONS,
Santo Domingo, March 7, 1898.

MY DEAR SIR: At the hands of Gen. Ulises Heureaux I have received the letter which your honor kindly remitted to him of the date of yesterday under cover of my official address.

Through an excess of courtesy that I consider unnecessary, but which is satisfactory to me, General Heureaux has requested me in his place to say to your honor that he agrees with entire contents of the letter, and particularly in that which regards the naming of Mr. Alfred Noble.

I salute your honor, etc.,

ENRIQUE HEUREAUX.

Mr. Noble to Mr. Sherman.

CHICAGO, *May 20, 1898.*

SIR: I have the honor to submit herewith my report on the value of the Ozama River Bridge, in Santo Domingo, and the award of value in favor of Henry W. Thurston.

The following extract from my certificate of appointment sets forth the scope of the duty assigned to me:

* * * In pursuance of an agreement heretofore made between the Government of the United States and the Dominican Government, Mr. Alfred Noble, of Illinois,

has been appointed an engineer to survey the Ozama River Bridge at Santo Domingo City, in the Island of Santo Domingo, and to assess and award the value and amount to be paid by the Dominican Government for said bridge and the franchise and concession therefor, in pursuance of the terms of said agreement.

* * * * * * *

JOHN SHERMAN.

In the performance of this duty I took passage from New York on the steamship *New York* Wednesday, March 16, and arrived in Santo Domingo City Sunday, March 27. I was received by President Heureaux on the following day, and immediately afterwards proceeded to make a minute survey of the bridge. The claimant was represented during the survey by Mr. John Lyon, who has been in charge of the bridge for the claimant since 1891. I obtained from him such pertinent information concerning the bridge as he could furnish. On Thursday, March 31, having completed the survey, I waited on President Heureaux, and heard his statement of the case for the Dominican Government. I left Santo Domingo City Saturday, April 2, and arrived at New York Wednesday, April 13.

Since returning to the United States I have been obliged to devote a part of my time to the work to the Board of Engineers on Deep Waterways; the remainder has been occupied in an examination of data and the preparation of this report.

The claimant presented for consideration an item for the estimated amount of the tolls which he might have collected in 1891 if he had been permitted to open the bridge to traffic. It does not seem to me that this can be included in the present arbitration.

I have followed strictly the instructions of the Department to award the value of the bridge and franchise December 20, 1895. Under the terms of the agreement between the United States and the Dominican Government the claimant is to be allowed interest on the amount awarded from December 20, 1895, to date of payment. It may be proper to point out that the claimant derived benefit from the bridge by the collection of tolls for a subsequent period of thirteen months and eleven days. The rejected item mentioned in the preceding paragraph may be considered a partial offset to this. A further offset may be found in the claim for tolls from police, military, and postal employees from the opening of the bridge to December 20, 1895, which, however, is expressly excluded from the present arbitration.

Two copies of the report and award are inclosed, one for the Government of the United States, the other for the Government of Santo Domingo.

Very respectfully, etc., ALFRED NOBLE.

REPORT OF THE VALUE OF THE OZAMA RIVER BRIDGE AND FRANCHISE, DECEMBER 20, 1895.

This claim arises directly from the seizure by the government of Santo Domingo City, under an order of the supreme court of the Republic, of a highway bridge, built by a citizen of the United States across the Ozama River within the limits of the city, under a concession from the city government to construct said bridge and collect tolls thereon. For a clear understanding of the claim and of the award herein to be made it is necessary to present a brief description and history of the bridge.

At the bridge site, which is 3,300 feet above the mouth, the river has a width of about 500 feet. During the dry season the current in the river is mostly tidal, but as the tidal range is only about 1¼ feet the current at this season is not great. When the tide flows in the water at the bridge is salt. During the wet season the floods are severe, and the river, which flows through a forested country, carries much drift.

Under date of September 13, 1887, a contract, referred to hereinafter as the first concession, was entered into between Nathaniel McKay, of the city of New York, of the first part, and the city of Santo Domingo, of the second part, by which McKay agreed to build a highway and foot bridge across the Ozama River and open it to traffic before June 30, 1888, subject to certain conditions as to extensions of time allowed for building, and also to certain specifications as to character of construction. In return McKay was given exclusive right to collect tolls for crossing the river for the term of thirty years, paying a part of the receipts into the city treasury. No provision was made for any control by the city over the schedule of rates of tolls.

It was required by this contract that there should be an "extension" draw of 51 feet span at the middle of the bridge.

It was expressly stipulated that at the expiration of the term of thirty years the bridge should pass to the municipality and should be received in perfect state for use.

The plan of bridge adopted and finally carried out provided for the draw span as above noted, and also for eight fixed spans of 51 feet each and two spans of 26 feet each, the last-named forming the shore ends of the bridge. Preliminary borings in the bed of the river appeared to indicate the existence of bed rock 30 to 35 feet below the water's surface; the rock showed above the water surface on both banks within 100 feet of the river.

The shore abutments of the bridge were of rubble masonry covered with a plaster of Portland cement mortar. Each of the piers in the river was formed of two iron columns, about 10 feet square, sunk vertically in the river bed at a distance apart of 18 feet, measured perpendicular to the bridge line. The concession required these columns to be sunk to bed rock. After sinking, the two columns of a pier were connected by a strong iron cross frame above water, supplemented by a lighter bracing extending several feet below water.

The spans next the shore are plate girders, each span having a clear length, measured from the face of the abutment, of 26¼ feet; the eight fixed spans (each 51 feet long) between the shore spans and the draw span are lattice girders.

The draw span, as originally designed, was to be a plate-girder span of about twice the length of the opening which it was to close. To open it it was to be run on rollers endwise over the adjoining fixed spans. In order that the overhanging end should not topple down when the span was being moved the opposite end was to be heavy enough to act as a counterweight. This made the draw span a heavy one. While it was being erected, with the greater part of its weight resting upon the pier on the west side of the drawspan opening, the pier began to sink into the river bed, showing that the points of the columns had not reached solid bed rock when the piers were built, and showing also that the original borings by which, it was supposed, the surface of bed rock had been located, were worthless.

In consequence of the delusive character of the preliminary borings it became necessary to lengthen the columns for several piers and sink them deeper. It was also necessary to devise a lighter span for the draw opening, in order to reduce the weight on the foundations of the adjacent piers. The new span was constructed in the shops, sent to Santo Domingo, and erected in 1891. It was really a fixed span of peculiar form, the lower chord being higher at the center than at the supports, giving more headroom for tugs and barges. It filled the requirement of reduced weight, but was objected to on the ground that it could not be opened quickly. This span was in place and the bridge was ready for traffic in September, 1891, but the city refused to accept the new span, and demanded one by which the draw opening could be cleared quickly.

In the meantime the contract and concession for the erection of the bridge had been declared void and a second one offered. The second concession was less favorable to the owner in some important respects: First, the city's proportion of the net proceeds was increased to 25 per cent; second, the term "net proceeds" was defined as "the balance of the toll after deducting the salaries of those employed in the administration and collection" of the revenue, permitting no deduction from gross receipts on account of cost of maintenance and fixed charges before making the division; third, the city council had authority to fix the rates of tolls, or, in the language of the concession, to "control" the revenues; fourth, the city retained the right to demand a new draw span which could "be easily opened when required to allow vessels to pass." Of these several modifications of the original concession the third was by far the most important. This concession was accepted by Mr. Henry W. Thurston, to whom the title to the bridge had passed from McKay through the New Jersey and Santo Domingo Bridge Company. This acceptance was made effective January 4, 1892.

In conformity with a requirement of the second concession, the owner ordered for the draw span a bascule lift bridge and machinery for operating it. It was manufactured and erected, and about November 1, 1893, final acceptance of the bridge by the city was asked by the owner. Some delay followed, caused by a dispute as to the nature of test the bridge should be subjected to, which was finally adjusted by

opening the bridge to traffic during the month of February, 1894, and the bridge sustaining this without injury, it was accepted and the owner began collecting tolls March 1. The tolls during the month of February, while the test was being made, were by agreement retained by the city.

The schedule of tolls to be collected by the owner was by the city. Soon after the opening of the bridge free passage was claimed for sundry persons connected with the National Government, such as members of the police force, soldiers, and postal employees. The agent of the owner, unable to collect tolls from these persons, protested to the city government, which declared its want of authority to intervene, and referred the question to the national executive. On the 19th of October, 1894, the city issued a new schedule of tolls, but in this act assumed the authority which it had before repudiated and declared the bridge free to police, military, and postal employees. The owner, however, kept an account of this traffic and has submitted a statement of its amount month by month.

In September, 1894, a loaded lighter, lying some distance above, broke from its moorings and drifted against the bridge, inflicting some damage upon it. It is not pertinent here to follow the details of the ensuing litigation; it resulted in a judgment against the owner of the bridge for the costs of the suit and practically outlawed the structure. This judgment was given December 20, 1895. The owner declining to pay these costs, the revenues of the bridge for the term of two years were sold under order of the supreme court, and the purchaser was put in charge of the collection of tolls February 1, 1897. The owner then presented a claim to the United States Government against the Government of Santo Domingo for the cost of the bridge and interest. This has resulted in an agreement between the United States and the Republic of Santo Domingo for the appraisal of the bridge and its purchase by the latter at the appraised value.

The owner has submitted sundry papers, of which the most important are:

First. A detailed statement of amounts paid out on account of the bridge from the inception of the enterprise to December 20, 1895.

Second. A statement of daily receipts from tolls from March 1, 1894, when authorized by the city to begin collections, to January 31, 1897, when dispossessed by the Government of Santo Domingo, a period of two years and eleven months.

Third. A statement showing amount claimed to be due for passage of Government employees from whom no tolls could be collected.

Fourth. Estimate of probable receipts from tolls during the life of the franchise.

From the city government of Santo Domingo, through the President of the Republic, a statement has been obtained showing the receipts from tolls by months from March 1, 1894, to January 31, 1897, the expenses of administration and collection which were deducted, the proportion paid to the city treasury, and the proportion retained by the owner. This statement checks closely as to receipts from tolls with the statement furnished by the owner, excepting during the first few months, and the difference during this period is not material.

The problem of determining the value of the Ozama River Bridge and franchise is of the same nature as those which frequently arise when works for supply of water to a city, built and operated by private capital, are to be bought by the city and become public property. The treatment proper for such a problem depends in great degree on the peculiar circumstances of each case, but in general one of two methods is followed.

First method.—The value of the plant is sought without regard to earnings. This may be determined (*a*) from its actual cost, with allowance for depreciation, or (*b*) from the estimated cost of a similar plant to replace it.

It is urged in favor of the determination from actual cost that this is the investment on which returns must be paid, and is therefore the only just basis; but in order that this should be equitable the works must have been built skillfully and economically, and must have been of a sufficiently durable character to fulfill their purpose without involving undue expense for maintenance. If the cost of works were augmented by poor design or wasteful construction it could not be held that their value was enhanced thereby, but the real value would be less than cost. The statements of cost should therefore be scrutinized closely, and the amount adopted as the value of the works should exclude those charges which would have been avoided by the exercise of ordinary engineering skill and business management.

In opposition to this basis of estimating present value it is argued that the true value is the cost of duplicating the works under present conditions. This is likely to be less than original cost by reason of the experience gained in the original construction, as well as by recent progress in the art, and the almost constant tendency to lower prices. This argument is used to justify the lowering of rates of toll (where the party granting the franchise has the power) on the ground that the depreciation of value should have been met by higher rates in the earlier years of the franchise. This reasoning has force when applied to the purchase of a franchise which has been enjoyed for a long time and is about to expire, thus leaving the field open to competition; or when, as often occurs, the franchise does not give exclusive

rights. In the present case the right is exclusive and the life of the franchise has just begun. This protection is an item of value, and must be so held in an estimate of the present value of the bridge.

Passing for a moment the rights of the owner under the franchise, it is evident, from a consideration of the equity of the case, that the value of the Ozama River Bridge should be based on necessary first cost and not on present cost of duplicating the structure. The only justification for the latter basis is the one already given, viz, that rates should be high enough from the beginning of the franchise to cover the kind of depreciation due to increased knowledge and better methods of construction. It is a complete answer that the owner has had no control over the rates—they have been established solely by the city council and have afforded him no compensation for this depreciation.

For these reasons I hold strongly to the opinion that, if the valuation of the bridge is based on what is here called the first method, it should be on actual necessary cost and not on cost of duplication.

Second method.—The valuation is based on earning capacity. Deductions are made from the gross earnings to cover cost of operating and maintenance and to provide a sinking fund for the repayment of first cost of the works to the owner at the expiration of the franchise when such provision is necessary. The remainder constitutes the true net earnings. This, capitalized at the customary rate for investments of this class, gives the value of the plant and franchise. In determining the amount required in the sinking fund, the amount that can be realized from the sale of the plant at the expiration of the franchise is to be deducted from first cost.

Logically, the second method is the correct one. If its several elements are determinable, it gives the actual amount the owner would receive under the franchise, and hence solves the problem directly and exactly. Unfortunately, many uncertainties may be involved. In the first place, if the business is a growing one, it is difficult to make an estimate of its probable growth. If this can be arrived at satisfactorily, the larger future business may require an extension of plant. Second, the cost of maintenance, which is here taken to include not only ordinary repairs, but also to include renewals when necessary, is often difficult to estimate; and, in the third place, the amount that can be realized by the owner for the plant at the expiration of the franchise is extremely uncertain. In some cases, however, these uncertainties are small and the method becomes peculiarly applicable.

An interesting application of this method was given recently in the acquisition by the United States Government of the locks and dams on the Monongahela River, in the State of Pennsylvania, where all the conditions were unusually favorable for the determination of value by this method. These locks and dams had been built by the Monongahela Navigation Company under a charter granted by the State of Pennsylvania empowering it to establish a slack-water navigation and collect tolls from passing boats. This franchise became valuable, the annual net earnings being about 12 per cent of the entire cost of the improvements.

Congress first sought to obtain title to the improvements by condemnation without consideration of the right of the company to collect tolls, but the United States Supreme Court decided that Congress could not deprive the navigation company of its right to compensation for its franchise, and the case was remanded for a new trial. When it again came up in the local court viewers were appointed, by whom the award was made solely on the basis of the capitalization of the net revenue. The cost of the works did not enter as an element in making up the award. This basis of valuation was accepted by both parties, the only dispute being as to rate of capitalization, the company demanding 4 per cent, while the viewers granted 5 per cent. The award was accepted by the company without further litigation. In this case the net revenues used in the valuation were the average of those for the five years immediately preceding the award. The amount awarded was largely in excess of the cost of the improvements.

The conditions of the case just cited were particularly favorable for a determination of value by the second method. The charter of the navigation company was perpetual, its business had continued for a long time and had nearly reached a fixed state, and, finally, the rates of tolls were not subject to regulation by the adverse party in the dispute. The charter being perpetual, the cost investment was permanent, and no sinking fund was required to provide for its payment. For the same reason there could be no salvage on the plant at the expiration of the franchise. The business having existed for a long period, it had become well established and the earnings could be estimated with less than the usual degree of uncertainty.

The case of the Ozama River Bridge differs from this radically. The bridge is to be delivered to the city at the expiration of the concession and a sinking fund must be provided to repay entire cost when the concession expires, the business has not been long in existence and its future growth is more doubtful, and, finally, the rates of toll are subject to control by the adverse party in the dispute. These conditions render the determination of value from net earnings less satisfactory than in the case just cited.

In the application of either method to the Ozama River Bridge case it is required to determine necessary first cost; in the first method this is required to ascertain present value; in the second method, to determine amount of annual payment into the sinking fund. The necessary cost, therefore, will first be sought.

ESTIMATION OF VALUE FROM COST.

The claimant submits a detailed statement of expenditures from the inception of the enterprise to December 20, 1895, amounting to $66,540.34. The bridge was accepted by the city March 1, 1894, and the collection of tolls by the claimant commenced on that day. Expenses incurred after that date should not be charged to construction, but to maintenance. Excluding the items which thus appear chargeable to maintenance, the cost, as per claimant's statement, is $64,388.71.

This statement of cost is only partially supported by vouchers. My investigation, however, convinces me that it is substantially correct, but it must be examined to ascertain whether it embraces items that should be excluded from an equitable determination of value as improper or unwise expenditures.

The only expenditures which from their nature may appear of questionable propriety are the payments to H. C. C. Astwood for obtaining the concession, securing the final acceptance of the bridge, etc. These payments amounted to $2,440. When the concession was obtained Astwood was the United States consul at Santo Domingo City. There may be question whether the representative of the United States could properly engage in this enterprise, but in my opinion this does not affect the validity of the owner's claim for repayment. The cost incurred in obtaining a concession is in its nature a legitimate item of expense, and the same may be said in regard to the employment of a representative to secure its final acceptance. As to the amount that may be thus expended, the presumption must be that the owner employed the most effective assistance and on the most reasonable terms practicable. If the amount paid were clearly excessive, for the service rendered, the presumption would be overcome and the propriety of including it in the valuation of the bridge would be in question. It does not appear to me that this is the case, and it is therefore included in the valuation.

Passing to the consideration of expenditures unwise from a business point of view, it seems to me that all expenditures connected with the first draw span should be excluded from the valuation for the following reasons:

The first concession (under which this draw was built) contained the following clause:

"Second. The columns" (of the pier) * * * "must be placed over solid stones or coral on the bottom and under the mud of the river."

The awkward phraseology of this specification is probably due to the translator; but the meaning is clear that the columns composing the pier were to be sunk to bed rock. When the draw span was put in place the supporting pier was unable to sustain it, but settled several feet into the bed of the river; this was due solely to the fact that the columns had not been sunk to bed rock. A new and lighter span had to be provided for the sole and only reason that the foundations would not support the weight of the first one.

The owner having undertaken to sink the columns to bed rock, he should have ascertained in advance of construction the depth to bed rock at the site of each of the piers. The necessity for this is so well recognized by engineers, and in fact is so obvious to anyone, that failure to do so carries with it responsibility for the results. It is true the owner had so-called borings made, and items for their cost appear in the claimant's statement. He may have supposed and probably believed that the position of rock surface was determined by them, but he was responsible for the inefficient work of his agents and can not justly charge resulting expenditures to anyone else.

The last paragraph of the fourth clause of the first concession reads as follows:

"The whole of the construction of the bridge must be done in accordance to the plan which is annexed to this agreement." * * *

It is understood that the draw span was shown on this plan and its design thus accepted by the city. It is contended, therefore, that the concessionee was not responsible for its failure. This contention does not seem to me valid; the failure was not in the span but in its supports; the necessity for replacing it was because the columns had not been sunk to bed rock as required by the second clause of the concession. If they had been sunk as required by this clause there is no reason to doubt that the draw would have answered its purpose.

The fact that a general plan of the bridge was referred to and approved in the fourth clause of the concession did not relieve the concessionee from the specific obligation of the second clause to sink the columns to bed rock. There is no evidence that the plan referred to in the fourth clause indicated in any way the position of bed rock there is no evidence that any borings had been made previous to the date of the concession, but there is indirect evidence to the contrary in the appearance in the

statement of cost under subsequent dates of various items relating to borings. If a rock surface had been shown on the original plans and had been guaranteed by the city, the concessionee might have been entitled to compensation for material and labor involved in sinking piers through the greater depth afterwards found required, but would have had no equitable right to other relief from the obligation to reach bed rock.

The seventh clause of the first concession contains the following provision:

"On the arrival of the materials for the construction of the bridge in the city of San Domingo, the contractor must commence immediately the erection, under the inspection of an engineer whom the municipality will be authorized to name, and whose duty it will be to ascertain if the bridge is erected according to plans and specifications."

It is understood that the inspector was not appointed on the arrival of the materials at Santo Domingo nor until acceptance of the bridge was asked. But if he had been appointed at the time provided, his powers were strictly limited and he had no authority to relieve the concessionee from any of the obligations of the concession. The neglect of the city to appoint him or his neglect to object to the construction of the piers would not relieve the concessionee of his obligation to sink the columns to bed rock.

Therefore I exclude the estimated amount of the expenditures for the first draw from the valuation. It is impossible to state exactly the amount of these expenditures from the data furnished. Basing my conclusion on a careful computation of the weight of the structure and such other data as are available and using my best judgment, I make a deduction of $6,500 on account of this draw. I also deduct the expenditure reported prior to May, 1891, for borings which were worthless; these amounted to $105.

The knowledge of the materials at the pier sites gained in this expensive way by loading the pier with finished bridge material for which there was no further use would have cost about $1,500 if obtained by suitable borings. It is just to allow this amount in offset to the deductions just made. The net deduction is $5,105.

A charge for interest on investment during the period of construction is in its nature a proper one. The cost statement submitted by the owner contains such a charge, but it appears to be for the full amount of the investment for nearly the full period. This seems to me erroneous. The interest allowance is for actual use of capital, and it is not probable that it was furnished very much in advance of expenditure. Some allowance of time must be made between the raising of funds and their expenditure, and it will be equitable to allow interest from the beginning of each year for the expenditures made in that year. It is believed, however, that the interest allowance is fairly subject to deduction on account of the time wasted on the first draw span, which, it is held, ought not to have been built. The value of the bridge can not be considered enhanced by errors committed in construction that were clearly avoidable. Interest allowance on cost of construction ought to cease March 1, 1894, when the owner began collecting tolls, the presumption being that receipts will take care of all fixed charges, including accruing interest on investment.

According to the owner's cost statement the annual expenditures were as follows:

In 1887	$650.65	
Interest at 6 per cent, January 1, 1888, to March 1, 1894—six years two months		$240.65
In 1888	19,296.42	
Interest at 6 per cent, January 1, 1889, to March 1, 1894—five years two months		5,981.89
In 1889	7,697.64	
Interest at 6 per cent, January 1, 1890, to March 1, 1894—four years two months		1,923.41
In 1890	2,018.88	
Interest at 6 per cent, January 1, 1891, to March 1, 1894—three years two months		383.58
In 1891	10,192.95	
Interest at 6 per cent, January 1, 1891, to March 1, 1894—three years two months		1,936.67
In 1892	8,035.88	
Interest at 6 per cent, January 1, 1892, to March 1, 1894—two years two months		1,044.68
In 1893	9,450.67	
Interest at 6 per cent, January 1, 1893, to March 1, 1894—one year two months		661.55
In 1894	1,940.87	
Interest at 6 per cent—two months		19.41
Total interest allowance		12,191.84

A charge of 10 per cent on cost is made by the owner on account of his services, supervising construction, for office rent, clerk hire, etc. This is a legitimate item in estimating the value of the bridge, and is allowed, less a deduction of $492.75 for items of this nature which have been carried into the accounts and already taken up in the statement of net cost. The amount of this is determined as follows:

Expended, account of bridge, to March 1, 1894, including unpaid accounts at that date		$64,388.71
Net deductions on account of first draw		5,105.00
Necessary cost of bridge March 1, 1894, exclusive of interest account		59,283.71
10 per cent allowed for superintendence	$5,928.37	
Less amount already taken into account	492.75	
		5,435.62
		64,719.33
Adding interest allowance		12,191.84
Valuation of bridge March 1, 1894 (to be corrected by deduction on account of depreciation since erection)		76,911.17

The depreciation of the structure must now be estimated and deducted.

The cost statement shows a purchase of plank in 1895 sufficient for the estimated annual maintenance of the floor; also paint for the ironwork. The only item to be taken up under this head is the maintenance of the metal work; the estimated cost of maintaining the metal work of the bridge, as will appear farther on, is $500 per year. The greater part of the material, except the draw, had been in place about six years; the draw, two years. Taking the mean at five years, the allowance for depreciation would be $2,500, which is to be deducted from the valuation given above of $76,911.17, which gives value of bridge December 20, 1895, as determined from cost of construction, $74,411.17.

ESTIMATION OF VALUE FROM NET REVENUE.

According to the terms of the concession, the bridge will become the property of the city at the expiration of the franchise, and is to be delivered to the city "in perfect condition of service." Nothing can be realized by the claimant at the expiration of the franchise for the value of the structure. The gross receipts will consist solely of tolls. He collects these at rates "controlled" by the city, pays the expenses of the collectors, and then retains 75 per cent of the balance, paying 25 per cent to the city. From his proportion of 75 per cent he has to pay, further, the cost of maintaining the structure in condition for service and provide a sinking fund. It is necessary, therefore, to estimate the gross receipts during the life of the franchise, cost of collecting tolls, cost of repairs and renewals to maintain the bridge in condition for traffic and for delivery to the city at the expiration of the franchise, and annual payment into sinking fund to repay cost of structure at expiration of franchise.

The balance remaining after making these deductions, and after payment to the city of its proportion of the revenue, is the sole remuneration under the terms of the concession.

The actual receipts for thirty-five months covering the period when tolls were collected by the owner are shown in the following table, which gives the amounts as reported by the owner and the amounts as reported by the city. The amounts are in silver.

Receipts from tolls across Ozama River bridge.

Month.	Receipts as reported by claimant per month.	Receipts as reported by city per month.
1894.		
March	$784.55	$560.00
April	734.80	514.60
May	700.60	676.60
June	726.05	726.10
July	777.25	777.25
August	761.10	761.10
September	683.75	684.75
October	672.80	676.80
November	774.55	785.65
December	806.00	806 00
Total	7,421.45	6,968.25
1895.		
January	824.00	824.75
February	797.95	797.95
March	853.15	853.15
April	811.45	806.70
May	880.50	880.40
June	806.30	806.30
July	806.10	806.10
August	802.80	803.25
September	777.45	777.60
October	799.90	791.90
November	692.70	692.85
December	797.10	801.45
Total	9,649.40	9,702.40
1896.		
January	841.85	841.85
February	781.95	782.30
March	887.30	887.30
April	790.10	790.10
May	830.20	805.20
June	814.30	789.30
July	835.50	810.50
August	807.85	782.85
September	735.65	710.65
October	774.10	899.10
November	755.15	755.15
December	806.95	806.95
Total	9,660.90	9,661.25
1897.		
January	879.35	879.35
Grand total	27,611.10	27,211.25

Comparing these returns, it will be observed that, excepting for the first two months, the statements are in substantial accord, and the total difference between the two is immaterial.

This does not represent the entire traffic over the bridge, because, as already stated, the city at first permitted and afterward required free passage for police, military, and postal employees of the Government, claiming the right to require this under the ninth clause of the concession, which reads as follows:

"The council to have the right of appointing a fiscal agent to inspect the revenues of the bridge, and even to control them." * * *

The owner immediately protested against this action, but had no remedy.

While it may be that the clause referred to gave to the city authority to adjust rates of tolls to an equitable basis, it could give no right to deprive the owner of compensation for the use of the bridge. An account of this traffic was kept by the owner, and the amounts reported should be added to the gross receipts for the purpose of estimating the value of the earnings of the bridge. With this addition the gross earnings, in silver, would be as shown in the next table:

Gross earnings, Ozama Bridge, being collections plus amounts due for passage of police, etc., in silver.

Month.	Tolls collected.	Gross earnings, including amounts added on account of passage of police, military, and postal employees.
1894.		
March	$784.55	$904.80
April	734.80	889.20
May	700.60	806.60
June	726.05	851.05
July	777.25	908.25
August	761.10	872.45
September	683.75	803.50
October	672.80	792.95
November	774.55	871.65
December	806.00	809.00
1895.		
January	824.00	915.10
February	797.95	890.30
March	853.15	946.14
April	811.45	921.10
May	880.50	972.65
June	800.30	893.30
July	806.10	933.10
August	802.80	888.95
September	777.45	877.25
October	799.90	830.52
November	692.70	732.32
December	797.10	832.45
1896.		
January	841.85	932.45
February	781.95	874.00
March	887.30	996.05
April	790.10	848.40
May	830.20	881.45
June	814.30	988.80
July	835.50	904.65
August	807.85	889.75
September	735.65	819.85
October	774.10	833.70
November	755.15	826.95
December	806.95	882.35
1897.		
January	870.35	963.95
Total	27,011.10	30,707.93

On the basis of the gross earnings, determined as in the preceding table, the owner has submitted an estimate of the revenues which would accrue during the life of the franchise, resulting in a calculated increase of $160.80 (silver) per year for each year of the franchise. This calculation of increase seems to me faulty in method. That this is the case will be evident from the fact that it gives as much weight in determining the law of increase or decrease to the last two months' receipts as to the sum of all the others. The defect of the method may be apparent from a hypothetical case; suppose a series of successive months' earnings were as follows: $1,000, $900, $800, $700, $600, $500, $400, $300, $700, $600.

The method would show increasing revenue, while a mere inspection is sufficient to show that it must be decreasing.

For the determination of the law of change of a series of quantities mathematicians employ the principle of least squares. This has been applied in the present case, and the results will be explained briefly. The subject is too abstruse for extended discussion here.

Referring to the accompanying blue print,[1] the earnings by months are platted as shown, the point marked *a*, for instance, representing the earnings for the twenty-first month (November, 1895). Applying the method of least squares, the heavy

[1] Not printed.

line A–B was found to represent the probable rate of change of the earnings for the thirty-five months more nearly than any other straight line. It indicated a small yearly increase, amounting to $67.91. It was also found that the earnings for the thirty-five months could be represented by a curve with a less probable error than by any straight line. C–D is such a curve. It appears to indicate that the earnings reached a maximum in about twenty-three months and that a slight decrease followed, which, however, had an increasing rate, and if the curve were prolonged the indicated earnings would become zero long before the expiration of the franchise. Such a result can not be correct, and shows that the method is inapplicable for this purpose. Indeed, this result was to be expected. It is always unsafe to carry the application of a purely mathmetical deduction like this very far beyond the limits of the data on which it is based. In this case the business has not continued long enough to permit the determination of a law of increase by any mathematical process.

It seems to me better to consider the matter from an entirely different point of view. This bridge affords the only means of public transit across the river between Santo Domingo City, having a population of 15,000 to 20,000, and the rich but mostly undeveloped district on the opposite side. This traffic at the established rates of tolls amounted in 1895 and 1896 to about $10,600 per year in silver, or at the average rate of exchange to $5,300 per year in gold. The increase of traffic, if any, must depend mainly upon the growth of the city, the development of the adjacent territory, and the financial condition of the country.

The country is one of great natural resources and capable of supporting a dense population, but the people are not enterprising in a business way. Want of foreign capital, frequent revolutions, and other conditions have prevented the development of these great resources; for the last twelve years, however, the Government has been able to maintain itself against all enemies and destruction of property as an incident of revolution has practically ceased. Foreign capital has been invested to a considerable extent, and with stable government and wise administration the development of the country would be rapid. No such growth as that of the United States can be expected, but it is impossible to doubt that the development of the island in the present age of the rapid advance of civilization all over the world must be very considerable within the life of this franchise.

It is impossible to make a definite estimate of the future increase in traffic that will not be questioned; the best that can be done is to name a rate that in view of all the conditions and prospects seems judicious; it seems to me that it would be conservative and fair to take it at $200 (silver) per year, which is about 2 per cent of the earnings during the first year the bridge was opened; taking the mean per year while tolls were collected by the owner there results $10,500 (nearly), which may be taken as the adjusted earnings for the second year. Applying to this the assumed annual difference of $200 and the following table results:

First year	$10,300	Seventeenth year	$13,500
Second year	10,500	Eighteenth year	13,700
Third year	10,700	Nineteenth year	13,900
Fourth year	10,900	Twentieth year	14,100
Fifth year	11,100	Twenty-first year	14,300
Sixth year	11,300	Twenty-second year	14,500
Seventh year	11,500	Twenty-third year	14,700
Eighth year	11,700	Twenty-fourth year	14,900
Ninth year	11,900	Twenty-fifth year	15,100
Tenth year	12,100	Twenty-sixth year	15,300
Eleventh year	12,300	Twenty-seventh year	15,500
Twelfth year	12,500	Twenty-eighth year	15,700
Thirteenth year	12,700	Twenty-ninth year	15,900
Fourteenth year	12,900	Thirtieth year	16,100
Fifteenth year	13,100		
Sixteenth year	13,300	Total silver	396,000

This gives the total earnings of the bridge during the thirty years of its franchise as	$396,000
Less earnings for first month (January, 1894) turned over to city by agreement, say	850
Total	395,150
From which deduct earnings from March 1, 1894, to December 20, 1895	18,730
Estimated earnings from December 20, 1895, to expiration of franchise, a period of twenty-eight years one month eleven days	376,420
Mean estimated gross earnings per year:	
Silver	13,389
Gold	6,695

Cost of collecting tolls.—This is shown in the statement of revenues furnished by the city as amounting in thirty-five months to $1,053.14; per month, silver, $115.80; per month, gold, $57.90, or $700 per year, gold, nearly.

Cost of repairs and renewals.—In making an estimate of the cost of repairs and renewals, careful consideration must be taken of the situation of the bridge, its character as regards solidity and durability, and of its present condition as affording pertinent evidence.

It has been stated on a preceding page that during the dry season the tide brings salt water to the bridge. This affects the columns injuriously, but in my examination I found less injury than I had expected. The portion of the columns between high and low tide where the greatest deterioration would be anticipated was in every case covered closely with barnacles; when these were scraped off the metal beneath was found comparatively clean. It was rough and pitted to some extent, but not to a dangerous extent, although the columns have been in place more than eight years.

From my observations here and elsewhere, as well as from the best information I can obtain, I am of the opinion that the effect of salt sea air near the seashore is as great as that of sea water. Metal work can be protected against it by frequent and thorough cleaning and painting, but a great deal of injury may be sustained in a short time if this is neglected. It is probable that the Ozama River bridge will require a complete coat of paint every second year, and considerable scraping and partial painting in the alternate year. This will cost about $250 per year, gold.

Aside from the columns, the parts of the bridge showing considerable weakening from rust are the lower portions of the cross frames in the piers which are only one or two feet above high tide. Many of the material connection plates in the trusses are nearly destroyed, these small pieces showing much greater injury than any other parts of the bridge. Some of the light floor stringers show a little injury. The entire bridge needs cleaning and painting and also some renewals. It is in a condition where depreciation will be very rapid unless the needed work is done at once.

The annual cost of renewals to metal work must be estimated according to one's best judgment. They have been insignificant hitherto, but will be greater as the bridge becomes older. In my opinion they will cost about $500 per year, gold, and this sum is set apart in the estimate.

The piers have settled considerably, particularly the downstream columns. In one pier the downstream column is about 8 inches lower than the upstream column. It is to be presumed that originally they were at the same level; differences of 2 or 3 inches are common.

It follows from this that the bridge does not rank as regards the solidity of its foundations, and the strain imposed on the piers by large quantities of drift collected against it would be severe. The cost of a structure having sufficient solidity to be absolutely safe against contingencies of this kind would be so much as to be prohibitive on account of the deep mud in the river bed. I believe, however, that the bridge will not be in great danger from this cause if cared for intelligently and constantly.

Timber decays rapidly in this warm climate and the plank floor will need replacing about every third year. Lumber for this purpose is now imported from the United States. It is said there is good pine on the island, but it is not now available for lack of steam transportation. The cost of renewing the floor will be about $100 per year, gold.

Incidental to the repairs and renewals it will be necessary that a bridge engineer visit the bridge about once each year and determine by thorough examination what repairs and renewals are needed; this will cost for transportation and services at least $400 per year, gold.

Collecting these items, the annual expense of repairs and renewals is estimated as follows:

Repairing metal work	$500
Cleaning and painting	250
Renewing floor (one-third each year)	400
Annual inspection	400
Total	1,550

Annual payment into sinking fund.—These payments, placed at compound interest, must furnish, at the expiration of the franchise, a fund equal to the original investment. The original investment will be considered identical with the valuation December 20, 1895, already given.

The sinking fund would probably be accumulated in the United States, where 4 per cent is a fair interest rate. At this rate the annual payment into the sinking fund would be $1,479.25.

The net earnings can now be calculated:

Gross earnings, average	$6,695.00	
Deduct cost of collecting tolls	700.00	
		$5,995.00
City's proportion, 25 per cent		1,498.75
Owner's proportion, 75 per cent		4,496.25
Deduct cost of maintenance (repairs and renewals)	1,550.00	
Deduct payment into sinking fund	1,479.25	
		3,029.25
Net earnings		1,467.00

Capitalization of net earnings.—In the Eastern part of the United States the usual rate of capitalization for investments of this class is 5 per cent; in the Western States, 6 per cent. It should be higher in Santo Domingo, where the prevailing rate of interest on short-time loans is about twice as great as in the United States. Taking it at only 7 per cent, which is certainly not too high, the capitalization becomes $1,467 ÷ 0.07 = $20,957.14, which represents the value in gold of the bridge and franchise December 20, 1895, calculated from net earnings on the assumed data. From this it would appear that the franchise is not of value. The investment, instead of realizing 7 per cent or more, will realize only 2 per cent.

It would appear that the city, in exercising its power to fix rates, has established a schedule that is too low. It has the power to raise the rates, and if this were done it would probably result in an increase of revenues. Unless an increase in net revenue can be realized, the investment is unprofitable and the valuation is not increased by considering the franchise as an element.

That this is an unsatisfactory way of calculating the value of the bridge will be apparent on a slight examination of the data on which it is based. The principal uncertainty is in the estimate of gross earnings; it is an attempt to predict the growth of business, and the result, under any known conditions or in any country, the United States or Great Britain for example, would be extremely questionable. If the Republic of San Domingo should again be the scene of frequent revolutions, as was the case before the Government came into the hands of its present strong executive, the earnings might become much less than at present and the property itself would be in great danger. On the other hand, if the revenue anticipated by the owner should be realized, the capitalization would be greater than stated above by $14,071, making a total of $35,028. This amount is less than half of the actual cost of the bridge, and it follows that, even if the owner's estimate of earnings were correct, the bridge would be an unprofitable enterprise without a revision of the schedule of tolls. If the receipts from tolls could be increased 56 per cent above the amount assumed for this valuation, the net revenue would be equal to 7 per cent on the investment and it would be fairly profitable. The great change in estimated value resulting from a comparatively moderate change in earnings is very noticeable and strongly discredits this method of estimating value in cases like the present.

The reserved right of the city to regulate the tolls or to "control" the revenue, as it is expressed in the concession, is extremely important in connection with the valuation. Its purpose is to prevent the imposition of a schedule of tolls which would return excessive profits to the owner of the bridge. If the schedule should prove to be too high from this point of view the rates would undoubtedly be reduced. On the other hand, if the schedule should prove too low, the owner would demand a new schedule imposing higher rates; whatever the change, it would be, if equitable, for the purpose of securing to the owner a fair return on the investment and no more. If, then, the "control" of the revenues means an adjustment of rates to return a fair profit on the investment, it is useless circumlocution to base a valuation on earnings instead of the investment to which the earnings will be adjusted. The "control" of the revenues as expressed in the concession can have no other equitable meaning.

I hold, therefore, that the valuation of the bridge is not increased above its actual cost by the concession and franchise; that the method of valuation from net revenue is inapplicable in this case, and I base the following award on the actual cost of the bridge, deducting those expenditures which were clearly unwise and also deducting for the natural depreciation of the structure up to December 20, 1895. An allowance for interest on invested capital during construction and an allowance for expenses and personal services of the owner during the same period are included.

Award for the Ozama River Bridge and Franchise.

I, the undersigned, engineer appointed under and in pursuance of an agreement heretofore made between the Government of the United States and the Dominican

Government to survey the Ozama River bridge at Santo Domingo City and to assess and award the value and amount to be paid by the Dominican Government for the said bridge and the franchise and concession therefor in pursuance of the terms of said agreement, do now make this my final award, as follows:

I award that the Dominican Government shall pay to the Government of the United States the sum of $74,411.17 in gold, with interest at 6 per cent from December 20, 1895, in full satisfaction of the claim of Henry W. Thurston for the said bridge and the franchise and concession therefor.

This award is made without prejudice to any right the said Henry W. Thurston may have to payment for the passage across the bridge prior to December 20, 1895, of persons belonging to the police, military, or postal service of the city or the Republic of Santo Domingo, consideration thereof being expressly excluded from this arbitration by the terms of said agreement.

ALFRED NOBLE.

CHICAGO, ILL., *May 20, 1898.*

Mr. Powell to Mr. Day.

No. 68.] LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, July 9, 1898.

SIR: I have but little time to prepare this dispatch, as the steamer sails from here in less than an hour. The Santo Domingo mail has just reached me. I inclose copy of General Heureaux's letter in reference to the Ozama River bridge incident. I know from personal observation that there is at this time very little money, and that it is impossible for them to pay the whole sum in cash.

I also send inclosed draft for the expenses of Mr. Noble for $1,489.02, sent by the President, draft No. 10137 on Muller, Schall & Co.

I have, etc.,

W. F. POWELL.

[Inclosure 1 in No. 68.]

General Heureaux to Mr. Powell.

SANTO DOMINGO, *June 24, 1898.*

SIR: I have the honor to acknowledge the receipt of your note No. 33, June 8 last, informing me of the award made in the settlement of the case of the Ozama River Bridge. In it you advise me that the decision of Mr. Alfred Noble, the engineer appointed by your Government to examine the structure, awards to Mr. Thurston the sum of $74,411,17 with interest at 6 per cent from December 20, 1895. For professional services, your Government allows Mr. Noble $1,489.02 in conformity with inclosed vouchers. For this latter sum, you ask that I transmit a draft on any reputable firm of New York, and you also request that I close the matter of the other payment as soon as possible, suggesting that each day's delay only adds to the amount and postpones the transaction which will give me ownership of the bridge.

In compliance with your request, I inclose a draft for $1,489.02 in your favor, at three days, against the house of ——, of New York. This I hasten to do as promptly as the means of communication between Port au Prince and this capital will permit.

As to the desirability of completing the transaction as soon as possible by the payment of the total of the award, I am entirely in accord with you. On the other hand, it is not necessary for me to point out to you, who have so intelligently and thoroughly studied this country and its

resources, the great difficulty which will be experienced here in securing so large a sum of money. According to the estimate accepted by Mr. Noble, the gross annual revenue of the bridge does not exceed $5,000. So the earnings of the bridge can not be of any considerable assistance. I need not remind you that the revenues of this Goverment are mortgaged for the payment of our foreign debt and that the Santo Domingo Improvement Company, of New York, which directs the business, pays to this Government the sum of $60,00 monthly. With this sum of $60,000 monthly we must pay all the expenses of the Government. It must, therefore, require no argument on my part to demonstrate to you our utter inability to pay the sum of $74,000, with interest, in cash. You are so familiar with our condition that I trust you will make clear to your Government that some arrangement for partial payments will not only be an act of consideration toward a friendly Government of so very limited resources, but also one which is made necessary by our limitations.

I therefore beg you to submit to your Government this plan of partial payments:

Cash	$22,000
January 1, 1899	22,000
July 1, 1899	22,000

January 1, 1900, balance with interest from December 20, 1895.

It will be with great sacrifice that I will be able to fulfill these terms of payment. I submit the proposition to you with confidence that, with your intimate knowledge of our limitations and your cordial attitude toward my Government, you will recommend it to the honorable Secretary for his acceptance.

Accept, sir, etc., ULYSSES HEUREAUX.

Mr. Day to Mr. Powell.

No. 45.] DEPARTMENT OF STATE,
Washington, July 19, 1898.

SIR: I have the pleasure to acknowledge the receipt of your No. 68, of the 9th ultimo, in regard to the terms proposed by His Excellency the President of Santo Domingo for the settlement of the Ozama River Bridge claim, in view of the decision of Mr. Alfred Noble awarding Mr. Thurston the sum of $74,411.17, with interest at 6 per cent from December 20, 1895. The terms proposed by President Heureaux are as follows:

Cash	$22,000
January 1, 1899	22,000
July 1, 1899	22,000

January 1, 1900, balance with interest at 6 per cent from December 20, 1895.

I am charged by the President to express his gratification at the prospect of an early settlement of the long pending claim, and to say that the mode of payment is entirely satisfactory to the Government of the United States, which has no wish to exact harsh or onerous conditions from that of the Dominican Republic.

I accordingly telegraphed you to-day as follows:

Sixty-eight, July 9, received. Proposed settlement Ozama Bridge claim satisfactory. Collect and transmit $22,000, first cash payment.

The draft No. 10137, dated July 4, 1898, on Messrs. Muller, Schall & Co., of New York, for $1,489.02, in payment of Mr. Noble's expense account, has been indorsed to his order and forwarded to him.

Congratulating you upon the happy termination of this incident, I am,

Respectfully, yours, WILLIAM R. DAY.

Mr. Powell to Mr. Hay.

No. 97.] LEGATION OF THE UNITED STATES,
Port au Prince, December 10, 1898.

SIR: I respectfully inclose four drafts, representing $44,000.02, being the first and second payments on the Ozama River Bridge claim. All the drafts represent the first of exchange, second sent by next mail, and are drawn in favor of American Government.

I have, etc.,

W. F. POWELL.

FRANCE.

RECIPROCAL COMMERCIAL AGREEMENT BETWEEN THE UNITED STATES AND FRANCE.

Concluded May 28, 1898.
Proclaimed May 30, 1898.
In effect June 1, 1898.

PROTOCOL

of the Reciprocal Agreement between the Governments of the United States of America and of the French Republic concluded at Washington this twenty-eighth day of May 1898 by their respective Representatives duly empowered for that purpose; namely, on the part of the United States the Honorable John A. Kasson, Special Commissioner Plenipotentiary etc. and on the part of the French Republic His Excellency, M. Jules Cambon, Ambassador of France etc. etc. etc.

The Government of the United States and the Government of France being animated by the same spirit of conciliation and being equally desirous to improve their commercial relations, have concluded the following Agreement.

I.

It is agreed on the part of France that during the continuance in force of this Agreement the following articles of commerce, the product of the soil or industry of the United States, shall be admitted into France at the minimum rates

PROTOCOLE

de l'arrangement réciproque conclu à Washington le vingt-huit Mai mil huit cent quatre-vingt dix-huit, entre le Gouvernement des Etats-Unis d'Amérique et le Gouvernement de la République Française, par leurs représentants respectifs, dûment autorisés à cet effet, savoir: pour le Gouvernement des Etats-Unis d'Amérique, l'Honorable John A. Kasson, commissaire spécial plénipotentiaire & & et pour le Gouvernement de la République Française, son Excellence M. Jules Cambon, Ambassadeur de France, &, &, &

Le Gouvernement des Etats-Unis d'Amérique et le Gouvernement de la République Française, animés d'un même esprit de conciliation et également désireux d'améliorer les relations commerciales des deux Pays sont convenus de ce qui suit:

I.

Il est convenu de la part de la France que, tant que le présent arrangement restera en vigueur, les articles énumérés ci-après, produits du sol ou de l'industrie des Etats-Unis, seront admis en France aux droits du tarif mini-

of duty, to wit, not exceeding the following rates:

French Tariff No.		Per 100 kilogs. Francs.
19.	Canned meats	15
84.	Table fruits, fresh:	
	Lemons, oranges, cedrats and their varieties not mentioned	5
	Mandarin oranges	10
	Common table grapes	8
	Apples and pears:	
	For the table	2
	For cider and perry	1.50
	Other fruits except hothouse grapes and fruits	3
85.	Fruits dried or pressed (excluding raisins):	
	Apples and pears:	
	For the table	10
	For cider and perry	4
	Prunes	10
	Other fruits	5
128.	Common woods, logs	0.65
	Sawed or squared timber 80 mm. or [illegible] in thickness	1
	Squared or sawed lumber exceeding 35 mm. and less than 80 mm. in thickness	1.25
	Wood sawed 35 mm. or less in thickness	1.75
129.	Paving blocks	1.75
130.	Staves	0.75
160.	Hops	30
174. ter.	Apples and pears crushed, or cut and dried	1.50
	Manufactured and prepared pork meats	50
	Lard and its compounds	25

mum, c'est à dire à des droits ne dépassant pas les suivants, savoir:

numéros du tarif français.		Désignation des produits.	Droits à percevoir par 100 Kilos. Francs.
19.		Conserves de viandes en boites	15.00
84.		Fruits de table, frais:	
		Citrons, oranges, cédrats et leurs variétés non dénommées	5.00
		Mandarines et chinois	10.00
		raisins de table ordinaires	8.00
		Pommes de table	2 00
		et poires à cidre et à poiré	1.50
		Autres, à l'exception des raisins et fruits forcés	3.00
85.		Fruits de table, secs ou tapés:	
		Pommes et poires de table	10.00
		Pommes et poires à cidre et à poiré	4.00
		Pruneaux et prunes	10.00
		Autres, à l'exception des raisins secs	5.00
128.	Bois Communs	Bois ronds, bruts, non équarris, &., &	0.65
		Bois équarris ou sciés de 80 millimètres d'épaisseur et au-dessus	1.00
		Bois équarris ou sciés d'une épaisseur inférieure à 80 millimètres et supérieure à 35 mm	1.25
		Bois sciés à 35 millimètres d'épaisseur et au-dessous	1.75
129.		Pavés en bois débités en morceaux	1.75
130.		Merrains	0.75
160		Houblon	30.00
174 ter.		Pommes et poires écrasées	1.50
17 bis.		Charcuterie fabriquée	50.00
30.		Saindoux	25.00

II.

It is reciprocally agreed on the part of the United States in accordance with the provisions of Section 3 of the United States Tariff Act of 1897 that during the continuance in force of this Agreement the following articles of commerce, the product of the soil or industry of France, shall be admitted into the United States at rates of duty not exceeding the following, to wit:

On argols, or crude tartar, or wine lees, crude, five per centum ad valorem.

On brandies, or other spirits manufactured or distilled from grain or other materials, one dollar and seventy-five cents per proof gallon.

On paintings in oil or water colors, pastels, pen and ink drawings, and statuary, fifteen per centum ad valorem.

II.

Il est réciproquement convenu de la part des Etats-Unis, conformément aux dispositions de la section 3 de la loi douanière des Etats-Unis de 1897 que, tant que le présent arrangement restera en vigueur, les articles suivants, produits du sol ou de l'industrie de la France, seront admis aux Etats-Unis à des droits ne dépassant pas les suivants, savoir:

Tartres bruts, ou lies-de-vin, brutes, cinq pour cent ad valorem;

Cognacs, ou autres spiritueux, ou liqueurs fabriquées, provenant de la distillation de grains ou d'autres matières, un dollar et soixante quinze cents par gallon;

Peintures à l'huile, aquarelles, pastels, dessins et statuaire, quinze pour cent ad valorem;

It is further agreed on the part of the United States that the rates of duty heretofore imposed and collected on still wines, the product of France, under the provisions of the United States Tariff Act of 1897 shall be conditionally suspended, and in place thereof shall be imposed and collected as follows, namely:

On still wines and vermuth, in casks, thirty-five cents per gallon; in bottles or jugs, per case of one dozen bottles or jugs containing each not more than one quart and more than one pint, or twenty-four bottles or jugs containing each not more than one pint, one dollar and twenty-five cents per case, and any excess beyond these quantities found in such bottles or jugs shall be subject to a duty of four cents per pint or fractional part thereof, but no separate or additional duty shall be assessed upon the bottles or jugs.

But it is expressly understood that this latter concession may be withdrawn in the discretion of the President of the United States whenever additional duties beyond those now existing, and which may be deemed by him unjust to the commerce of the United States, shall be imposed by France on products of the United States.

III.

This Agreement shall take effect and be in force on and after the first day of June 1898.

Signed in duplicate this twenty-eighth day of May A. D. 1898, in the City of Washington.

JOHN A. KASSON
JULES CAMBON

Il est, en outre, convenu de la part des Etats-Unis que les droits imposés et perçus jusqu'ici sur les vins non mousseux, produits de la France, en vertu de la loi douanière des Etats-Unis de 1897, seront conditionnellement suspendus et qu'en leur lieu et place les droits suivants seront imposés et perçus, savoir:

Vins non mousseux et vermouts, en fûts, trente-cinq cents par "gallon"; en bouteilles ou cruchons, par caisse de douze bouteilles ou cruchons ne contenant chacun pas plus de "un quart" et contenant plus de "une pinte", ou par caisse de vingt-quatre bouteilles ou cruchons ne contenant chacun pas plus de "une pinte", un dollar et vingt-cinq cents par caisse;

et il sera payé par pinte ou fraction de pinte un droit de quatre cents sur les excédents que contiendraient ces bouteilles ou cruchons; toutefois il ne sera perçu aucun droit distinct ou additionnel sur les bouteilles ou cruchons.

Mais il est expressément entendu que cette dernière concession pourra être révoquée par le Président des Etats-Unis si, par des droits additionnels qu'il jugerait injustes à l'égard du commerce des Etats-Unis, la France surélève les droits auxquels sont actuellement soumis les produits des Etats-Unis.

III

Le présent arrangement entrera en vigueur à dater du premier Juin mil huit cent quatre-vingt-dix-huit.

Fait et signé en double exemplaire, à Washington, le vingt-huit Mai mil huit cent quatre-vingt dix-huit.

JOHN A. KASSON
JULES CAMBON

Mr. Cambon to Mr. Kasson.

[Translation.]

EMBASSY OF FRANCE IN THE UNITED STATES,
Washington, June 4, 1898.

DEAR MR. KASSON: I think I ought to call your attention to the reclamation, the object of the present memorandum which came to me yesterday from New York, and which I have had converted into English in order to facilitate its examination and to allow you to give without delay the necessary instructions to the proper authorities.

While thanking you in advance, I pray you, dear Mr. Kasson, to accept, etc.

JULES CAMBON.

[Memorandum.]

The French ambassador received yesterday from Mr. Henry Gourd, president of the French Chamber of Commerce, the following telegram:

I hear that Mr. Kasson and Mr. Howell interpret the recent reciprocity agreement as not including liqueurs, absinth, etc. Please have this decision reversed.

Again, this morning the French ambassador received from Mr. H. Gourd a letter confirming his message of yesterday and sending copies of the following telegrams:

To MM. Luyties Bros., New York: Your telegram is referred to Secretary of Treasury for decision. This office is of opinion articles named not covered by new agreement. Signed, Kasson, Washington, May 31, 1898.

To MM. Luyties Bros., New York: Cordials, liqueurs, arrack, absinthe, kirschwasser, and ratafia are not included in commercial agreement with France, being separately classified in tariff bill. Washington, June 2, 1898. Signed, W. B. Howell, Assistant Secretary.

From the latter message it seems that a confusion has been made between section 3 and paragraph 289 of the tariff.

Section 3 is worded as follows:

Brandies, or other spirits manufactured or distilled from grains or other materials, $1.75 per proof gallon.

Paragraph 289 is thus worded, viz:

289. Brandy or other spirits manufactured or distilled from grains or other materials, and not specially provided for in this act, $2.25 per proof gallon.

As can be seen the expression "and not specially provided for" is not reproduced in section 3, which therefore has the widest possible meaning. From the records kept at the embassy it appears that such was the interpretation given of the text of section 3 by Hon. Mr. Dingley at the time of the framing of the tariff bill.

But without discussing the arguments heretofore presented in this respect by Mr. Kasson and by Mr. Bruwaert, the ambassador believes that the opinion given in Mr. Kasson's telegram to Luyties Bros., viz, "that the articles named are not covered by the new agreement" must have been the result of an involuntary error, as will be seen hereafter.

In his memorandum of May 4, 1898, to the French ambassador, Mr. Kasson states:

II.

* * * These reductions (on the part of the United States) are as follows, estimated on the basis of imports from France for the fiscal year 1897 (ending June 30, 1897):

* * * * * * *

Brandies and spirits, $195,729. The above amount was evidently obtained through the following calculation:

Rate of duty on brandy and spirits, tariff bill, per proof gallon	$2.25
Rate of duty on brandy and spirits, section 3, per proof gallon	1.75
	.50

Imports from France (year ending June 30, 1897):	
Spirits, brandy (dutiable), 301,098 proof gallons, at 50 cents	150,548.00
Spirits, all other (dutiable), 90,362 proof gallons, at 50 cents	45,181.00
Total	195,729.00

This shows beyond all doubt and discussion that it was Mr. Kasson's intention to include in the agreement with France not only brandies, but all other distilled spirits, such as are enumerated in paragraph 289 of the tariff bill, viz, cordials, liqueurs, arrack, absinthe, kirschwasser, ratafia; otherwise the concession made by the United States on spirits would not be $195,729, as stated in the memorandum of May 4, 1898, but would only amount to $150,548.

The French ambassador feels confident that it will suffice to call Mr. Kasson's attention to the matter to have the decision of the Treasury Department reversed.

WASHINGTON, *June 4, 1898.*

Mr. Kasson to Mr. Cambon.

DEPARTMENT OF STATE,
Washington, June 8, 1898.

[Memorandum in response to the note of the French ambassador of June 4, 1898.]

I.

The subject to which the note of his excellency refers involves the interpretation of section 3 of the United States tariff act in its connection with the preceding clauses of the same act relating to the same subject, and belongs to the jurisdiction of the Treasury Department. The importer will present the question there. If dissatisfied with its decision he will appeal to the courts for its review and determination as in all other questions of the customs, whether regulated by law or by treaty.

II.

Mr. Kasson, however, does not concur in the construction now for the first time announced to him, for the following reasons:

1. The agreement of May 28 was intended to name and did name, expressly from the tariff act, all articles to be covered by the new arrangement, namely, the articles mentioned in No. 6 (a part only), Nos. 289, 295, 296, and 454, as there defined and limited. Those nowhere mention the cordials, etc., which are now claimed.

2. These cordials, etc., are expressly provided for in a separate paragraph of the tariff act, No. 292. This paragraph, or any article named in it, was never mentioned, so far as Mr. Kasson remembers, during the negotiations between M. Cambon and himself. If included in the agreement it must be so not by a common understanding of the nego-

tiators, but by force of construction of the language of the third section as incorporated in the agreement.

3. In the earlier negotiations by his excellency's predecessor, M. Patenotre, the paper submitted on the part of the French Government (of which a copy is before me) recited the concessions desired by France from the United States, giving the subjects accompanied by the tariff numbers. These numbers were 6, 295, 296, 297, 289, and 454. No. 292 (arrack, absinth, etc.) was distinctly omitted. It has never since been added to the claim of France, so far as Mr. Kasson is aware, until an importer raised the question since the agreement was signed. He based his argument on a technicality, viz, the omission from the agreement of the words contained in No. 289 of the tariff act, viz, "and not specially provided for in this act," which words were wholly mal à propos in the diplomatic arrangement.

III.

Although the recent negotiations under the conduct of His Excellency M. Cambon were conducted on a new basis, arising from the unexpected action of the French Chambers in increasing duties, yet no other tariff numbers were mentioned, and in the case of No. 296 (still wines) Mr. Kasson had even excluded vermuth, which was the only article of the nature of a cordial retained in section 3 of the tariff. It was, however, included by special request of M. Cambon, because it was associated in the tariff act (No. 296) with "still wines," and was not mentioned in the excepted class, No. 292.

IV.

In respect to the figures given in the estimates of United States concessions:

It appears that the system of bookkeeping in the Treasury does not conform to each classification of the tariff act. Hence for the purpose of exhibiting revenue returns it is impossible to obtain exact figures for each item. Thus the statistical statement is made under the heading—

Spirits, distilled:
Brandy, dutiable.
All others, dutiable.

Of this last ("all other") over 80 per cent of our imports are known to be made up of alcoholic spirits, not including cordials, etc.

The question at issue about cordials, etc., is therefore of little importance. The French memorandum represents cordials, etc. (sec. 292), as making up the whole difference of $45,181 in the estimated concession of the United States, while in fact it is only a small percentage according to the statements of the Treasury—so small that their tables made no separate statement of it.

The French and American statistics for concessions, as presented in our negotiations, did not agree. The tables used were understood to be approximate only. It could not be otherwise, as the amounts varied from year to year with the course of commerce. The New York correspondent of the embassy seems to assume that the United States guarantees the estimated amount of concession. If the estimate was too high in the case of spirits, it was too low in the case of still wines. These were computed at 5 cents per gallon, while on a large portion of them the reduction is 15 cents per gallon. The amount of this differ-

ence largely exceeds that involved in the question of cordials, and more than balances it.

V.

But the vital point in construing the agreement is this: What articles did the negotiators finally and expressly agree to include in the arrangement? It seems to Mr. Kasson that these are plainly and beyond doubt stated in the agreement, and, so far as the immediate question is concerned, included No. 289 and excluded No. 292 of the tariff act.

His opinion, however, is not conclusive, and has no control over the Treasury Department or the courts. The Treasury experts, in the absence of the exact figures, estimate the whole difference of revenue involved at $8,000 to $10,000, which is but a fraction of the concession on still wines and vermuth which was added on the part of the United States, at the request of his excellency, as evidence of our wish to adjust difficulties. This new demand has consequently been received with some surprise. It appears so impossible that a whole class of articles, having a separate number in the tariff act, should have been included in the international agreement, without either negotiator having ever mentioned to the other the tariff clause, its number, or any article named in it, that his excellency, I feel sure, will regard the views of his correspondent as outside the limits of probability.

JUNE 7, 1898.

Mr. Cambon to Mr. Day.

EMBASSY OF FRANCE IN THE UNITED STATES,
Washington, June 9, 1898.

MR. SECRETARY OF STATE: I have the honor to inform you that the question has been raised at the New York custom-house whether cordials or spirits, other than brandy, should be admitted, in virtue of the President's proclamation of the 30th ultimo, on payment of the reduced duty of $1.75, provided for in section 3 of the American tariff of 1897. The Hon. John A. Kasson, special commissioner plenipotentiary, and the Hon. William D. Howell, Assistant Secretary of the Treasury, having been consulted on this point, have, in reply, informed the interested parties that, in their opinion, the commercial arrangement concluded with France May 28, 1898, does not extend to the spirits enumerated in article 292 of the tariff.

As this opinion is wholly at variance with the evident meaning of the preliminary work of our arrangement, I addressed to the Hon. Mr. Kasson, on the 4th instant, a note whereby I called his attention to the fact that paragraph 292 of the tariff contains, after the words "brandy and other spirits," the expression "and not specially provided for in this act," and thus establishes a distinction between brandies and cordials which are enumerated in paragraph 292. This distinction disappears in section 3, which does not reproduce the words "and not specially provided for," and which, consequently, can not be interpreted otherwise than in the broadest sense. If the wording of section 3 was not to imply that cordials were included, the question might be asked what spirits, other than brandy, it was intended to designate, in our arrangement, by the terms "or spirits manufactured or distilled from

grain or other materials." Moreover, if the sense in which section 3 should be understood had appeared to me to be in the slightest degree doubtful, my hesitation in this regard would have been dispelled by the memorandum which the Hon. Mr. Kasson sent me under date of May 4. He therein estimates at $195,729 the amount of the concession made by the United States to France on brandies and spirits. This amount can not be obtained save by adding the reductions of duties granted on the one hand on brandies and on the other hand on all other spirits; consequently also on cordials, which in American statistics are comprised under the head of "all other spirits." From this it must be concluded either that Mr. Kasson interpreted section 3 as I did myself—that is to say, as extending to cordials—or that the concession which he offered us, and which secured the adhesion of my Government as regards this article, was not $195,729, as he said in his memorandum of May 4. In reply to my note of June 4 the Hon. Mr. Kasson has just sent me an additional memorandum, in which he takes exception to my conclusions. "The arrangement of May 28," says he, "was to enumerate and does expressly enumerate, according to the tariff, all the articles on which that arrangement is to have a bearing; that is to say, the articles mentioned, described, and limited in paragraphs 6 (in part only), 289, 295, 296, and 454. These paragraphs make no mention of cordials, concerning which a question has now arisen for the first time."

Contrarily to the opinion above expressed, the arrangement of May 28 has no bearing upon paragraphs 6, 289, 295, 296, and 454 of the tariff, but it has a bearing upon section 3, the provisions of which it produces word for word. It was in order that this reproduction might be absolutely literal, and not for the obtainment of an additional concession, that Mr. Kasson was requested to insert vermuth in the provision relative to still wines, he having omitted vermuth in his draft. I even called his attention to the fact that this article interested the commerce of Italy more than it did that of France. Now, the provision of section 3 relative to brandies and spirits is not, as I have above remarked, couched in the same terms as paragraph 289 of the tariff. It is necessarily applicable to all spirits, cordials included, since the reservation "and not specially provided for," which has reference to the productions enumerated in paragraph 292, is not therein reproduced.

It is precisely because this text had so general a sense that in the course of the negotiations no special mention was made of cordials. There was no necessity, in fact, for the distinct statement that "cordials" were included in a provision which, independently of brandies, comprises, without providing for any exception, as does paragraph 289 of the tariff, "other spirits manufactured or distilled from grain or other materials."

Under these circumstances my surprise, when I learned the exception made by the Treasury Department, was at least equal to that which the Hon. Mr. Kasson tells me he experienced when he received my complaint of June 4, which he qualifies as a "new demand," whereas it is but a logical corollary of the preliminary note exchanged in the course of the negotiations and of the very text of our arrangement of May 28.

I consequently have the honor to beg you to be pleased to secure from the Treasury Department a decision in harmony with the foregoing considerations.

Be pleased to accept, etc., JULES CAMBON.

Mr. Day to Mr. Cambon.

No. 36.] DEPARTMENT OF STATE,
Washington, June 22, 1898.

EXCELLENCY: I have the honor to inform you that, after carefully considering your note of the 9th instant, upon the question whether cordials are included in the commercial agreement between the United States and France of May 28, 1898, I deemed it advisable to submit the matter to the consideration of my colleague the Secretary of the Treasury.

I have accordingly transmitted to the Secretary of the Treasury a copy of your note, together with a copy of the memorandum which Mr. Kasson presented to your on the 4th of June, in relation to the subject of difference.

Should you desire to make any oral representations to the Treasury, I will endeavor to have a time appointed at which such representations may be submitted either by yourself or by such person as you may designate for the purpose.

I inclose herewith for your information a copy of my letter to the Secretary of the Treasury.

Accept, excellency, etc., WILLIAM R. DAY.

Mr. Day to Mr. Gage.

DEPARTMENT OF STATE,
Washington, June 22, 1898.

SIR: I have the honor to inclose herewith a translation of a note from the French ambassador, of the 9th instant, in relation to a difference of interpretation which has arisen as to whether "cordials" were intended by the reciprocity agreement of May 25, 1898, to be included in the clause prescribing the rate of duty on "brandies, or other spirits manufactured or distilled from grain or other materials." The French ambassador contends that cordials were and are comprehended in the clause in question.

I also inclose a copy of a memorandum prepared by Mr. Kasson, who conducted the negotiation on the part of the United States, in which it is maintained that the clause in question does not include cordials.

The respective views of the negotiators may be briefly summarized.

Considering, in the first place, the language of the reciprocity agreement, Mr. Kasson maintains that the words "brandies, or other spirits manufactured or distilled from grain or other materials," as incorporated into the reciprocity agreement from section 3 of the tariff act, under which the agreement was concluded, include only the articles specified in paragraph 289 of section 1 of the act, and that this paragraph does not include cordials, which are embraced in paragraph 292 of the same section.

Paragraph 289 reads as follows:

Brandy and other spirits manufactured or distilled from grain or other materials, and not specially provided for in this act, $2.25 per proof gallon.

Paragraph 292 reads as follows:

Cordials, liqueurs, arrack, absinthe, kirschwasser, ratafia, and other spirituous beverages or bitters of all kinds containing spirits, and not specially provided for in this act, $2.25 per proof gallon.

The French ambassador admits the distinction made in these two paragraphs between "brandy and other spirits" on the one hand, and "cordials" on the other, but maintains that this distinction "disappears in section 3 of the tariff act as the result of the omission from that section of the words "and not specially provided for," as used in paragraph 292, the substance of his contention on this point appears to be that if paragraph 289 had been absolute in terms, without the words "and not specially provided for," paragraph 292, so far at least as it relates to cordials and liqueurs, would have been purely tautological, those articles being included in "brandy and other spirits."

In this relation, it is deemed proper to suggest whether, if this argument of the ambassador be valid, the same objection does not apply to paragraph 289 and 292 as they stand, since the same rate of duty per proof gallon is prescribed in each.

The next point discussed by the ambassador and Mr. Kasson is that of the estimates of duty considered in the negotiations. The ambassador refers to a memorandum of Mr. Kasson of the 4th of May, in which it was estimated that the concessions in duty by the United States to France on brandy and spirits would amount to $195,729. The ambassador maintains that this amount could be obtained only by including in the concessions the duty on cordials.

Mr. Kasson, on the other hand, maintains that the duty on cordial forms only a small percentage of the $45,181 conceded in duties on spirits or spirituous articles from France other than brandies.

Various arguments have been advanced upon the strength of what took place in the course of the negotiations, but it is not deemed necessary now to refer to these matters.

The Department would be glad to have your views on the points set forth in this letter, together with such information as you may be able to afford on the subject of difference, including a statement of the articles imported from France under the denomination of "spirits," other than brandies. The Department understands it to have been intimated that, if cordials should be excluded from the benefits of the agreement, the words "other spirits" would be practically of no effect so far as France is concerned.

I desire to add that if the French ambassador should wish to make any oral representations on the matters under consideration, it is hoped that you may be able to afford him, or such person as he may designate for the purpose, an opportunity to be heard.

Respectfully, yours,

WILLIAM R. DAY.

Mr. Cambon to Mr. Day.

EMBASSY OF FRANCE IN THE UNITED STATES,
Washington, June 24, 1898.

MR. SECRETARY OF STATE: You did me the honor to inform me on the 22d of this month that you had transmitted to the Secretary of the Treasury a translation of my note of the 9th instant, touching the interpretation to be given to certain articles mentioned in the commercial arrangements concluded the 28th of May last between France and the United States. You added that in case I should desire to supplement, by verbal observations, the statements which I have communicated to you in writing, you would request your colleague, the Secretary of the Treasury, to confer with such person as I should designate to that end.

Thanking you for your courteous attention, I hasten to appriso you that I have requested my first secretary, Mr. Thiébaut, to hold himself at the disposal of the Secretary of the Treasury for the interview which you are pleased to propose to me.

Be pleased to accept, etc.,

JULES CAMBON.

Mr. Moore to Mr. Gage.

DEPARTMENT OF STATE,
Washington, June 27, 1898.

SIR: With reference to the Department's letter of the 22d instant, in relation to a difference of interpretation as to whether "cordials" were intended by the reciprocity agreement of May 28, 1898, to be included in the clause prescribing the rate of duty on "brandies, or other spirits manufactured or distilled from grain or other materials," I have the honor to inclose herewith copy of a note from the French ambassador, of the 24th instant, in which he states that he has requested his first secretary, Mr. Thiébaut, to represent him at the hearing before you on the question under consideration.

The Department will be pleased to inform the French ambassador of the time which you may set for the hearing.

Respectfully, yours,

J. B. MOORE,
Acting Secretary.

Mr. Howell to Mr. Day.

TREASURY DEPARTMENT,
Washington, June 28, 1898.

SIR: I have the honor to acknowledge the receipt of the letter of Acting Secretary Moore, dated the 27th instant, inclosing a copy of a note from the French ambassador, dated the 24th instant, in which he states that he has requested his first secretary, Mr. Thiébaut, to represent him at a hearing before this Department on a question arising under the recent French reciprocal commercial arrangement under section 3 of the act of July 24, 1897.

In reply, I beg to state that Mr. Thiébaut called at the Department yesterday, and that I have made an appointment to meet him to-morrow, the 29th instant, at 11 o'clock a. m.

Respectfully, yours,

W. B. HOWELL,
Assistant Secretary.

Mr. Gage to Mr. Day.

TREASURY DEPARTMENT,
Washington, July 13, 1898.

SIR: I have the honor to acknowledge the receipt of your letter of the 22d ultimo, inclosing a translation of a note, dated the 9th ultimo, from the French ambassador, in relation to the reciprocity treaty with France negotiated under section 3 of the act of July 24, 1897.

You state that a question has arisen as to whether "cordials" were intended by the reciprocity agreement of May 28, 1898, to be included in the clause prescribing the rate of duty on "brandies or other spirits manufactured or distilled from grain or other materials." The French ambassador contends that "cordials" were and are comprehended in the clause in question.

The French ambassador admits the distinction made in the two paragraphs of the tariff act between "brandy and other spirits," on the one hand, and "cordials" on the other; but claims that this distinction "disappears" in section 3 of said act as a result of the omission from that section of the words "and not specially provided for," as used in paragraph 289. There is a further difference of opinion as to certain estimates of duty considered in the negotiations.

Since the receipt of your letter the Department has accorded a hearing to the secretary of the French embassy, at which time the subject was fully discussed, and the most careful consideration has been given to the views of the ambassador.

Section 1 of the tariff act requires that the rates of duty prescribed in the schedules and paragraphs of said act shall be levied, collected, and paid upon all imported articles mentioned therein, unless they are otherwise specially provided for in said act. Paragraph 289 imposes duty at the rate of $2.25 per proof gallon on "brandy and other spirits manufactured or distilled from grain or other materials, and not specially provided for in this act." Section 3 reduces the rate to $1.75 on "brandies and other spirits manufactured or distilled from grain or other materials." The treaty provides that the rate shall be $1.75 "on brandies or other spirits manufactured or distilled from grain or other materials." This provision of the treaty is identical with that in section 3, and differs from paragraph 289 only in the substitution of the word "or" for "and" after brandy. There can, therefore, be no question as to the suspension of the operation of paragraph 289 with respect to merchandise therein named imported from France during the continuance of the treaty; but there the suspension stops. The treaty does not affect paragraph 292. The articles therein enumerated are not "otherwise specially provided for," within the meaning of section 1. Duty must, therefore, be imposed on such articles at the rate prescribed in said paragraph 292.

The omission of the words "and not otherwise provided for" from section 3, and from the treaty, does not enlarge the scope of the brandy clause of the treaty. Even if those words did not remain in paragraph 289, and equivalent words were not in section 1, cordials, liqueurs, etc., would still be subject to duty at the general rate by reason of their specific designation in paragraph 292. This is not a new construction. The courts have repeatedly held that where Congress has designated an article by a specific name, and imposed a duty upon it, general terms in the same act, though sufficiently broad to comprehend such article, are not applicable to it. The following are some of the cases in which this principle has been enunciated by the Supreme Court: Homer *v.* Collector, 1 Wall., 486; Movius *v.* Arthur, 95 U. S., 144; Arthur Stephani, 96 id., 125; Arthur *v.* Rheims, id., 143; Ferguson *v.* Arthur, 117 id., 482; Robertson *v.* Glendenning, 132 id., 158; Am. N. and T. *v.* Worthington, 141 id., 468; Bogle *v.* Magone, 152 id., 623. In Arthur *v.* Rheims the court said:

> The general words of the act of 1872, no doubt, are sufficiently comprehensive to embrace the case before us. Artificial flowers are a manufacture of which cotton is the chief component, and, were that all, would be entitled to the deduction asked for. But it is true, also, that they are dutiable under the law of 1864, not as a manu-

facture of cotton, but specifically, eo nomine, as artificial flowers. It has been held in many cases, as that of almonds and dried fruits, the canary birds, and at the present term, in the case of thread laces and of chocolate, that when an article is intended to be made dutiable by its specific designation it will not be affected by the general words of the same or another statute which would otherwise embrace it. This rule applies both to statutes reducing and to statutes increasing duties. Giving it such application here, we must hold that artificial flowers are not entitled to be classed as a manufacture of cotton, which is entitled to the reduction provided for by the act of 1872.

However desirous this Department might be of concurring in the opinion of the French ambassador, it could not, in view of the foregoing considerations, decide otherwise than that the articles specified in paragraph 292 of the tariff act are not included in the provision for brandy or other spirits in the treaty in question.

Respectfully, yours,

L. J. GAGE, *Secretary.*

Mr. Day to Mr. Cambon.

No. 62.] DEPARTMENT OF STATE,
Washington, July 25, 1898.

EXCELLENCY: The Department, as I had the honor to advise you, referred to the Treasury for its consideration and opinion your note of the 9th ultimo in relation to a difference of interpretation which had arisen as to whether "cordials" were intended by the reciprocity agreement of May 28, 1898, to be included in the clause prescribing the rate of duty on "brandies or other spirits manufactured or distilled from grain or other materials."

The Treasury, after full consideration of the subject and of the views submitted, not only in your note, but also orally by Mr. Thiebaut, secretary of your embassy, has found himself compelled to adhere to the opinion previously expressed that the clause in question can not be construed so as to embrace "cordials."

From this opinion the Department, after full consideration, finds itself unable to dissent. It fails to discover either in the agreement itself or in the law under which it was concluded sufficient ground for a contrary opinion.

It was and is the opinion of the Treasury that the words "brandies or other spirits manufactured or distilled from grain or other materials," as incorporated into the reciprocity agreement from section 3 of the tariff act under which the agreement was concluded, include only the articles specified in paragraph 289 of section 1 of the act, and that this paragraph does not include cordials, which are embraced in paragraph 292 of the same section.

Paragraph 289 reads as follows:

Brandy and other spirits manufactured or distilled from grain or other materials, and not specially provided for in this act, $2.25 per proof gallon.

Paragraph 292 reads as follows:

Cordials, liqueurs, arrack, absinthe, kirschwasser, ratafia, and other spirituous beverages or bitters of all kinds containing spirits, and not specially provided for in this act, $2.25 per proof gallon.

In the note to which I now have the honor to reply it is admitted that these two paragraphs make a distinction between "brandy and other spirits," on the one hand, and "cordials" on the other. Indeed,

this distinction is very obvious. Paragraph 289 relates to "brandy and other spirits." Paragraph 292 relates to certain other substances which are described as "spirituous beverages or bitters of all kinds containing spirits."

It is suggested, however, in your note of the 9th ultimo that this distinction "disappears" in section 3 of the tariff act, since it authorizes a concession of duties on "brandies or other spirits manufactured or distilled from grain or other materials" without including the words "and not specially provided for," as found in paragraph 289. In other words, it is suggested that by the omission of the words "and not specially provided for" the clause relating to "brandies or other spirits" was enlarged, so as to include other articles specifically described in the tariff as "spirituous beverages or bitters of all kinds containing spirits."

The Department regrets its inability to perceive the force of this argument. In effect, it appears to maintain that if paragraph 289 had simply used the words "brandy and other spirits manufactured or distilled from grain or other materials" and omitted the succeeding clause "and not specially provided for in this act," then paragraph 292, so far at least as it relates to "cordials," would have been purely tautological and, therefore, superfluous, cordials being included in "brandy and other spirits." It is evident, however, that the tariff act is based upon a wholly different view of the matter. The rate of duty prescribed in paragraphs 289 and 292 is precisely the same, and the only reason for their separate insertion was the fact that they related to two different classes of articles, one of which is described as "brandy and other spirits," and the other as "spirituous beverages or bitters of all kinds containing spirits." It is also to be observed that paragraph 292 itself contains the words "and not specially provided for." Yet the Department can hardly suppose that if section 3 had simply provided for a remission of duties on "spirituous beverages or bitters of all kinds containing spirits" and said nothing as to "brandy and other spirits," the former would have been supposed to include the latter.

To hold that the mere omission of the words "and not otherwise provided for" so enlarged the scope of the terms "brandy and other spirits" as to include another class of articles specified in another part of the act, under a different designation, but at the same rate of duty, would be to overturn the settled rules of construction. The courts have repeatedly held that where Congress has designated an article by a specific name and imposed a duty upon it, the employment in another part of the same act of general terms even though such terms are broad enough to comprehend the article specifically designated, can not be held to affect the duty on such articles. In the case of Arthur *v.* Rheims, 96 U. S. 143, the Supreme Court of the United States said:

> The general words of the act of 1872 no doubt are sufficiently comprehensive to embrace the case before us. Artificial flowers are a manufacture of which cotton is the chief component, and, were that all, would be entitled to the deduction asked for. But it is true, also, that they are dutiable under the law of 1864, not as a manufacture of cotton, but specifically, eo nomine, as artificial flowers. It has been held in many cases, as that of "almonds and dried fruit," the "canary birds," and at the present term in the case of "thread laces" and of "chocolate" that, when an article is intended to be made dutiable by its specific designation, it will not be affected by the general words of the same or another statute, which would otherwise embrace it. This rule applies both to statutes reducing and to statutes increasing duties. Giving it such application here, we must hold "artificial flowers" are not entitled to be classed as a manufacture of cotton which is entitled to the reduction provided for by act of 1872.

In reference to the question raised in your note of the 9th ultimo, as to the estimates of concessions made in the negotiation of the agreement of May 28, 1898, it appears that the part which the duties on cordials may have formed in those concessions is altogether certain.

While the Department regrets its inability to concur in the views expressed in your note of the 9th ultimo, it is proper to add that any persons who may be dissatisfied with the views which the Executive Department is obliged to take as to the questions under consideration are at liberty to appeal to the courts.

Accept, etc.,

WILLIAM R. DAY.

GERMANY.

FRUIT OF THE UNITED STATES IN GERMANY.

Mr. Robertson to Mr. Uhl.

CONSULATE OF THE UNITED STATES,
Hamburg, October 29, 1894.

SIR: I have ascertained, in a semiofficial way, that a movement is now being set on foot by the Imperial German Government, and is already engaging the attention of the authorities of this city, and, I presume, of the other cities of the Empire, looking to the complete exclusion, under the imperial law regarding the traffic in articles of food, etc., of May 14, 1879, of dried and evaporated apples from the United States, which are found on arrival in Germany to contain more than a specified quantity of metallic zinc, arising from the drying of the apples on zinc plates or frames.

Each locality determines for itself what quantity of zinc the apples consumed therein can contain without being detrimental to health; but the tendency would seem to be to exclude the fruit when found to contain any zinc whatever. The laws of Hamburg prohibit the sale or offering for sale of apples having more than 0.01 per cent of metallic zinc. By metallic zinc is meant the actual amount of the metal left after separating the chemical combination of zinc and the acid of the apples.

For a number of years dried apples, in the form of slices, pieces, or rings, have been imported into Germany from the United States, and it has been observed that this fruit often contains zinc in such quantities that, according to medical authority, the consumption of the same may prove detrimental to health. The German authorities have, in consequence, since about five years ago, endeavored by every possible means to prevent the importation of American dried fruits containing zinc, and to bring about the judicial punishment of the venders of such merchandise.

In many cities--as, for instance, Hamburg—large quantities of dried American apples containing zinc have been confiscated by the police authorities or forcibly reexported. The courts have, in many cases, unequivocally decreed that the sale of dried apples containing zinc must be regarded as an offense against the German food law, in so far as the consumption of articles of food containing zinc shall be liable to injure human health.

The opinion of the medical authorities regarding the contents of zinc of the dried American apples is that the smallest quantities of zinc may lend articles of food qualities detrimental to health.

Of late, the control of dried American apples in Germany has become more rigid, on account of an appeal of the German chancellor to the federated governments, requesting them to instruct the respective authorities to supervise the traffic in these goods; to have samples

examined by food chemists, and, if found necessary, to lodge complaints against the sellers of goods injurious to health.

The sequel to these investigations is not unlikely to be the issuing of an order forbidding the sale in Germany of apples containing zinc.

There is no doubt that the American trade in dried apples would suffer severely through such a measure, and the only way for the purchasers of such goods to protect themselves against losses would be the removal of the causes for the existence of zinc in the apples.

It is safe to assume that these causes are not attributable to any condition of the soil, but that the zinc gets into the apples during the drying process on zinc plates or frames, the acid of the apples chemically absorbing zinc.

Although through the employing of zinc plates or frames the dried apples retain a fine, light color, it would not seem to be advisable to employ such means for the sake of a comparatively small and purely external advantage.

Racks or frames of wood can be used just as well as those made of metal, or the apple slices might even be strung upon strings or cords. These methods are often employed in Germany, and, therefore, the brownish color of the products obtained through them would not put them to any disadvantage so far as their importation into Germany is concerned.

The above are almost the literal ideas of a gentleman here with whom I have conversed fully on the subject, and who has given me much valuable information.

While the object in making this report is to warn our exporters of dried fruit and other food products that it is all important that, at this particular juncture, the articles sent by them to this country should be so prepared in every way as to offer no grounds for complaints on the part of either German officials or competing dealers here, such as might be successfully used to injure or destroy our trade, I do not feel disposed to admit, by any means, without further proof, the full extent of the alleged defects in our food products that are being claimed here.

Exporters who really send to this country unhealthy and inferior articles must, and ought to, expect disadvantages for their goods when competing with purer ones; but I feel convinced that our Government, upon the proper representations, will take all the necessary steps to protect the healthful and unadulterated wares of our exporters from unfair and unreasonable interference, when offered for sale in the markets of Germany, and that it will use every means to prevent any restrictions being imposed upon them here, save such as are actually justifiable from a sanitary standpoint and such as are applied to similar articles when produced here or imported from other countries than the United States.

I am, etc.,

W. HENRY ROBERTSON, *Consul.*

Mr. Robertson to Mr. Uhl.

CONSULATE OF THE UNITED STATES,
Hamburg, October 30, 1894.

SIR: At the request of that gentleman, I have the honor to herewith transmit a report, containing one inclosure, from the United States consular agent at Flensburg, on the subject of "American apple rings."

It will be noticed that in my report of the 29th instant I had already called the attention of the Government to the dangers besetting our export trade in dried and evaporated apples in Germany, and to the necessity on the part of our exporters of observing every caution in the curing of fruit and other food products for this market to prevent their adulteration.

I am not at all convinced that the fault lies entirely with our people, but believe that for various reasons any possible unhealthiness in the fruit arriving has been misrepresented and exaggerated.

I am, etc.,

W. HENRY ROBERTSON, *Consul.*

[Inclosure.]

In my reports of last year to the Department of Agriculture I had occasion to bring to notice the attacks made in German papers against American products, and how necessary it is to prevent this for the benefit of the American trade.

I mentioned then only American seeds—clover, timothy, etc.—which are supposed to have been adulterated and worthless, but now I name an American export article—apple rings. Warnings, as the inclosed show, can be read from time to time in German papers, and, in consequence, these goods are purchased here very little.

I do not really know if the adulteration with salt of tin is made in America, or if these warnings only come from German manufacturers. Should the first be the case, it is high time to prevent such manipulation; otherwise, the trade with Germany will be spoiled entirely.

The market for dried fruits, especially apples and peaches, in Germany, is very important. Should the statement in the articles be untrue, the American manufacturers should contradict them.

A retail merchant here told me that he sold, in the year 1889, 2½ hundredweight of American apple rings, and last year only 2 hundredweight, and these he bought with a German certificate stating that the fruit was free of salt of tin. The same man told me that lately the German Government had actually examined the common American (yellow) sun-dried apples, and found them adulterated.

A friend of mine wrote to the German Reichs-Gesundheits Amt Berlin, and received the inclosed answer.

HNR. BENEKE, *Consular Agent.*

FLENSBURG, *October 30, 1894.*

[Subinclosure.—Translation.]

In answer to your inquiry regarding apple rings (dried pippins), I may say the prime minister sent a circular, dated April 16, 1894, to the allied states, and it is printed by the board of health in their annual for 1894, which is to be had of Mr. Julius Springer, Berlin, N. Menbijou Platz 3.

WARNING AGAINST THE CONSUMPTION OF AMERICAN SLICED APPLES (APPLE RINGS).

[Translation from the publications of the Imperial Sanitary Department for 1894.]

Frequent analyses which have been recently made show that American apple rings contain a considerable quantity of zinc, which has been pronounced by medical experts as injurious to health. It is, perhaps, intentional on the part of Americans to add zinc to them in order to give them a finer white color by drying them on tin plates, or by saturating them with a diluted solution of hydrochlorate of tin. As announced by the public chemical laboratory of Dr. B. Alexander-Katz, the legal chemist, the examinations have not been completed which were authorized by the Imperial Government to be held at different places during the summer of 1894. Should it be proved sufficiently by these that the greater part of American apple rings contain demonstrable and often considerable quantities of zinc, the German manufacturers will at least be relieved of their dangerous American competition. The German wholesale merchants who deal chiefly in American apples seek to protect themselves by certificates of American chemists. It is to be hoped that in the future they will be required not to sell American apple rings which have not received a certificate of the absence of zinc from a German chemist.

Mr. Wamer to Mr. Uhl.

CONSULATE OF THE UNITED STATES,
Cologne, February 9, 1895.

SIR: An order has just been issued by the police administration of Cologne, and published in the local papers, warning the public against eating sliced American dried apples. It says that large quantities of such apple slices, chiefly of American origin, are offered for sale here which contain a larger or smaller quantity of zinc. Of thirteen samples selected for investigation, eleven are said to have contained zinc. It asserts, further, that the presence of zinc is due to the fact that the apple slices from America are not dried, as is done here, on wooden racks, but on zinc netting. By this process, there is formed in the apples maltate of zinc, which has an analogous operation to that of lactate of zinc. According to experts, the eating of such an article may undoubtedly be injurious to health, especially to children and those who have weak constitutions. Continuing, the mayor of the city says:

I therefore feel obliged to give strict warning against the sale and the eating of American dried apple slices, and give notice to those offering such article for sale that they will be proceeded against in accordance with the Imperial law regulating the trade in food and food products.

There is a considerable trade in this market in American dried apples, and I am informed by an agent representing a large Chicago firm here that this order will frighten the public against eating such apples, and thereby injure, if not destroy altogether, this trade.

According to the statistics for the German Empire, there were imported into Germany from the United States, in 1893, 2,968 tons, and in 1894, 2,133 tons of dried fruit, which I understand to be dried apple slices.

I am, etc., WM. D. WAMER, *Consul.*

Mr. Wamer to Mr. Uhl.

CONSULATE OF THE UNITED STATES,
Cologne, February 11, 1895.

SIR: Referring to my report forwarded to the Department of State under date of February 9, I have to report further that a number of the dealers here in American dried apple slices have since appealed to the mayor of Cologne to modify his warning to the public under date of the 6th instant so as not to prejudice consumers against such apple slices that are dried (evaporated) on wooden racks and contain no zinc. This has been done publicly by the mayor as follows:

My notice of the 6th instant has given rise to the misunderstanding that the eating of American evaporated apple slices is injurious to health, and those persons offering such article for sale would be punished. This is by no means the case. The notice has reference only to such American dried apple slices as have been dried on zinc netting and contain zinc, and not to those that have been dried on wooden racks and contain no zinc.

If the American firms desire to hold on to this already thriving American trade in this market, they are advised to evaporate the apples only on wooden racks, and see to it that the apples so prepared are entirely free of zinc, as the mere traces of this ingredient would cause them to be objected to by the health officials. One agent has suggested to me that it would be advisable for the American firms to furnish with

each shipment an authenticated certificate that the apples have been analyzed by an expert chemist and are absolutely free from zinc.

I am, etc.,

WM. D. WAMER, *Consul.*

Mr. Krauss to the Department of State.

CONSULAR AGENCY OF THE UNITED STATES,
Zittau, April 2, 1895.

SIR: At various times official and unofficial warnings have been published in German papers against evaporated apples from the United States, to the effect that they were sufficiently impregnated with oxides of zinc to make their use dangerous to health. Samples were bought by the police department of this city from several grocers, and, according to the analysis returned by the city chemist, were found to contain oxide of zinc in the following quantities: Sample No. 1, 0.05 grams in one kilogram; No. 2, 0.125 grams; No. 3, 0.175 grams. Subsequently complaints were filed by the authorities against two of the grocers for violation of the food laws, and they were charged with having willfully and knowingly sold American evaporated apples containing zinc, which were dangerous to health. One of the defendants produced an affidavit (furnished to him by his wholesale house), in which document a chemist declared that the same apples examined by him for the wholesale house did not contain any zinc. The second party testified that he had used a large portion of the apples in question in his own household without noticing the least ill effects from the use of them, and therefore held that he had good reason to believe the food to be pure. Both cases were dismissed, the defendants having shown to the satisfaction of the authorities that they were not aware of the dangerous adulteration of the apples and were justified in believing the merchandise to be harmless to the purchaser. No part of the questionable merchandise could be confiscated, because it had already been sold. Under date of February 18, 1895, the Generalanzeiger, a grocers' trade journal, published the following:

The Royal district physician (Sanitätsrath), Dr. Zimmermann, of Dusseldorf, Prussia, has issued the following certificate:

Official testimonial.—At the request of Mr. L. C. F., a resident merchant, and in reference to the opinion of the city chemist (Dr. Loock), I hereby certify that the quantity of zinc salt contained in a very large portion of apple jam made from the dried apples in question could convey into the human system about one-fifth part of zinc which may be given to infants without causing nausea. From one-half of 1 gram to 1½ grams of acetate of zinc, which resembles the malic acid salt of zinc more closely than any other zinc salt, are needed for an emetic for small children; with adults the fourfold quantity will hardly cause ill feeling. I therefore hold that American evaporated apples are not unwholesome, nor is there any danger incurred by using them.

From the above it would appear that the doses consumed in one meal are not liable to cause any ill effect, and I have not, during my investigation of the matter, heard of a solitary case where illness could be proven, beyond a reasonable doubt, to be due to the use of such apples; but I did learn that a great many persons have ceased to use the American product.

In order to stop the backward movement of this promising trade, to regain the lost customers, and to expand the export of dried fruit, it is necessary that the American exporters sell a product absolutely free from zinc or any other adulterant, making this fact known to the

buying public by the judicious use of printers' ink. If the apples become tainted with zinc while in contact with the drying pans, this might be avoided by employing enameled pans or screens. The use of chlorides or sulphates of zinc in ever so small a quantity as a bleach or preservative (the most probable cause of the trouble) is not needed to make the American product equal to the German fruit, but such practices will surely harm the trade if not discontinued.

The loss may not be felt so much just now, while a moderate crop only has to be marketed, and a failure in portions of Europe has created an unusual demand. But there are additional thousands of trees coming into bearing yearly, and in times of abundant harvests on both sides of the Atlantic the competition here will only too gladly make use of any weapon offering itself. Unjust and exaggerated denunciations can be conquered, and the market as well, if American producers and exporters choose as their maxim "American goods, pure goods," thus paving the road for the remunerative disposal of quite a portion of the next abundant fruit crop.

I am, etc.,

ALFRED KRAUSS,
Consular Agent.

Mr. Dabney to Mr. Gresham.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., April 23, 1895.

SIR: In the report of Consul W. D. Wamer, dated Cologne, February 9, 1895, attention is called to the fact that the municipal authorities of that city object to the importation of American dried apples for the reason that they are said to contain zinc. I understand that in other parts of Europe attempts have been made to exclude American dried fruits for a similar reason.

I beg you, therefore, to ask the consuls at places where such restrictions are imposed to secure samples of the fruits objected to and forward them for chemical examination.

When you receive these samples if you will transmit them to this Department they will be examined, in order to test the validity of the objections against their consumption in foreign ports.

I am, respectfully,

CHARLES W. DABNEY,
Assistant Secretary.

Mr. Robertson to Mr. Uhl.

No. 224.] CONSULATE OF THE UNITED STATES,
Hamburg, May 18, 1895.

SIR: I have the honor to hereby acknowledge the receipt of the Department's instructions, Nos. 83 and 84, dated, respectively, April 29 and May 3, 1895, the latter containing one inclosure.

Upon receipt of your No. 84 I at once addressed a communication to the chief of the Hamburg foreign office, requesting him to cause directions to be given to the proper officials of this city, to the end that I

may be promptly advised of any instance where objection may be made to the importation of American dried apples on the ground that they are alleged to contain zinc, and that I may be put in a position to secure suitable samples of the fruit for the use of the United States authorities.

I shall not fail to promptly advise the Department of the nature of the foreign office's reply.

I am, etc., W. HENRY ROBERTSON, *Consul.*

Mr. Mason to Mr. Uhl.

No. 312.] UNITED STATES CONSULATE-GENERAL,
Frankfort, May 22, 1895.

SIR: Referring to your special instructions, No. 153, of the 3d instant, requiring the return of samples of such evaporated American apples as may have been condemned by the police authorities of Frankfort or its district for alleged contamination with salts of zinc, I have the honor to submit, with the two samples of such apples that are herewith returned, a report describing in some measure the history and general nature of the regulations and law under which such merchandise is inspected in Germany.

The circular of the Imperial Government on this subject is translated and embodied in the text of the report. The other inclosures are presumably of interest only to the Department of Agriculture.

I am, etc.,

FRANK H. MASON,
Consul-General.

Mr. Wamer to Mr. Uhl.

CONSULATE OF THE UNITED STATES,
Cologne, June 14, 1895.

SIR: In connection with my report on "Dried apples in Cologne," under date of February 9, 1895, my attention has been particularly attracted by the very large number of fruit-evaporating apparatus of various constructions exhibited at the Exposition of the German Association of Agriculturists, held recently in Cologne. I noticed that the grates of all these apparatus were made of zinc. One exhibitor—Val. Waas, of Geisenheim-on-the-Rhine—prints in his prospectus that he is the sole manufacturer entitled to make the "Wander" evaporator used in the Royal Institute for Fruit and Wine Culture at Geisenheim. The trays of this so-called improved evaporator are made of zinc. This is highly interesting in view of the order issued by the municipal authorities of this city, as reported by me, which reads as follows:

> It [the municipal order] asserts further that the presence of zinc is due to the fact that the apple slices from America are not dried, as is done here [in Germany], on wooden racks, but on zinc netting.

In the prospectus of Val. Waas, of Geisenheim, a copy of which is herewith inclosed, it will be observed that the yearly production of fruit evaporators by this firm is 4,000.

I may add here that since the municipal order has been issued I have noticed that some of the dealers in this city have marked "zinc free" on the cases of dried-apple slices they offer for sale, indicating that the apple slices do not contain any zinc.

It may be interesting to give, in this connection, a complete translation of the order issued by the municipal government, which is as follows:

AMERICAN DRIED-APPLE SLICES.

There is an abundance of dried-apple slices, especially from America, offered for sale here that contain a larger or smaller quantity of zinc. Of thirteen samples selected for examination, eleven showed the presence of zinc. The presence of zinc is to be attributed to the drying of the apple slices in America on zinc netting instead of on wooden racks, as is done here. There is formed in the apples maltate of zinc, which has a similar action to that of lactate and sulphate of zinc. These compounds belong as medicaments to the so-called "Separanda" (poisons), and may be sold by apothecaries in very small quantities only when prescribed as medicine. According to the opinion of experts, the eating of such apples can undoubtedly be injurious to the health, especially when prepared as food for children and convalescent persons whose systems are not so capable of resistance. Even the presence of a very small percentage of malate of zinc is very easily capable of producing a derangement of the health, consisting in affections of the stomach, vomiting, and, when often partaken of, in chronic lead poisoning. I am, therefore, obliged to give strict warning against the sale, purchase, and the eating of American dried-apple slices, and hereby make known to all who offer such article for sale that they will be proceeded against in accordance with the Imperial law regulating the trade in food and food products of May 14, 1879.

Some of the importers, believing the above to be an unfair discrimination against the American dried-apple slices, called upon the mayor and begged that a modification of the order be made, which was acceded to in a second announcement, as follows:

AMERICAN DRIED-APPLE SLICES.

My publication of the 6th instant has, on various sides, given rise to the opinion that the use of American dried-apple slices was in every case injurious to the health and that the sale of this article was contrary to law. This is in no wise the case. On the contrary, the publication has no reference to American dried-apple slices which have not been dried on zinc plates and zinc wire netting, but on wooden racks and wickerwork, and which do not contain such an amount of zinc as would be injurious to health.

It will be observed that the above announcements seem to be directed solely against American dried-apple slices. So far as I have been able to ascertain, the matter is under investigation here as to whether the mere traces of zinc in the dried-apple slices are to be considered unwholesome, or whether their sale should only be allowed when they are entirely free of zinc.

The United States consul at Mayence has called my attention to an article published in the Frankfort Zeitung of the 31st of May last on the same subject, which, in English, reads as follows:

FRANKFORT, *May 30.*

In the court of justice. The sitting began with an objective proceeding, without any of the accused being present. The subject of the proceedings was apple slices which were confiscated by the police authorities last autumn in various provision stores here (Frankfort) and in Roedelheim. According to the opinion of Dr. Homeyer and Health Councilor (*Sanitätsrath*) Dr. Klingelhœffer, these American apple slices are injurious to health on account of the admixture of acetate of zinc, as this admixture, which is intended to give them a bright color, produces vomiting and diarrhœa in children and digestive derangements in adults.

The court orders the confiscation of this article on account of its injurious quality, for which the sellers are not held responsible.

In conclusion, I am informed that the dried-apple slices sold here are almost exclusively from the United States; and, since this cry against their unwholesomeness, the importers are taking care in placing only a "zinc-free" article in the market. In a recent conversation with Dr. Jacobsthal, a sworn chemist to the court here, he says that the samples submitted to him last May by the city authorities here for analysis were all "zinc free."

I am, etc.,

WM. D. WAMER,
Consul.

Mr. Mason to Mr. Uhl.

No. 314.] UNITED STATES CONSULATE GENERAL,
Frankfort, June 22, 1895.

SIR: Referring to your instructions No. 153 of May 3, and my report of May 22 in response thereto, I have now to transmit herewith an officially sealed sample of evaporated apples taken from a lot which was imported by Mr. Erwin Roelker, of Frankfort, from Albert Petri, of Rochester, N. Y., and which have been condemned by the police and health authorities of Frankfort as containing, per kilogram, from 0.0035 to 0.0545 gram of zinc or salts of zinc, a proportion which is adjudged prejudicial to human health.

This sample bears the seal and certificate of the police court before which the proceedings against Mr. J. Latscha, the retailer of the apples took place.

I am, etc.,

FRANK H. MASON,
Consul-General.

Mr. Robertson to Mr. Uhl.

No. 230.] CONSULATE OF THE UNITED STATES,
Hamburg, June 29, 1895.

SIR: Referring to my dispatch No. 224, of May 18, 1895, I have the honor to inform you that I am now in receipt of a communication from the chief of the Hamburg foreign office advising me that he has instructed the police authorities to furnish me with samples and analyses of any American dried apples which may in future be confiscated on the ground that they are alleged to contain zinc.

I am, etc.,

HENRY W. ROBERTSON,
Consul.

Mr. Uhl to Mr. Olney.

No. 166.] EMBASSY OF THE UNITED STATES,
Berlin, November 4, 1896.

SIR: I have the honor to inclose clipping, with translation, from the Tägliche Rundschau, a newspaper published in Berlin, apropos to the recent importation into Germany of large consignments of apples from

the United States, simply as illustrative of the great ingenuity constantly manifested among certain classes in Germany in discovering apprehended dangers from the introduction of any foreign product which is likely by competition to seriously affect the price in the home market of like products of German origin.

In this case the fear is expressed that an enemy as dangerous as the potato bug may be brought with American apples.

I have, etc.,

EDWIN F. UHL.

[Inclosure in dispatch No. 166—Translation.]

Clipping from the Tägliche Rundschau of October 31, 1896.

The first American apples of this harvest have arrived here. The first ocean steamer which reached Germany with fruit on board had a cargo of 240 carloads, which cost from 4 to 8 marks per hundredweight, while German apples cost on an average 16 marks per hundredweight.

We have already pointed out that such dangerous competition would threaten our fruit growers. It will now have to be ascertained whether this American fruit is not inferior to ours and whether it does not introduce danger, as, for instance, the potato bug or the phylloxera.

If both of these questions must be answered in the negative an enormous importation will have to be feared.

Mr. Ozmun to Mr. Day.

CONSULATE OF THE UNITED STATES,
Stuttgart, January 11, 1898.

SIR: I beg to call the attention of the Department to the inclosed notice in the Stuttgart Neues Tagblatt of December 24, 1897, a translation of which I transmit herewith, relating to the prohibition of the sale and the seizure and confiscation of American dried fruits on the alleged ground that such fruit contains metallic zinc in such quantities as to render the same unfit and unhealthful for human food. I have not interviewed the city chemist, who is said to have made the tests, and I have as yet had no tests made. I have heard of no deaths or illness occasioned by the eating of such fruit, and it will be observed that the notice contains no statement that there has been complaint on that ground, or, in fact, any other ground.

I am, etc.,

EDWARD H. OZMUN, *Consul.*

[Inclosure—Translation.]

Notice regarding the sale of dried fruit (steam-dried apple slices).

Referring to the public warning regarding the sale of dried fruit containing zinc-published April 17 last, notice is hereby again given to those dealing in the above, mentioned article that repeated examinations of dried-apple slices, especially of American origin, by the chemical bureau of this city, have established the fact that samples taken from various retail stores of this city contained, almost without any exception, an addition of metallic zinc in quantities of 0.3 gram to the kilogram (2.2046 pounds). Among 41 samples examined there were 12 (or 29 per cent) containing zinc. The zinc contents appear to come from the fruit slices being dried on zinc-wire netting. According to the opinion of the first city physician and other medical authorities, as well as the laws for articles of nourishment, any such articles

containing zinc are to be condemned as detrimental to health. In consequence hereof, all dealers in dried fruits are hereby warned that proceedings for punishment and confiscation will be instituted if further investigations of dried fruits should show contents of zinc.

WURSTER, *Chief of Police.*

STUTTGART, *December 21, 1897.*

Mr. White to Mr. Sherman.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, February 1, 1898.

Ministerial decree put in force yesterday prohibits further importation of American fruit. Have communicated with foreign office, but no answer yet received.

WHITE.

Mr. Sherman to Mr. White.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 2, 1898.

Does the prohibition cover fruit from American Hemisphere or only from the United States, and all kinds of fruit?

SHERMAN.

Mr. White to Mr. Sherman.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, February 3, 1898.

Am informed order reads importation of American fruit and the products of the American orchards is prohibited until further notice, and that both fresh and dried fruits have actually been stopped at frontier.

WHITE.

Mr. White to Mr. Sherman.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, February 3, 1898.

New order admits dried. Fresh fruit will be admitted after examination. Secretary of state for foreign affairs declares willingness and desire to hasten examination, and to admit all products as rapidly as examination can be made. Full statement of scope and purpose of orders promised to-morrow.

WHITE.

Mr. Day to Mr. White.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 3, 1898.

Send by telegraph copy of prohibitive decree. Protest against same. Urge special injustice of application to large amount of fruit in transit. Damages to large amount impending. We consider that Government liable to indemnity to shippers without notice, and for breach of contract for delivery. If not wholly revoked, decree should at least be suspended to avoid destruction of fruit shipped without notice of prohibition.

DAY, *Acting.*

Mr. White to Mr. Sherman.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, February 4, 1898.

Your instructions cabled February 3 anticipated; have made earnest representations at foreign office; original order already mitigated; all dried fruit released; all fresh fruit in stock again allowed to be sold; am hoping speedy release of fresh fruit under assurances from foreign office. Original order was sent by Prussian finance minister to customs authorities, who acted with overzeal. Imperial council has since passed decree prohibiting all fruit infected with scale insects, also all living trees, plants, fruit waste, skins, etc., such as are exported for making jelly, etc., also packing materials commonly used in packing trees, plants, and fruits. Exact official te t not published, as decree is not yet signed. Will cable it earliest moment possible. Insect referred to is San Jose scale. Foreign office insists on good faith of the new regulations and that they are prompted entirely by desire to keep out insect pest and not to exclude competition. He refers to Cockerell's Technical Series 6 and Howard Bulletin 3, new series, United States Department of Agriculture, 1897, and cites drastic laws of Oregon and British Columbia against same pest.

WHITE.

Herr von Holleben to Mr. Sherman.

IMPERIAL GERMAN EMBASSY,
Washington, February 4, 1898.

MR. SECRETARY OF STATE: I have the honor herewith to inclose a memorandum containing information with regard to the alleged prohibition of the importation of American fruit by the German authorities. The facts and the reasons underlying them are therein fully discussed. Your excellency will, I doubt not, be convinced that no measures have been adopted that were not necessary for the protection of important German interests, and that the Imperial Government has been far from entertaining a thought of going one step beyond th s definitely drawn line. I trust that your excellency will lay the contents of this memo-

randum before His Excellency the President, as speedily as practicable, and I would respectfully beg you to consider whether it would not be advisable to make the information thus furnished known in other proper quarters, especially among members of Congress.

Accept, etc.,

HOLLEBEN.

[Inclosure.]

Memorandum.

A professor in the Agricultural High School at Berlin called attention to the fact, a few days ago, in Hamburg, that he had found the San Jose shield louse in a shipment of fruit from America. The fruit was immediately stopped, and the customs authorities of the frontier stations were reminded of the possibility of the introduction of the insect by means of shipments of plants and fruit from American ports. The reports published in the newspapers on the subject induced the United States ambassador at Berlin to make inquiry as to the facts. Mr. Andrew D. White, who did not seem to be informed with regard to the destruction caused by the shield louse in America, was thereupon apprised that the reports published in the papers concerning a prohibition to import American fruit were partly incorrect and partly premature, so that the statement is unfounded that the German Government has adopted a measure affecting the United States without having notified the American ambassador.

The fact of the matter is that an ordinance is about to be issued by the Bundesrath (federal council) whereby the importation of fresh plants and fresh plant waste (Pflanzenabfälle) from America, together with casks, boxes, and other articles in which such goods or plant waste have been packed, or kept, is to be prohibited until further notice, and also shipments of fresh fruit and fresh-fruit refuse (Obstabfälle) from America, together with the material belonging thereto, are to be examined at the frontier import station, and, in case the San Jose shield louse is found, are to be excluded.

No claim can possibly be raised in America that such a measure is not justified, for, according to the publications of the United States Department of Agriculture, the shield louse has caused great devastation in orchards everywhere in America, and American entomologists have characterized it as the insect that is most destructive to fruit, and its highly pernicious character has been officially recognized by the severe measures which have been adopted by sundry States of the American Union against one another (examination of shipments of plants and fruits, requirement of declarations as to their soundness, and seizure of those found to be infected), and by various bills now before the United States legislatures, some of which are even more severe. The German experts, of whom inquiry has been made, regard the propagation and diffusion of the shield louse in Germany as quite possible. After the shield louse had been found in shipments of fruit from America, what has been stated above was the least that could be done by Germany for the protection of German fruit, analogously to the measures now under discussion in the United States Congress for the exclusion of similar destructive insects brought from foreign countries.

In view of the example thus set by the Government of the Union, and by various States belonging thereto, the Imperial Government thinks that there is no ground for the assumption that it has been influenced by agricultural interests, and not solely by a desire to protect from the ravages of this destructive pest the cultivation of fruit in Germany, which is a highly important interest, and which has been developed at heavy pecuniary cost. That there is no ground for the first assumption is shown by the fact that the importation of fresh plants from America is quite insignificant, that the importation of fresh fruit from the United States into Germany during the fiscal year 1897 amounted, in round numbers, to but $200,000, and that the season for the importation of fruit from America and for the fruit trade in Germany is almost ended; that, moreover, the injury done to fruit in America by the shield louse had long been known in Germany, but that the German Government took no active measures until the insect had actually been found in a shipment at Hamburg, whereby the possibility of its introduction into Germany was shown.

WASHINGTON, *February 4, 1898.*

Mr. White to Mr. Sherman.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, February 5, 1898.

Hamburg consul reports examination commenced and all fresh fruit admitted, except 81 cases where claim is made scale insect was found. No trouble about dried fruit.

WHITE.

Mr. White to Mr. Sherman.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, February 5, 1898.

Text of decree follows: In order to prevent the introduction of the San Jose schildlaus (*Aspidiotus perniciosus*) in the importation of live plants and waste of live plants (Pflanzenabfälle) from America; furthermore, the barrels, boxes, and other receptacles which have served for the incasing or storing of goods of this character or of waste (Abfälle) are for the present prohibited. The above also applies to shipments of fresh fruit and skins and cores of fresh fruit (Obstabfälle) coming from America, as well as to the material which has been used in packing the same, whenever on examination the existence of the San José schildlaus is established in the goods or in the material used for packing them. The prohibition does not apply to goods or articles of the aforesaid nature which arrive per ship and are not removed from the ship. The imperial chancellor is authorized to make exceptions to this prohibition and to give directions in regard to the necessary precautionary measures. The decree goes into effect upon its publication, probably this evening.

WHITE.

Mr. Day to Mr. White.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 7, 1898.

Closing part of fruit decree authorizes imperial chancellor to make exceptions to the prohibition and regulate precautionary measures. Does this enable merchants to be heard in their own behalf, and thus obtain relief in favorable cases and admission of goods where not infected?

DAY, *Acting.*

Mr. White to Mr. Sherman.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Berlin, February 8, 1898.

At present, importation live plants absolutely prohibited. Fresh fruit, not infected, admitted freely. Chancellor would probably not receive merchants. Desired statements could be transmitted through embassy.

WHITE.

Mr. Sherman to Herr von Holleben.

No. 21.] DEPARTMENT OF STATE,
Washington, February 11, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 4th instant, in which you kindly convey to me by means of a dated memorandum information in regard to the recent prohibition of the importation, under circumstances, of American fruit into Germany.

The subject had already been made the occasion of considerable telegraphic correspondence with the United States ambassador at Berlin, with a view to ascertaining the character of the restrictions which had been announced on the 1st instant and the modifications which had been made in the original order with a view to the relief of legitimate commerce from unnecessary embarrassments.

Your memorandum gave me timely information, of which I have availed myself in answering a resolution of the United States Senate calling for a statement of facts in this regard.

According to the latest advices from the United States ambassador at Berlin, the admission of uninfected fruit is proceeding as usual, and in only a few instances had consignments of apples been found to be infected with the San Jose scale insect. In view of the measures which have been taken in the fruit-raising States to check and destroy this pest, and the greater care which is necessarily exercised in selecting and preparing fruit for export, I am satisfied that only in exceptional cases will living specimens of the insect be found.

Accept, etc., JOHN SHERMAN.

Mr. Sherman to Mr. White.

No. 346.] DEPARTMENT OF STATE,
Washington, February 11, 1898.

SIR: Referring to the correspondence, telegraphic and otherwise, had with you on the subject of the recent prohibitive measures adopted by Germany against the importation of American fruit, I have to inclose for your information copy of a note from the German embassy, dated the 4th instant, transmitting a memorandum setting forth the reasons for the adoption of such measures; also copy of the Department's acknowledgement of this date.

A report has been made to the Senate communicating copy of the entire correspondence, in answer to a resolution requesting information. As soon as this report is printed copies will be sent to you.

The Department is gratified at the timely and effective representations made by you to the imperial foreign office to secure the relief of legitimate American trade from injurious restrictions, and trusts that you will continue to make all practicable efforts in this direction in order that no injustice shall be suffered by our exporters.

Respectfully, yours,

JOHN SHERMAN.

Mr. White to Mr. Sherman.

No. 285.] EMBASSY OF THE UNITED STATES,
Berlin, February 12, 1898.

SIR: Referring to my dispatch No. 279, of the 7th instant, I have the honor to append hereto a copy of the telegrams, not already reported, which have been exchanged with the Department during the past week, in regard to the importation into Germany of American fruit, and to supplement my telegram of yesterday by the following additional information, also received from our consul at Hamburg:

Examination is made as follows: Of each lot one barrel or case is taken and carried to Botanical Musée, where a number of apples of the different lots are examined. Of the suspected above-named kinds, Parmains and Sannomas, two boxes of each are examined. The most important kinds, Greenings, Baldwins, and Ben Davis, have not been found infected.

From this it will be seen that the German Government is much more inclined to fair treatment of American fruit products than it at first appeared to be. My telegram of yesterday will, I trust, explain itself, and clear away the difficulties caused by the presumed imperfect transmission of my telegram of the 4th.

It seems to me, in view of the publications of our own Department of Agriculture on the subject, that there was much excuse for alarm in regard to the admission of trees and shrubs which might easily convey the San Jose scale insect to nurseries and orchards, and there appears little reason to believe that for the present the restriction on the importation of such trees, shrubs, and live plants will be removed. But as regards the restrictions on fruit, I believe that they will speedily be reduced so as practically to interpose no barrier to the introduction of our fruit products, save possibly pears.

I have already represented to the foreign office the practical impossibility of any conveyance of the San José scale to orchards or nurseries by means of imported fruit. The parasite as it clings to fruit has, it appears, neither wings nor feet, and therefore not the slightest chance of escaping from the houses where the fruit is consumed to orchards or nurseries. In support of this view, I have cited a remark of the eminent American entomologist, Dr. Lintner, given in Insect Life, Volume VII, No. 2, page 167, as follows:

The chances of the scale carried about on fruit reaching a tree on which it would successfully establish itself are so slight as to be practically not worth discussion.

Moreover, an American entomologist of high standing from the Pacific coast, at present at Leipzig, informs me that the producers themselves can easily remove the whole difficulty by the simple process of scraping off the parasite from the fruit they send. Such a process would involve very slight expense, and seems to present a practicable solution of the main difficulty in the near future. As the importation of fruit on any large scale will hardly be longer continued during the present season, I trust that we may be able to establish a modus vivendi satisfactory to both parties.

It would aid the embassy in dealing with this question to have in its library all material which the Department of Agriculture can furnish us on the subject, especially the publications in the list appended, which are in the possession of the imperial foreign office here. The foreign office has indeed kindly allowed us the use of its copies, but we could have them only a very short time, since it was desired to put them at

the earliest moment possible into the hands of the editors and printers who are to prepare and publish extracts to be laid before the German people.

I am, etc.,

AND. D. WHITE.

LIST OF AUTHORITIES IN RE SAN JOSE SCALE.

Bulletin No. 33, U. S. Department of Agriculture, Division of Entomology, "Legislation," etc., by Howard.
Bulletin No 3, new series, U. S. Department of Agriculture, Division of Entomology, technical series, No. 6, 1897; U. S. Department of Agriculture, Division of Entomology, "The San Jose Scale," by Cockerell.
Insect Life, by Howard, U. S. Department of Agriculture, Division of Entomology, Vols. VI, VII, Nos. 2, 4, and 5.
Report, Eighth Annual Meeting Association of Entomologists, 1896, being Bulletin No. 6, new series, U. S. Department of Agriculture, Division of Entomology.

Mr. White to Mr. Sherman.

No. 300.] EMBASSY OF THE UNITED STATES,
Berlin, February 19, 1898.

SIR: Referring to my dispatch No. 285, of the 12th instant, I have the honor to report further, in regard to the recent decree affecting the importation of live plants and fresh fruit from America to Germany, that I have learned from the consul at Hamburg that only two lots of Parmains and Sonoras (not Sannomas, as erroneously called) out of the 4,000 packages already referred to have been stopped; that all apples in barrels (Greenings, Baldwins, and Ben Davis) have been admitted, and no further discoveries of the San Jose scale were made. The steamer *Phœnicia* brought about 900 barrels and 400 cases of apples, and of these the examination was not finished when Consul Pitcairn wrote. No scale had been found, however, among the apples examined, and the importers had, in order to avoid any possible trouble, applied for and obtained permission to export the 400 cases, which contain Parmains—the sort most suspected. Only one more steamer, bringing 600 packages, is known to be en route, after which the season may be considered as closed.

From the consul at Düsseldorf I learn that the importers of fruit waste (skins and cores), a great deal of which is used in the Rhine districts in the manufacture of jellies, have experienced some difficulty, owing to a difference of opinion among the customs authorities, some of whom hold that this waste, which is evaporated in the same way that fruits are treated, is dried fruit, while others maintain that it is fresh and must be examined. As yet I have not heard that any scale has been found in this waste, nor that any charge has been made for the examination. The shipper, however, has been sent bills covering the charges of unloading and reloading the fruit, and there is, of course, a loss of time caused by the same.

In the Imperial Gazette of the 14th instant a decree of the Bremen senate was published calling attention to the Bundesrath's decree of the 5th and prescribing penalties in case of failure to notify the proper authorities of the arrival of fruit, etc., from America, or for the improper importation of the same.

In the semiofficial North German Gazette of the 18th instant there

appeared an article referring to a report recently made by Professor Johnsen, State entomologist, before the Maryland Horticultural Society, in regard to the ravages of the scale in that State.

I am, etc.,

AND. D. WHITE.

Mr. White to Mr. Sherman.

No. 312.] EMBASSY OF THE UNITED STATES,
Berlin, February 25, 1898.

SIR: Referring to my dispatch No. 300, of the 19th instant, I have the honor to inform you that I learn from our consul at Hamburg that since the 17th instant above 500 packages of apples have arrived at that port by lighter from Bremen, among which there was only one small lot of California apples, packed in boxes (Newtown pippins), which were found infected, and consequently refused admission. All the other apples came from the Eastern States and have been admitted freely.

It is generally assumed that the cost of the examination of American fruit, under the decree of the Bundesrath of the 5th, is to be borne by the German authorities, and the importers do not anticipate that bills for such examination will be sent. At Hamburg the expenses of cartage of the cases and barrels to the Botanical Museum are charged to and paid by the "declarations bureau," and the only loss incurred by the importers consists in the value of the apples examined and in the slight delay caused by the examination.

From Dusseldorf no further complaint has been received, and it is to be presumed that no fresh fruit has arrived at the custom-houses in that district.

I am, etc., AND. D. WHITE.

Mr. White to Mr. Sherman.

No. 313.] EMBASSY OF THE UNITED STATES,
Berlin, February 26, 1898.

SIR: Referring to the last part of my dispatch No. 312, of yesterday, I have the honor to inclose herewith a copy of a note to-day addressed by me to the foreign office, upon the strength of information just received from our consul at Dusseldorf, in regard to the different manner in which so-called "fruit waste"—skins and cores prepared in the same way as used in case of dried or evaporated fruit, of which large quantities are imported for the manufacture of fruit jellies—are treated by the customs authorities at various places in his district.

I am, etc.,

AND. D. WHITE.

[Inclosure in No. 313.]

Mr. White to Baron von Bülow.

No. 187.] EMBASSY OF THE UNITED STATES,
Berlin, February 26, 1898.

The undersigned, ambassador of the United States of America, has the honor to invite the attention of His Excellency Minister von Bülow,

imperial secretary of state for foreign affairs, to the manner in which the provisions of the decree of the Bundesrath of the 5th instant, in regard to the importation of live plants and fresh fruit from America, are interpreted by the German customs officials at different places.

The undersigned is informed that at Hamburg, at which port the bulk of the fresh fruit arrives from America, no complaints are made. The expenses of cartage of the fruit which is to be examined at the Botanical Museum have as yet been borne by the "Zoll-Declarations Bureau," and the only loss incurred by the importer consists in the value of the apples examined, and in the slight delay caused by the examination.

In the Rhine district, however, the case appears to be different. Here almost no fresh fruit is imported, but on the contrary there are large quantities of dried and evaporated fruit, and of so-called "fruit waste" (skins and cores), which is prepared in the same way as is dried fruit, and which is used in immense quantities in making fruit jellies brought into this country. There seems to be a difference of opinion in regard to this "waste" among the customs officials at the places where it is imported or sold, and it is understood that several firms (among the number, Mr. Jac. Kirberg, of Gerresheim, and Messrs. Kaiser & Hamm, of Mehlen) have entered protest. In some places the waste is admitted freely, it being treated as dried fruit and as not affected by the decree above referred to, while in other cases it has been treated as fresh fruit and been submitted to examination, and released only after considerable delay, and after the importer had been obliged to pay charges for unloading and reloading, as well as the costs of the examination itself.

The undersigned has the honor to request that His Excellency will kindly cause immediate attention to be given to this matter, so that uniform treatment may be accorded all fruit waste arriving in Germany, and the present uncertainty and the damages occasioned thereby terminated, and at the same time avails himself of this opportunity to renew the assurance of his most distinguished consideration.

AND. D. WHITE.

Mr. White to Mr. Sherman.

No. 327.] EMBASSY OF THE UNITED STATES,
Berlin, March 11, 1898.

SIR: Referring to my dispatch No. 313 of the 26th ultimo, I have the honor to transmit herewith a copy of a note addressed by me to Minister Von Bülow yesterday, in regard to the customs treatment of American fruit waste imported into Germany, and to be, sir, etc.,

AND. D. WHITE.

[Inclosure in No. 327.]

Mr. White to Baron Von Bülow.

No. 195.] EMBASSY OF THE UNITED STATES OF AMERICA,
Berlin, March 10, 1898.

Referring to his note of the 26th ultimo—F. O. No. 187—the undersigned, ambassador of the United States of America, has the honor to

inform his excellency Minister Von Bülow, Imperial secretary of state for foreign affairs, that he has jus received a telegram from the American consul at Dusseldorf to the effect that a large consignment of fruit waste from a Dusseldorf importer has been taken from the cars at Harzogenrath and stored in a warehouse by the customs officials; that such goods were classified as evaporated fruit and duty paid accordingly; that their release until after examination as fresh fruit has been refused; and that such goods are now admitted without examination at Emmarich.

While again requesting that his excellency kindly give immediate attention to the matter of the treatment to be accorded to American fruit-waste imported into Germany, the undersigned avails himself of the occasion to renew the assurance of his most distinguished consideration.

ANDREW D. WHITE.

Mr. White to Mr. Sherman.

No. 338.] EMBASSY OF THE UNITED STATES,
Berlin, March 17, 1898.

SIR: Referring to my dispatch No. 327 of the 11th instant, I have the honor to inform you that although no reply to my note, a copy of which was therein inclosed, has as yet been received from the foreign office, I am to-day in receipt of a letter from our consul at Dusseldorf, from which I quote as follows:

> The fruit waste stopped at Herzogenrath was promptly released after your representations at the foreign office in Berlin. The order for the release of the goods came by telegraph. No further difficulty is anticipated by the fruit importers at the frontier custom-houses of the Rhine Province. The importers of American fruit in Dusseldorf have requested me to extend their thanks for your prompt and effective action in their behalf. They fully appreciate the force of the United States embassy at the German capital.

I am, etc., AND. D. WHITE.

Mr. Sherman to Mr. White.

No. 424.] DEPARTMENT OF STATE,
Washington, D. C., March 31, 1898.

SIR: I inclose for your information, copy of a letter of the 26th instant, from Messrs. Haebler & Co., asking for the intervention of the Department in their behalf as shippers of American evaporated apple waste, which is threatened, it is said, with exclusion from the German market on the plea that it is well-nigh impossible to examine it properly in order to ascertain whether or not it is free from the San José scale.

From the statements herein made it would seem obvious that if any measures are contemplated for the exclusion of apple waste (evaporated) the necessity therefor should be first demonstrated by the actual finding of living San José scale insects in said waste, a thing which is believed to be impossible owing to the great heat used in the process of evaporation. It should also be remembered that in putting the apple waste to its intended uses, namely, for the preparation of jellies, vinegar, etc., it is immediately subject to boiling or other destructive process on being removed from the packings in which it is shipped, so that a double security against the survival of a stray insect is afforded.

In case the German authorities shall refuse to admit the shipments of apple waste made by Messrs. Haebler & Co., you will promptly take such action on their behalf as you may deem expedient.

Respectfully, yours,

JOHN SHERMAN.

[Inclosure in No. 424.]

Haebler & Co. to Mr. Sherman.

NEW YORK, *March 26, 1898.*

SIR: As shippers of evaporated cores and skins of American apples, also called apple waste, we beg by the present to bespeak your assistance and intervention in our behalf, and in behalf of other American exporters, as against the threatened attempt of the German Government to exclude such evaporated apple waste from that country, on the plea that it is well-nigh impossible to examine it properly in order to ascertain whether or not it is free from the San José scale.

This is a wanton interference in a legitimate trade, simply to conciliate agrarian interests in that country at the prejudice and expense of the American exporters, as the futility of the supposition of the insect being found in evaporated cores and skins is evident, owing to the great heat to which these cores and skins are subjected during the process of evaporation. In fact no San José scale has ever been found to exist in these evaporated cores and skins.

We have several parcels of the article afloat and other lots in course of shipment to Germany, and would respectfully request your intervention in the matter through our ambassador in Berlin, in order that we, as well as the other American exporters, may not suffer through unwarranted and untoward interference by the German Government in our legitimate business.

Yours, respectfully, HAEBLER & CO.

Mr. White to Mr. Sherman.

No. 362.] EMBASSY OF THE UNITED STATES,
Berlin, March 31, 1898.

SIR: Referring to my dispatch, No. 338, of the 17th instant, I have the honor to inform you that having seen newspaper notices of a new order of the Prussian minister of finance in regard to the examination of American fruit waste (cores and skins) imported into Germany, the embassy addressed a letter on the 28th instant to Consul Pettit, at Dusseldorf, whose cooperation in this whole matter has been very efficient, asking him to report upon the same. The orders issued by the minister to the frontier customs officials are not regularly published in any official paper and some of them are not published at all. Consequently it is difficult to keep track of them, as the embassy can obtain information as to their very existence only after they have become the subject of comment in the local press, or after complaint is made to it in regard to them, either to it directly or through some consulate.

On the 30th instant, after receiving Mr. Pettit's report, he also having only just had his attention called to the order in question, the embassy telegraphed you as follows:

Application of new inspection order practically prohibits the importation of fruit (evaporated) skins and cores.

Consul Pettit reported that he had been unable to obtain a copy of the new order, which was dated the 16th instant, but that there was no doubt that it forbids the free entry of waste unless the same is so dry and brittle that the parts can be ground into powder by rubbing in the hands, this test being required to decide whether the goods are to be permitted to enter or whether they shall be subjected to a microscopic examination. As, if the waste were as dry as required it would be worthless to the jelly makers, the new order practically requires that all waste be examined, necessitating unloading at the frontier customs stations. On this account the Rhine navigation companies refuse to accept waste at Rotterdam, Amsterdam, and Antwerp, and as the freight rates by rail are much higher than those by water, the fruit men say that they could not make a profit if they must pay for unloading the goods at the frontier and for storing them pending examination.

Representatives of New York shippers have made complaints to the embassy in the matter, and others have addressed the Government officials, it is understood, directly on the point, and it has been proposed that the Germans consent to an examination of the waste at Rotterdam, the port at which most of it is unloaded from the ocean steamers, or that samples might be taken from the barrels there and examined in Germany. At the foreign office, this morning, Mr. Jackson was unable to obtain any definite information, a written communication on the subject being promised within a few days, and at the ministry of finance he was unable to secure a copy of the order referred to, although he was told enough in regard to it to show that Mr. Pettit's idea of its significance was correct.

I shall continue to give serious attention to this matter, and, in case the promised note from the foreign office is not soon forthcoming, will cause renewed representations to be made.

I am, etc.,

AND. D. WHITE.

Mr. Sherman to Mr. White.

No. 428.] DEPARTMENT OF STATE,
Washington, April 2, 1898.

SIR: Referring to the Department's instruction No. 424, of the 31st ultimo, relative to the measures of the German Government for the exclusion of American evaporated apple waste from that country, I inclose for your information copy of a further letter from Messrs. Haebler & Co. on the subject.

Respectfully, yours,

JOHN SHERMAN.

Haebler & Co. to Mr. Sherman.

NEW YORK, *March 30, 1898.*

SIR: Referring to our letter of March 26 on the subject of shipments of American evaporated cores and skins to Germany, we take the liberty to inform you that the United States ambassador at Berlin, Hon. Andrew D. White, to whom we addressed ourselves for relief, has cabled us that the German Government has just decreed new regulations for examining the article in question which in their form and

stringency are practically tantamount to a complete prohibition of its importation.

As there is no reason for such a step, cores and skins being free from infection through the process of evaporating, we respectfully submit that our Government enter an emphatic and vigorous protest against this arbitrary proceeding, which entails heavy losses on American exporters for the time being, and injures permanently an important American industry.

Your obedient servants,

HAEBLER & CO.

Herr Von Holleben to Mr. Sherman.

IMPERIAL GERMAN EMBASSY,
Washington, April 7, 1898.

MR. SECRETARY: With reference to your kind note of the 11th of February last, No. 21, and to the documents delivered in person to Assistant Secretary Cridler on the 24th of the same month, through Herr von Bruning, secretary of the embassy, relating to the San Jose scale louse, taken from shipments of fruit from the United States to Germany, I have the honor by direction of the Imperial chancellor to deliver to you in the accompanying casket three preparations made in the Imperial health office in Berlin of such specimens of the said insect as have been taken from American fruit in Hamburg.

The Imperial Government wishes by this means to furnish the evidence that the insect found in Hamburg is identical with the San Jose scale louse described by American investigators.

Accept, etc.,

HOLLEBEN.

Mr. White to Mr. Sherman.

No. 377.] EMBASSY OF THE UNITED STATES,
Berlin, April 8, 1898.

SIR: Referring to my dispatch No. 362, of the 31st ultimo, I have the honor to inform you that a note has to-day been received from the Imperial foreign office, in reply to my notes of February 26 and March 10 (see dispatches Nos. 313 and 327, respectively), and inclosing copies, two of which are transmitted herewith, of the decree of the Prussian minister of finance of March 16, in regard to the customs treatment of American fruit waste (skins and cores) imported into Germany.

In this note an explanation is given of the delay in answering my communications on the subject, in that it is stated that upon the receipt of my notes the appropriate officials were informed of their contents, and that these officials caused far-reaching investigations to be made by experts, the result of which was that it was found advisable to issue the order (of March 16) according to which fruit waste could be admitted to Germany without examination only when it was perfectly dry, hard, and brittle, and could be reduced to powder by being rubbed between the hands. In this note reference is made to the fact that there is more probability of the "San Jose scale" being introduced by this waste than in any other way, as it consists of the

skins and cores, upon which the scale is to be found if present in the fruit, particularly in the hollows at the cup and stem of the apple.

It is also stated that in drying the fruit, whether in the open air or artificially, the temperature to which it is subjected is not sufficiently high to insure the destruction of the insect, and that it is clear that the fruit waste has not been subjected to as high a temperature as 90-100° Celsius, from the fact that the cellular construction of the core is shown not to have been affected, and that moisture has been found in both skins and cores. It is also stated that although the boxes, etc., are only opened in order to empty them into the boiling kettle immediately afterwards, it is impossible to be so careful that no particles of the waste may not fall to the ground and be carried out into fields, etc., as rubbish, and here reference is made to Bulletin No. 3, new series, pages 49 and 74, of the Department of Agriculture, Division of Entomology, and to the American reports, to show that trees have become infected where no new planting has been done and where the only explanation is that refuse fruit has been thrown away from passing trains. It is also stated that the boxes or sacks in which the fruit is imported might be put to subsequent uses, such as for the packing of potatoes, and that in this way infection might be carried into the country.

In view of all this, the conclusion is reached that in the sense of the Bundesrath's decree of February 5 (dispatch No. 279), fruit waste, unless absolutely dry, must be treated like fresh fruit, although it is imported and duty is paid upon it according to section 25, page 2, of the tariff, in which is included, however, not only dried fruit, but also all fruit which has been in any way "prepared" before its importation.

Under these circumstances, unless there should be further developments, I shall await instructions from the Department before taking further action in this matter.

I am, etc.,

AND. D. WHITE.

Mr. Sherman to Herr von Holleben.

No. 37.] DEPARTMENT OF STATE,
Washington, April 11, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 7th instant, transmitting certain microscopic specimens prepared by the Imperial board of health at Berlin, and said to have been found in American fruit imported at Hamburg, and to be identical with the San Jose scale louse.

The matter has been referred to the Secretary of Agriculture.

Accept, etc.,

JOHN SHERMAN.

Mr. White to Mr. Sherman.

No. 384.] EMBASSY OF THE UNITED STATES,
Berlin, April 14, 1898.

SIR: Referring to my dispatch No. 377 of the 8th instant, I have the honor to transmit herewith a copy of a note to-day addressed to the Imperial foreign office, upon the strength of information supplied the

embassy by Consul Pettit of Düsseldorf, in regard to certain efforts about to be made to continue the importation of American fruit waste into Germany, and to be, sir, etc.,

AND. D. WHITE.

[Inclosure in No. 384.]

NOTE VERBALE.] EMBASSY OF THE UNITED STATES,
Berlin, April 14, 1898.

TO THE IMPERIAL FOREIGN OFFICE:

Referring to previous correspondence, and in particular to the esteemed note from the Imperial Foreign office of the 8th instant, the embassy of the United States of America has the honor to inform the foreign office that it has learned that Meyer & Co., of New York, leading exporters of American fruit waste to Germany, have shipped to Düsseldorf for their own account 1,000 barrels of fruit waste, which is expected at Emmerich about April 25, and that the purpose of those gentlemen in so doing is to convince the German authorities, if possible, that it is impossible for the "Shield louse" to exist in the waste after the treatment to which it is subjected. The embassy understands that arrangements have been made to have this waste brought up the Rhine in a small vessel in which nothing else will be shipped; that the vessel will be bound to Emmerich and held there pending the examination of the microscopic experts (at the cost of 12 marks per day), and that the shippers believe that the authorities will not insist on having the goods unloaded. In view of the fact that Messrs. Meyer & Co. hope to be able to demonstrate in this way that it is still possible to import the goods in question into Germany at a profit, and should it prove impossible for this to be done, it is quite likely that the jelly makers will transfer their factories to the United States, the embassy requests that the foreign office will kindly cooperate to make Messrs. Meyer & Co.'s venture a success.

Mr. Sherman to Herr von Holleben.

No. 41.] DEPARTMENT OF STATE,
Washington, April 20, 1898.

EXCELLENCY: Referring to your note of the 7th instant, forwarding certain microscopic specimens prepared by the Imperial board of health of Berlin, taken from American fruit at Hamburg, and said to be identical with the San Jose scale louse, I have the honor to inform you that the Department has received a letter from the Secretary of Agriculture stating that the preparations in question have been examined by his Department, and that, while they are mounted in such condition that thoroughly satisfactory determination is impossible, they appear, judging from the visible characters, to be identical with the insect mentioned, namely, *Aspidiotus perniciosus*.

Accept, etc., JOHN SHERMAN.

Mr. Sherman to Mr. White.

No. 447.] DEPARTMENT OF STATE,
Washington, April 20, 1898.

SIR: I inclose for your information copy of correspondence, as indicated below, relative to certain microscopic specimens prepared by the Imperial board of health of Berlin, taken from American fruit at Hamburg, and said to be identical with the San Jose scale louse.

Respectfully, yours,

JOHN SHERMAN.

[Inclosure 1 in No. 447.]

Mr. Wilson to Mr. Day.

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., April 15, 1898.

SIR: I have the honor to acknowledge the receipt of your communication of the 11th instant, inclosing a copy of a note dated April 7, from the German ambassador, forwarding certain microscopic specimens prepared by the Imperial board of health of Berlin, taken from American fruit at Hamburg and said to be identical with the San Jose scale louse. The preparations in question have been examined, and, while they are mounted in such condition that thoroughly satisfactory determination is impossible, they appear, judging from the visible characters, to be identical with the insect mentioned, namely, *Aspidiotus perniciosus.*

Respectfully, yours,

JAMES WILSON,
Secretary.

Mr. White to Mr. Sherman.

No. 392.] EMBASSY OF THE UNITED STATES,
Berlin, April 21, 1898.

SIR: Referring to former reports on the imperial decree against the importation of American fruits into Germany, I have the honor to report the receipt of a note and inclosure from the foreign office, translations of which are herewith inclosed, from which it will appear that the imperial chancellor, by virtue of the power conferred upon him in section 2 of the above decree, has, in accordance with the opinion of experts, divided live plants into three groups—(A) those absolutely prohibited, (B) those admitted unconditionally, and (C) those admitted upon being found free from the San José scale after examination.

AND. D. WHITE.

NOTE VERBALE.

The foreign office has the honor to inform the embassy of the United States of America that the imperial chancellor (imperial department of the interior) has, by virtue of section 2 of the imperial decree of February 5 last, by which he is authorized to make exceptions to the prohibition of importing live plants or fresh waste of plants (Pflanzenabfälle) from America, placed the question before experts, for them

to ascertain whether certain categories of plants on which the San José scale is not to be found, or only in a degree not to be considered dangerous, are to be excluded generally from the prohibition of importation or after an examination has taken place.

The investigation has led to the drawing up of the inclosed list, according to which the plants are divided into three groups, namely:

(1) Plants which must under all conditions be excluded from importation (A).

(2) Plants which may be imported because they are regarded as not being dangerous without any previous examination having taken place (B).

(3) Plants which may be imported after an examination has demonstrated the nonexistence of the San José scale (C).

As a result of this examination, the imperial chancellor (imperial department of the interior) has decided to permit the importation of plants mentioned under 2 unconditionally, and those plants mentioned under 3 whenever the experts, after examination, have found them free from the San José scale. The exceptional privileges, however, apply exclusively to plants belonging to one of the two groups (B) and (C). Shipments consisting of plants of different groups will be treated in accordance with the regulations which apply to the group undergoing the more rigid examination. Only such experts may be intrusted with examinations who have been thoroughly instructed in the microscopical characteristics of the San José scale.

The Government of the Confederated States has been requested by the imperial chancellor (imperial department of the interior) to furnish the frontier customs offices with appropriate instructions.

BERLIN, *April 19, 1898.*

A. The following are to be unconditionally excluded: Living trees and bushes of all kinds, also parts of such (cut branches and the like); further, seedlings, scions,[1] shoots,[2] cuttings, and the like of said categories of plants. The following especially come into consideration: Fruit trees and fruit bushes of all kinds, as apple, pear, quince, cherry, plum, apricot, peach, almond, walnut, pecan nut (*Carya oliræformis*), date plum[3] (*Diospyros virginiana*), Kaki plum (Kaki pflaume), Kaki figs or Chinese persimmons (*Diospyros kaki*); further, useful and ornamental trees and bushes or shrubs (Sträucher) of all kinds, especially linden trees, elms, alders, willows, acacia (Akazien), osage orange,[4] and coniferous trees; further (bushes of) raspberries, blackberries, currants, gooseberries, and related growths, grapevines of all kinds, *Euonymus*, white thorn,[5] Hagedorn,[6] roses, spiräen (*Spiræa ulmaria*), Cotoneaster (dwarfmedler, *Pyrus chamæmespilus*), Japanese quince (*Cydonia japonica*).

B. Importation is unconditionally permitted of aquatic plants of all kinds and parts of such; further, of all subsurface-growing parts of plants—as, for instance, onion bulbs—and subsurface-growing stems (Rhizomes), also when these bear developed stalks (Triebe), provided that they do not belong to plants of the species included under A.

C. The importation of living land plants and parts thereof, as well as of seedlings, shoots, and the like, which do not belong to group A is permitted when an expert examination gives satisfactory results.

Mr. White to Mr. Day.

No. 419.] EMBASSY OF THE UNITED STATES,
Berlin, May 9, 1898.

SIR: Referring to previous correspondence, and in particular to my dispatches Nos. 377 and 384, of the 8th and 14th ultimo, respectively, I have the honor to inform you that I have received a note from the German foreign office, in which it is stated that upon the inspection of a certain shipment of American fruit waste, imported at Kaldenkir-

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[1] Ableger—scions or slips.
[2] Setzlinge—shoots, plants, or young trees.
[3] Persimmon.
[4] The original reads Färber-Maulbeerbaum (*Maclura aurantiaca*); Färberbaum is Venus sumach; Maulbeerbaum is Mulberry tree; but *Maclura aurantiaca* is the osage orange.
[5] Common hawthorn, may (*Oratægus oxyacantha*), "der glänzende Weissdorn"—cockspur thorn—*Mespilus crus galli*.
[6] Also hawthorn, white thorn, quick-may (*Cratægus oxycantha*).

chen about the beginning of last month, it has been found by the Imperial health office, that although no San Jose scale was found, other "scale" were present, of which one insect and one egg were alive, and that this proves that the treatment to which American dried fruit waste is subjected in the process of its preparation is not of a character which would certainly destroy the San Jose scale if present, and consequently there is reason for the examination which has been ordered. I have immediately replied to this note by asking for a statement as to the exact specific determination of the living insect and egg which were found, as from such a statement our experts might be able to show that the insect in question obtained access to the shipment through accident—from the wooden barrel or some such source.

While at the same time inclosing three copies of a wall chart (one copy of which was sent to the embassy on Saturday last by the foreign office) in regard to the San Jose scale,

I am, etc., AND. D. WHITE.

Mr. Day to Mr. White.

No. 474.] DEPARTMENT OF STATE,
Washington, June 3, 1899.

SIR: Referring to your dispatch No. 419, of the 7th ultimo, with regard to the importation into Germany of American fruit waste and the San Jose scale, I inclose for your information copy of a letter from the Secretary of Agriculture stating that your request for exact information as to the specific name of the insect referred to by the German authorities was a very pertinent one, and that he would be pleased to learn the answer made by the German Government.

Respectfully, yours,

WILLIAM R. DAY.

Mr. White to Mr. Day.

No. 458.] EMBASSY OF THE UNITED STATES,
Berlin, June 18, 1898.

SIR: Referring to my dispatch No. 377, of April 8 last, I have the honor to inform you that a note has to-day been received from the German foreign office, in which it is stated that new instructions have been issued by the Prussian minister of finance, dated the 8th instant, in regard to the customs treatment of American fruit waste and dried fruit, according to which all shipments of dried fruit cut from whole fruit (that is fruit which has not been peeled) are to be inspected in the same manner prescribed in the circular instruction of March 16, in the case of apple skins and cores.

The reason for this action is stated in the note to be as follows:

Recently several shipments of dried unpeeled whole fruit have arrived at the custom-house at Kaldenkirchen, accompanied by papers and marks on the boxes showing that the same had been dried upon wooden boards in the sun, and investigation by the appropriate experts showed that this fruit had in reality been subjected to a mere superficial drying in the sun in the air. As claimed by the foreign office in a previous note, such superficial drying is not calculated to kill any animal

life which may exist upon the fruit in question, consequently the danger exists that the San Jose scale may be introduced by such fruit as well as by the so-called "fruit waste," and under these circumstances it is thought to be necessary that such fruit, unless absolutely dry and brittle, should be treated as fresh fruit in the sense of the order of the Bundesrath of February 5 last, and to be subjected to the prescribed examination.

In this connection, I have the honor to inform you that no reply has as yet been received from the foreign office to the question contained in my note of May 9 (see my dispatch No. 419 of that date) in regard to the nature of the scale claimed to have been found upon American fruit at Kaldenkirchen.

I am, etc., AND. D. WHITE.

Mr. White to Mr. Day.

No. 430.] EMBASSY OF THE UNITED STATES,
Berlin, July 4, 1898.

SIR: Referring to my dispatch No. 384, of April 14 last, I have the honor to inform you that an answer has now been received from the German foreign office to my note, a copy of which was then inclosed, in regard to certain efforts which were about being made to continue the importation of American fruit waste into Germany.

In this note the embassy is informed that the contents of the embassy's note were communicated to the Prussian minister of finance and that the chief custom house at Emmerich was instructed to comply as far as possible with the wish which had been expressed by the embassy. The shipment in question, which consisted of a partial load of 597 barrels, arrived at Emmerich at about half past 8 on the forenoon of April 30. As it was impossible to get at all the barrels, in order to take out samples, 43 of them had to be unloaded. The delay occasioned by this, and by the microscopic examination of the fruit waste, amounted, however, to about 24 hours only. The examination began about 2 o'clock on the 30th, and as, according to expert opinion, no objection was found to admitting the shipment, it was released (and the ship allowed to proceed) at noon on May 1, the 43 barrels above mentioned having already been put on board again.

The note goes on to say that the examination took place in accordance with provisions of the order of March 16 of the Prussian ministry of finance (see dispatch No. 377, of April 8, 1898) as the fruit waste had not been thoroughly dried by artificial heat, but only in the air and the sun. Although no San Jose scale were found, the expert of the custom-house at Emmerich discovered mites (Milben) and other small insects (Käfer aus der Familie der Lamellicornidæ), and this is considered as proving, in spite of the express statement of the shippers, that the manner in which the drying is done is not calculated to destroy all insect life which may be present in the fruit.

It is also stated that at Cologne, upon examination, scales of the "Chionaspis" and "Mytilaspis" species have been found, with eggs which did not appear to have been injured but which seemed capable of further development.

I am, etc., AND. D. WHITE.

Mr. White to Mr. Day.

No. 487.] EMBASSY OF THE UNITED STATES,
Berlin, July 8, 1898.

SIR: Referring to my dispatch No. 419, of May 9 last, I have the honor to inclose herewith a copy and translation of an inclosure in a note which has just been received from the German foreign office, purporting to be the answer of the Imperial health office to the request made by the embassy for a statement as to the "exact specific determination" of the living insect and egg which were found in a shipment of American fruit waste at Kaldenkirchen. As it is evident from this that my request was misunderstood, I have to-day acknowledged the receipt of the note mentioned, and renewed my request to be informed as to the species of the scale which was found.

I am, etc., AND. D. WHITE.

[Inclosure in No. 487.—Translation.]

The proof of the presence of living scale insects and eggs in imported American apple parings, mentioned in my report of April 11, 1898, was obtained as follows:

The objects in question were placed upon a slide in a drop of water, covered with a cover glass, and then pressure was exerted while the object was under the microscope until the objects were burst. Thereupon there was a copious flow of the body components and egg plasm, respectively, into the surrounding water. This phenomenon appears, according to the experience gained by the European workers in studying the biology of the Phylloxera, in the allied species of insects only when they are alive or when they have been dead a short time. It does not occur when the objects in question have been dead a long time.

As the drying of the apple parings must take place in America at least a week and a half before the goods arrive here, the phenomenon mentioned proves that the scale insects in question and the eggs are not killed by this drying.

Mr. White to Mr. Day.

No. 539.] EMBASSY OF THE UNITED STATES,
Berlin, September 7, 1898.

SIR: Referring to previous correspondence, and in particular to my dispatch No. 487 of July 8, 1898, I have the honor to transmit herewith a copy, with translation, of a note dated the 18th ultimo, from the director of the Imperial health office (which has to-day been received from the Imperial foreign office) in regard to the nature of the living scale which was found some time ago in a certain shipment of American fruit waste at Kaldenkirchen. Before any further action is taken in this matter the return of Dr. Stiles, who is temporarily absent from the city, will be awaited, in order that it may be ascertained whether or not the scale claimed to have been found is one which was probably upon the fruit originally or whether it might not have come from the wood of the box in which it was packed.

In this connection, in compliance with your instruction No. 505 of July 5 last, I have the honor to inclose a copy of the foreign office's note of June 16, the translation of the material parts of which was embodied in my dispatch No. 458 of June 18, 1898.

I am, etc.,

AND. D. WHITE.

[Inclosure in No. 539.—Translation.]

THE IMPERIAL HEALTH DEPARTMENT,
Berlin, August 18, 1898.

As a completion of the reports of April 11 and June 9 last, I beg to state that the live scale which has been reported as having been found belonged to the subdivision of the Mytilaspis species. The species were not more definitely determined at the time, as this seemed of no importance in connection with the fact that there was a possibility that live scale might, under certain circumstances, be imported in dried American apple waste. As the few scales at hand had to be destroyed for the purpose of examination, the exact determination of the species was no longer possible.

[Inclosure 2 in No. 539.—Translation.]

FOREIGN OFFICE, *Berlin, June 16, 1898.*

The undersigned has the honor, referring to the courteous note of April 8 of this year, to inform His Excellency Mr. Andrew D. White, ambassador extraordinary and plenipotentiary of the United States of America, that the Royal Prussian minister of finance, with the approval of the chancellor of the Empire (Imperial department of the interior), has addressed to the provincial tax directors of the border provinces the inclosed printed notice of the 8th instant, in accordance with which the measures ordered in that minister's decree of March 16 of this year, with regard to American fruit waste, are to be applied to all the unpeeled dried fruit imported into Germany from the United States of America.

With regard to the reasons which have led to these measures, and which are briefly stated in the inclosure itself, the undersigned takes the liberty to make the following remarks as a supplement to the same.

Packages of American fruit have recently been repeatedly received at the Royal Prussian main custom-house at Kaldenkirchen, which packages consisted of fruit dried whole and with the skin on them, and which, according to the directions for use accompanying the shipments and according to the labels attached to the boxes in question, contained fruit which had merely been dried on wooden boards in the sun. In corroboration of this fact the experts who have been consulted have affirmed, after an examination of samples of the fruit, that it had in fact been subjected only to a superficial desiccation in the sun and open air.

As was explained at length in this Department's note of April 8 of this year, such a superficial method of desiccation is not one that is fitted to secure the destruction of the animal germs which the said fruit might contain. In fact, the importation of such fruit involves the danger of the introduction of the San Jose shield louse, as much as in the case of the admission of fruit waste.

Under these circumstances it appeared necessary to give instructions that uncut and unpeeled fruit should, unless it is shown to have been thoroughly dried before its importation, be treated as "fresh fruit" within the meaning of the Imperial ordinance of February 5 of this year, and be subjected to the inspection required by section 1, paragraph 2, of that ordinance.

The undersigned avails himself, etc.

RICHTHOFEN.

[Subinclosure.—Translation.]

BERLIN, *June 8, 1898.*

To the Provincial Customs Collectors at Cologne, Münster, Hanover, Altona, Dantzig, Königsberg, and Breslau:

The ordinance of March 16, 1898, III, 3841, provides that fruit waste coming from the United States of America, especially such as consists of apple parings and the extracted cores of apples, shall only be allowed to be imported without previous inspection for the purpose of ascertaining whether it contains the San Jose shield louse, when it is without exception thoroughly dried, hard and brittle, so that it can be rubbed to pieces in the hand without difficulty; if in even a single package of any shipment an article is found that does not possess those qualities altogether or in part, the whole shipment must be objected to and inspected.

It has been found that whole (uncut), that is to say, unpeeled, dried fruit, coming from the United States, is likewise imported in the same, not quite fresh, but yet not thoroughly dried condition as the fruit waste, owing to its having undergone a merely superficial drying in the open air and the sun, not sufficient to secure the destruction of the insects which it may contain. Hence, in the opinion of experts, whole (uncut) fruit which has thus been dried in the sun or open air, or in a low temperature generally, can spread the San Jose shield louse as effectually as the fruit waste which has been treated in the same way.

I, therefore, with the approval of the chancellor of the Empire, direct that the measures prescribed in the ordinance of March 16, 1898, shall likewise be applied to whole, that is to say, unpeeled, dried fruit.

The points of entrance on the frontier are to be furnished with these instructions as soon as possible.

MIQUEL.

Mr. Adee to Mr. White.

No. 587.] DEPARTMENT OF STATE,
Washington, September 21, 1898.

SIR: Referring to previous correspondence relative to the action of the German Government in prohibiting the importation of American unpeeled dried fruit into Germany, I inclose for your information copy of an instruction to our minister at Berne based upon Swiss legislation similar to that of Germany.

You are requested to press the views contained in the Department's instruction to Mr. Leishman upon the German Government, and to invite the like suggested remedy.

Respectfully, yours,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure in No. 587.]

Mr. Day to Mr. Leishman.

No. 108.] DEPARTMENT OF STATE,
Washington, September 16, 1898.

SIR: I inclose for your information copy of correspondence, as indicated below, relative to the recent legislation by the Swiss Government prohibiting the importation of American unpeeled dried fruits into Switzerland.

The action of Germany, which initiated the prohibitive movement afterwards adopted by Switzerland, is said to have rested on the discovery of living specimens of the San Jose scale insect on the skin of American dried fruit imported into Germany. The truth of the newspaper rumor to this effect has never been ascertained, and this Govern-

ment is wholly without any particulars of the alleged discovery. It would seem most desirable to establish the presence of the living scale insect upon the dried fruit under such circumstances as to prove the identity of the insect and its vitality, as well as to exclude the possibility of its having been adventitiously transferred from some other transient habitat (such as fruit-tree packings, moss, straw, and the like) during the journey. The character of the packings of the dried fruit; the position of the insect, whether on the outer surface of the package or embedded in the mass; the fact whether the fruit was sun dried or "evaporated;" the locality where it was raised, cured, and packed for export, are all essential premises, a knowledge of which is necessary to form a judgment as to the danger involved in the admission of such unpeeled sun-dried fruit. Even were the actual presence of living insects under the alleged circumstances fully established, there would yet remain to be evolved some tangible theory of ordinary transmission of the scale from the dried fruit in which it may be packed to fruit orchards in the vicinity. The female scale insect being in all stages of existence apterous, it could only be conveyed from the dealers' shops, the consumers' kitchens, or the distillers' and manufacturers' vats to the trees by actual transportation, and the way this is to be effected is not obvious. Unpeeled dried fruit is consumed or subjected to domestic or industrial change without removing the peels, oftenest being boiled so that there is no unsterilized waste to be thrown on the compost heap. The "fruit waste" containing skins goes to the vat of the distiller or the cauldron of the maker of fruit conserves, where heat at once destroys the vitality of any germ it may contain. The danger of the dissemination of the scale pest in the fruit growing country, by means of unpeeled dried fruit, is so remote as to be virtually chimerical, so that this Government is justified in deprecating with all due earnestness the spirit which tends to discover imminent and fatal peril to the fruit industries of another country from this source, and to paralyze important branches of trade by abrupt and impulsive legislation based upon imperfectly ascertained facts or upon unproven conjecture.

However this may be, and granting, for argument's sake, that living specimens of the true San Jose scale may have been found on the rind of imperfectly sun-dried fruit, there can be no logical ground for condemning sterilized sun-cured fruit simply because it happens to have the skin remaining upon it. It is not the presence of the fruit skins that affords the sound test for prohibitory legislation, but the conditions under which the fruit itself is cured and packed. You are instructed to impress this view of the matter strongly upon the Swiss Government, and, adopting the suggestion of the Agricultural Department's expert observers, you will endeavor in all fairness to procure the removal of evaporated fruits from the prohibited category, and also to secure the admission of sun-dried fruits which have been sterilized in the ways described in the acting pomologist's report, or in any other equally effective manner, before packing.

Respectfully, yours, WILLIAM R. DAY.

[Subinclosure.]

Mr. Wilson to Mr. Day.

UNITED STATES DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D. C., September 8, 1898.

SIR: I am in receipt of your communications of the 29th of August and the 6th of September, with inclosures from E. A. Storey, of Geneva, Switzerland; Messrs.

Hartwig & Bennett, of New York, and J. R. Filcher, secretary of the California State Board of Trade, San Francisco, relating to recent legislation of the Swiss Government prohibiting the importation of American unpeeled dried fruits into Switzerland.

I have referred the matters involved to the Pomological and Entomological divisions of this Department, and inclose with this the reports of the chiefs of these divisions. From these reports it appears that the Swiss ruling is unjustified, and that, in justice to the dried-fruit exporting interests of this country, a strong effort should be made by your Department to secure the abolition or modification of the Swiss legislation.

I am, sir, etc.,

JAMES WILSON, *Secretary.*

[Inclosure 1 in subinclosure.]

Mr. Taylor to Mr. Wilson.

UNITED STATES DEPARTMENT OF AGRICULTURE,
DIVISION OF POMOLOGY,
Washington, D. C., September 7, 1898.

SIR: In relation to the communication from the Acting Secretary of State bearing date of the 29th ultimo, with inclosures from E. A. Storey, Geneva, Switzerland, and Messrs. Hartwig & Bennett, New York, calling attention of the Department of State to recent legislation of the Swiss Government which prohibits the importation of American unpeeled fruit into Switzerland, and the letter of the Acting Secretary of State of the 6th instant, with inclosure from J. R. Filcher, secretary of California State Board of Trade, San Francisco, relating to the same subject, I would report as follows:

Under this enactment it would appear that all American unpeeled, sun-dried, or evaporated fruits are denied entrance to Switzerland. This practically shuts out all American sun-dried or evaporated plums, prunes, apricots, nectarines, cherries, raisins, and berries, all of which fruits are commonly dried without being peeled, as well as evaporated apple "chops" and "skins," which are largely exported to European countries. It also affects the trade in both sun-dried and evaporated peaches, of which only a part of the product consists of peeled fruit.

The avowed intention of the prohibition, according to press reports, is to prevent the introduction of San Jose scale on such fruits.

In the absence of any recorded instance where this scale has been introduced to any fruit region through the agency of infested fresh fruit, the prohibition of the importation of the dried product seems unnecessarily severe. All American sun-dried fruits are subjected to a high temperature in the open air for several days during the drying process, and it is very doubtful whether the scale could long survive such treatment. If there is any doubt concerning such fruit it could easily be removed by requiring that all sun-dried fruits should be sterilized before packing by being heated in a fruit evaporator to a temperature to be agreed upon by test for such length of time as would be sufficient to destroy all living scales if such were present.

In so far as it relates to evaporated fruits, the prohibition is entirely unnecessary. In the evaporating process the fruit is subjected to a temperature of 150° to 200° F. for several hours, usually twelve or more. In the case of apricots, peaches, and pears the fruit is subjected to the fumes of burning sulphur for from thirty to sixty minutes before being placed in the evaporator. In California the same treatment is applied to fruits that are afterwards dried in the sun, while in all prune-growing districts of the United States the fruit is dipped in hot lye to check the skin and hasten the drying process. This treatment undoubtedly destroys the life of any scale that may be upon the fruit.

In view of these facts, which are capable of the most complete substantiation by observation in the portions of the United States which produce the dried and evaporated fruits mentioned, it is my opinion that a strong protest should be made by the Department of State against the continuance of the above-mentioned prohibitive legislation. As it now stands it unnecessarily and unjustly restricts legitimate trade in an important pomological product.

Very respectfully,

WM. A. TAYLOR, *Acting Pomologist.*

[Inclosure 2 in subinclosure.]

Mr. Howard to Mr. Wilson.

UNITED STATES DEPARTMENT OF AGRICULTURE,
DIVISION OF ENTOMOLOGY,
Washington, D. C., September 8, 1898.

SIR: I have read the accompanying communications from the Hon. J. B. Moore, Acting Secretary of State, dated August 29 and September 6, with inclosures from E. A. Storey, of Geneva, Switzerland; Messrs. Hartwig & Bennett, of New York, and J. R. Filcher, secretary of the California State Board of Trade, San Francisco, relative to the action of the Swiss Government in prohibiting the importation of American unpeeled fruit into Switzerland. I have also read the communication of the acting pomologist, which also accompanies.

From an intimate acquaintance with the habits and life history of the San Jose scale, extending now over a period of nineteen years or ever since it was first discovered in the United States, I can with confidence state that, in my opinion, the Swiss legislation works an entirely unnecessary hardship upon American exporters of dried fruits. With regard to evaporated fruits, the prohibition is ludicrously unnecessary. With regard to sun-dried fruits, it is my strong belief that it is equally unnecessary.

I have seen the newspaper statement to the effect that the San Jose scale in living condition has been found upon the skin of American dried fruit imported into Germany, but firmly believe that this is a misstatement, and am of the opinion that the State Department would be perfectly justified in any endeavor to secure a modification of the Swiss ruling, and would indorse the suggestion of the acting pomologist that in case it should be found that it is impossible to secure the entire abolition of the ruling, in all fairness efforts should be made to remove the evaporated fruits from the prohibited category and to secure the admission of sun-dried fruits which have been sterilized before packing.

Respectfully, yours,

L. O. HOWARD, *Entomologist.*

Mr. White to Mr. Hay.

No. 567.] EMBASSY OF THE UNITED STATES,
Berlin, October 11, 1898.

SIR: I have the honor to receive Mr. Adee's instruction No. 587, of September 21, 1898, regarding the importation of American unpeeled dried fruit into Germany, with inclosure of a copy of an instruction to the American minister at Berne, and desire to express my satisfaction at having so thorough a statement of the case at hand ready for use here on the first occasion which may arise.

I am, etc., AND. D. WHITE.

Mr. Jackson to Mr. Hay.

No. 586.] EMBASSY OF THE UNITED STATES,
Berlin, November 3, 1898.

SIR: Referring to previous correspondence, I have the honor to inform you that regulations have recently been made by the senate of the free city of Hamburg, which are to go into effect on the 15th instant, in regard to the examination for San Jose scale of fruit imported from the United States. According to these regulations fresh fruit will be unloaded only at one part of the port "am Hanshöft," and it will there be subjected to examination. Dried fruit, however, and fruit waste, with certain exceptions, may be still landed an any quay, but its arrival must be announced to the proper authorities, and such part of it as is

to be examined must be taken by the consignee to the Hanshöft and after examination removed by him. In addition to the usual pier dues, a fee of 20 pfennigs is to be paid for each package (Collo) of fresh fruit for the use of the scales and for the examination, in consideration for which the packages may be stored at the Hanshöft until the day for the next fruit auction and the next two working days thereafter, provided that in no case is the fruit to be allowed to remain there longer than ten days without paying the ordinary warehouse dues. No charge is for the present to be made for the examination of dried fruit brought for examination to the Hanshöft by the consignee.

Similar regulations have been issued in Bremen. On their face they would appear to be just, and I do not anticipate that complaint will be made in regard to them.

I have, etc.,

JOHN B. JACKSON.

Mr. Jackson to Mr. Hay.

No. 592.] EMBASSY OF THE UNITED STATES,
Berlin, November 8, 1898.

SIR: Recurring to my dispatch No. 586 of the 3d instant, I have the honor to inform you that the official text of the new Bremen regulations, referred to therein, in regard to the examination of imported American fruits, was published in last night's Imperial Gazette.

These regulations were decreed by the senate of Bremen on the 21st ultimo, and according to them all live plants and fresh fruit imported from America are to be examined officially by designated experts. These experts are to be paid 4 marks for the first hour and 2 marks per hour, not to exceed in all 12 marks, for each additional hour. Should the examination of a small shipment take less than an hour, the expert is to be paid at the rate of 1 mark per quarter hour, but is never to receive less than 2 marks. The person sending fruit or plants to be examined must declare his readiness to bear the expense of the examination, and additional provisions prescribe the manner in which this declaration is to be given, and the consequences of either failing to do so or doing it in an irregular manner.

These regulations were published by the Bremen senate on the 25th ultimo, and it is presumed that they are already in effect.

I have, etc.,

JOHN B. JACKSON.

Mr. Jackson to Mr. Hay.

No. 605.] EMBASSY OF THE UNITED STATES,
Berlin, November 15, 1898.

SIR: I have the honor to inform you that in last night's issue of the semiofficial Berliner Correspondenz an article appeared of which the following is a translation:

The presence of San Jose scale in shipments of fruit coming from America has recently, as formerly, been repeatedly established. In Hamburg, scale insects were found on dried California pears on September 29; on fresh California pears on September 30, and on dried California nectarines on October 21. These shipments were held up, and their reexportation, under official supervision, was ordered.

This article will be brought to the attention of Dr. Stiles, who is at present absent from Germany, investigating the sources from which uninspected American pork is thought to be imported into the Empire. It will be noted that it is not stated whether the scale found were alive or dead, making it appear probable that they were in a harmless condition.

In this connection I mention that on September 27 last, the Berlin representative (a Mr. George Kolb) of a Hamburg importing house, called at the embassy to ask if it could not assist him to obtain the repeal of a ruling according to which 150 cases of California pears, in which the scale had been found, must be reexported. He was informed that the embassy could not help him, and nothing further has been heard of the case.

I have, etc., JOHN B. JACKSON.

Mr. Jackson to Mr. Hay.

No. 622.] EMBASSY OF THE UNITED STATES,
Berlin, November 25, 1898.

SIR: Referring to my dispatch No. 605 of the 15th instant, I have the honor to inform you that the following notice appeared in last night's issue of the Berliner Correspondenz:

Also in November of this year, has San Jose scale been found present in shipments of fruits from America, with more or less frequency. During this month the scale has already been found present in five shipments of dried pears and nectarines at Hamburg, one of these shipments being strongly infected. These shipments were held up, and their reexportation, under official control, ordered.

It will be remembered that the Berliner Correspondenz is a news sheet which is issued daily when parliament is in session, and at irregular intervals at other times by the Prussian ministry of the interior—that office of the Government which is usually, and particularly at the present time, considered the most reactionary. Anything appearing in that sheet is consequently to be regarded as directly "inspired," and notices similar to those quoted are widely copied by the press. The object of their publication, for which there would appear to be no actual necessity, can readily be surmised.

I have, etc., JOHN B. JACKSON.

Mr. Jackson to Mr. Hay.

No. 659.] EMBASSY OF THE UNITED STATES,
Berlin, December 13, 1898.

SIR: Referring to your instruction of the 26th ultimo (No. 640), I have the honor to inform you that I have just learned from our consulate at Bremen that he has already—on November 3, in an unnumbered dispatch—sent to the Department a copy of the new Bremen regulations in regard to the examination of living plants and fruits, to which reference was made in my dispatch No. 592 of November 8.

In this connection, however, I beg to inclose a copy of the Hamburg regulations on the same subject, which I have this morning received from the consul at Hamburg, who informs me that he has sent no copy of them to the Department, to which I referred in dispatch No. 586, of November 3.

I have, etc., JOHN B. JACKSON.

Mr. Jackson to Mr. Hay.

No. 663.] EMBASSY OF THE UNITED STATES,
Berlin, December 14, 1898.

SIR: I have much pleasure in transmitting herewith a copy and translation of a note which has just been received from the Imperial foreign office, in which I am informed that a less stringent examination for the San Jose scale is in future to be made in the case of American dried prunes imported into Germany. Although this may be of little importance in itself, it is satisfactory as indicating the good will of the Imperial Government, as well as the bona fides of the experts on whose opinions Count Possadowsky recently said the Government would base its future action regarding the treatment of American fruit.

I have, etc.,

JOHN B. JACKSON.

[Inclosure in No. 663.—Translation.]

Baron von Richthofen to Mr. Jackson.

FOREIGN OFFICE, *Berlin, December 13, 1898.*

Referring to the correspondence in regard to the measures adopted against the San Jose scale, the undersigned has the honor to acquaint the chargé d'affaires of the United States of America, Mr. John Brinckerhoff Jackson, with the following:

According to statements made by German experts, who have been questioned on this point, most of the prunes imported into Germany from America are not only dried in the sun in America, but also undergo the so-called lye-dipping or pricking treatment.

The experts have furthermore stated that these two methods of treatment give a guaranty that any scale which might be on the prunes would be killed.

Under these circumstances, the Imperial home office feels no hesitation in ordering that in future dried prunes on their importation be treated as follows:

On the arrival of the shipment an expert acquainted with the different methods of preparing prunes is to examine several cases of each brand and to determine whether they have been treated by the lye-dipping or pricking method, and that only those prunes where this question would have to be answered in the negative, or where the treatment could not positively be determined, would have to undergo a further examination for the San Jose scale. The governments of frontier Federated States have received the appropriate notification from the Imperial home office as to the introduction of this less stringent treatment.

The undersigned at the same time avails himself of the occasion to renew to the chargé d'affaires the assurance of his most distinguished consideration.

RICHTHOFEN.

Mr. White to Mr. Hay.

No. 690.] EMBASSY OF THE UNITED STATES,
Berlin, January 2, 1899.

SIR: Referring to Mr. Jackson's dispatch, No. 667, of the 19th ultimo, I have the honor to inform you that in No. 162 of the Berliner Cor-

respondenz (officially published by the Prussian ministry of the interior) of the 31st ultimo the following notice appears:

Also in other ports besides Hamburg has the presence of San Jose scale been determined in shipments of fruit from America. The scale has been found in Stettin in dried California pears, moreover at Hamburg in a number of instances in dried pears and nectarines, as well as in fresh Newton Pippins and Ben Davis apples, the shipments being partially strongly infected. They were held up, and their reshipment abroad, under official control, has been ordered.

I am, etc., AND. D. WHITE.

Mr. White to Mr. Hay.

No. 756.] EMBASSY OF THE UNITED STATES,
Berlin, February 20, 1899.

SIR: Referring to previous correspondence, I have the honor to inform you that a note has to-day been received from the German foreign office, in which it is stated that living San Jose scale have been found in the following instances:

(1) On September 30, 1898, in a shipment of fresh California pears, brought by the steamer *Fürst Bismarck* from New York, imported at Hamburg.
(2) On November 21, 1898, in a shipment of fresh Newton Pippins, brought by the steamer *Brasilia* from New York, imported at Hamburg.
(3) On December 3, 1898, in a shipment of fresh Ben Davis apples, from Newport News, brought by the steamer *Albano* to Hamburg.
(4) On December 5, 1898, in a shipment of fresh Newton Pippins, brought from New York to Hamburg in the steamer *Pretoria*.

In the same note it is stated that in most of the reports in regard to the finding of San Jose scale in American fruit, no mention is made as to whether the scale was alive or dead. No reply has as yet been made to the request for information as to whether living scale have been found upon dried fruit.

I am, etc., AND. D. WHITE.

Mr. White to Mr. Hay.

No. 764.] EMBASSY OF THE UNITED STATES,
Berlin, February 27, 1899.

SIR: I have the honor to confirm the telegram sent you yesterday as follows:

HAY, *Secretary, Washington:*

Orders have been issued according to which American oranges, lemons, and raisins imported into Germany, as well as all American fresh or dried fruit passing through Germany in bond, are no longer to be examined for San Jose scale.

WHITE.

On Saturday Mr. Jackson was asked to call at the foreign office, and on his doing so that afternoon he was informed by Baron von Richthofen that orders had been issued by the Imperial secretary of state of the home office that "Südfrüchts," such as oranges, lemons, and raisins, imported from America at German customs houses, were not to be considered as "Obst" (fruit) in the sense of the Imperial decree of February 5, 1898 (see dispatch No. 279 of February 7, 1898, and further, that the passage through Germany in bond of fresh or dried fruit and of fruit-waste in general from America would be permitted.

Baron Richthofen added that consideration would not be given to the question of the possibility of admitting all dried fruit (see dispatch No. 663 of December 14, 1898) without examination for San Jose scale. He said that his object in sending for Mr. Jackson was his wish to communicate the information given personally, in order to show the good will of the Imperial authorities.

I am, etc., AND. D. WHITE.

DESECRATION OF THE NATIONAL FLAG.

Mr. Sherman to Mr. White.

No. 411.] DEPARTMENT OF STATE,
Washington, March 25, 1898.

SIR: For use in connection with legislation contemplated in Congress, you are requested to obtain and forward to the Department copies of any German laws or regulations which may be in force to prevent the use of the German flag for advertising purposes.

Respectfully, yours,

JOHN SHERMAN.

Mr. White to Mr. Day.

No. 453.] EMBASSY OF THE UNITED STATES,
Berlin, June 9, 1898.

SIR: In reply to the Department's instruction No. 411, of March 25, 1898, which was received here on April 9 last, I have the honor to state that the embassy has to-day been informed by the foreign office that there are no Imperial regulations forbidding the use of the German national flag for advertising purposes (zu Anzeigezwecken im Handels- und Geschaftsverkehr).

I am, etc., AND. D. WHITE.

Mr. Jackson to Mr. Hay.

No. 651.] EMBASSY OF THE UNITED STATES,
Berlin, December 9, 1898.

SIR: In view of the probability that legislation is still contemplated in Congress to prevent the use of the national flag for advertising purposes, it occurs to me that, without explanation, the categorical answer given by the German foreign office (see embassy's dispatch No. 453, of June 9, 1898) may be misleading. In connection with this answer it must be remembered that the German "national flag" consists merely of three horizontal stripes—red, white, and black—and is without design. In addition to this, however, there are Imperial and royal standards of various kinds, as well as the naval and other flags, which may be exhibited upon vessels and buildings belonging to the Government and used for no other purposes whatever.

I have, etc., JOHN B. JACKSON.

EXPULSION OF MORMON MISSIONARIES.

Mr. Day to Mr. White.

No. 584.] DEPARTMENT OF STATE,
Washington, September 12, 1898.

SIR: I inclose, having reference to a communication heretofore made to you by Mr. William K. Anderson, consul of the United States at Hanover, a copy of his dispatch No. 27, of August 20, 1898, concerning the banishment from Hanover and Prussia of Messrs. Charles Richards and Elijah A. Larkin, two citizens of the United States, from Ogden City, Utah, missionaries of the Mormon Church at Hanover. They are charged with preaching the doctrine of their sect.

I add also copy of the Department's instruction to Mr. Anderson, No. 20, of the 12th instant.

Mr. Anderson's dispatch is silent as to the cause of the order to expel these men. It is possible that the action of the Prussian authorities may have been in conformity with orders given as a result of the Department's circular note of August 9, 1879 (Foreign Relations, 1879, pp. 11 and 12), in which each friendly foreign government was invited to "take such steps as may be compatible with its laws and usages to check the organization of these criminal enterprises," to wit, soliciting emigration to join the ranks of the then avowedly polygamous Mormon Church. If so, the correspondence now sent to you, and especially the instruction sent to Consul J. Lamb Doty at Tahiti in 1895, will enable you to correct any misapprehension in this regard which you may find to exist in the minds of the Prussian authorities.

At any rate, you will investigate the occurrence and report the outcome.

Respectfully, yours, WILLIAM R. DAY.

[Inclosure 1 in No. 584.]

Mr. Anderson to Mr. Moore.

No. 27.] CONSULATE OF THE UNITED STATES,
Hanover, August 20, 1898.

SIR: On the 8th day of July Messrs. Charles Richards and Elijah A. Larkin, two American citizens from Ogden City, Utah, missionaries of the Mormon Church in this city, appealed to me as United States consul for protection. They had each on that day received from the president of the royal police of Hanover a notice of banishment from Prussia on account of their being engaged as troublesome foreigners (lästige Ausländer) in proselyting for the sect of the Mormons, and were ordered to leave Hanover for their home in America via Verdun, Bremen, and Bremerhaven on or before 20th of July and be out of the country by the 1st of August. In case of disobedience of the order they would, according to article 132 of the law of July 30, 1883, be liable for a fine of 50 marks or ten days' imprisonment. The said Richards and Larkin denied having violated any laws of Prussia and claimed my intervention. In accordance therewith I had an interview with the police and endeavored to obtain a revocation or modification of the order, but without success, although the police treated me with perfect courtesy. I then presented an appeal against their decision to the Regierungspräsident, with the understanding with the police that until such decision should be made the matter of the missionaries' departure would be

left in abeyance. I am to-day in receipt of a communication from the Regierungs-präsident confirming the orders of banishment of the police and declining to accede to my appeal. I have notified Messrs. Richards and Larkin thereof, and have reported the case to the embassy for its further action, if any be required, as provided in article 170 of consular regulations.

I am, sir, etc.,

W. K. ANDERSON,
United States Consul.

[Inclosure 2 in No. 584.]

Mr. Cridler to Mr. Anderson.

No. 20.] DEPARTMENT OF STATE,
Washington, September 12, 1898.

SIR: I have to acknowledge the receipt of your No. 27, of the 20th ultimo, concerning the banishment from Hanover and Prussia of Messrs. Charles Richards and Elijah A. Larkin, two citizens of the United States from Ogden City, Utah, missionaries of the Mormon Church at Hanover. They are charged with preaching the doctrine of their sect.

It does not appear from your dispatch whether these men were expelled because their methods of proselyting were objectionable, or because the subject of their teaching was supposed to be unlawful. Since the abandonment of polygamy by the Mormon Church and the admission of Utah as a State it is declared by the officers of that church that the teachings of its agents in foreign parts are entirely lawful. I inclose for your information copy of certain correspondence, enumerated below, had with Mr. J. Lamb Doty, consul of the United States at Tahiti, in 1895, relative to alleged interference with Mormon missionaries in Tahiti. You will observe that the Department then took the ground that those missionaries were entitled to the same privileges as those of any other sect so long as their preaching and practice conformed to the local French law. If your intervention on behalf of the Mormon missionaries in Hanover rested on these grounds, your action is approved. But if the objection lay to the methods of their propaganda, and the men were in virtue of police regulations ordered to be expelled as disturbers of the peace, it would be desirable that the Department should be fully informed on that point. The police restrictions upon public propaganda in various European states are said to be very strict. It is understood, for instance, that public demonstrations of the Salvation Army are forbidden in many quarters.

Adding for your information a copy of the Department's instruction to the United States ambassador at Berlin, No. 584, of the 12th instant, I am,

Respectfully yours,

THOS. W. CRIDLER,
Third Assistant Secretary.

[Subinclosure 1 in No. 584.]

Mr. Doty to Mr. Uhl.

No. 108.] CONSULATE OF THE UNITED STATES,
Tahiti, May 11, 1895.

SIR: I have the honor to transmit herewith a copy of a communication received from the Rev. Frank Cutler, a missionary of the "Church of Jesus Christ of Latter Day Saints," and an American citizen.

Frequently during the past year my aid and advice has been solicited by the American missionaries of the Adventist Mormon and Reorgan-

ized Morman churches, who have experienced considerable difficulty in preaching and teaching their several religious beliefs in this colony. Since this period the local authorities have maintained that these sects are not recognized in France or the colonies, and that therefore they must procure a license from the President of the Republic of France to enable them to continue their work in these islands.

The governor of the colony has stated to me on several occasions that he had no objection to these missionaries, but that on the contrary believed that their influence in the several islands had secured a higher moral standing of the natives, and that he would use his own influence in their behalf to secure this license from the Government of France. Both branches of the Mormon Church made, some time since, their application for this license and transmitted them to the governor, who had promised to forward them with his indorsement to France.

I was therefore very much surprised at the contents of the Rev. Mr. Cutler's note, as the governor's remarks to me concerning his good will toward these people seemed sufficient guaranty to insure them a peaceful enjoyment of the rights they had long exercised, until the result of their application to the President of the Republic had been heard from.

I called upon the governor and informed him of the action of the president of the Tuamotu group, in forbidding the Mormon missionaries from holding their usual conference, and also requested him to permit these missionaries to continue their work until their applications to the Government of France could be considered and the result ascertained.

The governor replied that he was exceedingly sorry to be compelled to refuse any demand presented by me, but that he must obey the law, and it was therefore impossible for him to permit these American missionaries to continue to preach longer without the necessary license; and that should they continue their work after this date they would be punished.

The refusal of my request under the circumstances astonished me, as his excellency has given me to understand always that he was friendly disposed toward the missionaries, and that in fact such a request would not be refused. In leaving the governor I was accompanied by the secretary of the colony, who had also been present at the interview. He volunteered the information that should these missionaries ever hold services even in their own dwellings, they would be fined, imprisoned, and banished.

I answered this remark by saying that I sincerely hoped that no such harsh measures would be resorted to, and that I did not believe that the governor would permit it, as the circumstances of this affair did not warrant such treatment; that the Government of the United States had always expected, demanded, and received proper consideration of the rights of its citizens abroad, whether engaged in business or pleasure; and that I did not believe any occasion would exist here necessitating the protest of the consul of the United States, and more especially in an affair of a religious character, as the two Governments, the United States and France, recognized perfect liberty in the belief and exercise of all religious dogmas.

I do not believe that any action will be taken against these missionaries by the local authorities; should, however, they be arrested and imprisoned for holding services in their own private dwellings, I shall give them all the protection in my power, and make immediate protest to the governor.

I am unable to account for the changed ideas of the local authorities concerning these American clergymen, but learn that it is the desire

of both the Roman Catholic and French Protestant churches to have them removed from the colony, as they are considered objectionable, not only from a religious standpoint, but also for business reasons. I can not state this from my own knowledge, but learn it, nevertheless, from reliable persons. I may state, however, that I have taken considerable pains to investigate the work done by these three sects in this colony, with the result that shows their past history to be beyond reproach, and I therefore believe them entitled to full protection in consideration of the foregoing circumstances, and respectfully request special instructions as to future action in this affair.

I am, sir, etc.,

J. LAMB DOTY, *Consul.*

[Inclosure 1 in subinclosure 1.]

PAPUTE, *April 29, 1895.*

Hon. J. L. DOTY,
United States Consul at Tahiti.

SIR: The "Church of Jesus Christ of Latter Day Saints," commonly known as the "Mormon Church," is an organization established April 30, 1830, agreeable to the laws of the Republic of the United States, which has for its object the promulgation of the gospel of Jesus Christ and the uniting of all mankind into one common brotherhood of love and peace.

To accomplish this object missionaries are sent to all the nations of the earth, both civilized and uncivilized. Their duty is to teach all men to love their Creator with all their heart, to love their neighbors as themselves, to carefully obey the laws of health, to practice virtue, to honor and sustain the law of the land, and in short, to live in complete harmony with nature and at peace with all men.

On June 1, 1843, elders Addison Pratt, B. F. Gronard, K. H. Hanks, and Noah Rogers left the city of Nauvoo, Ill., U. S. A., for the Society Islands, being sent by Joseph Smith, president of the said church. Elder Hanks died at sea. Pratt was left at Tubuai, and in May, 1844, Rogers and Gronard arrived at Tahiti. Others subsequently came, among whom was James S. Brown, Alva Hanles, and one Whittaker. Elder A. Pratt was president of this mission and under his supervision and through their efforts branches of the church were established on some eight or nine islands of the Tuamotu group, including Tahiti and Tubuai, having a combined membership of between 1,500 and 3,000 souls.

About the year 1849 Elder Pratt returned to America and reported the result of his labors and the condition of the mission to Brigham Young, the successor of Joseph Smith, as president of said church, at Salt Lake City. He and James H. Brown were immediately sent back by the church and arrived at Tahiti some time during the year 1850. The last of the elders left this colony in the year 1854, or thereabouts. Subsequently the population of the islands rapidly decreased, and this, combined with other causes, reduced the membership of the church.

In June, 1893, Elder James S. Brown and others were again sent here by said church, and they, with the aid of the natives, have established branches on some fifteen islands of the Tuamotu group, and also on Tubuai, comprising between 600 and 700 souls.

In the month of March, 1895, his excellency Governor Martin,[1] of Fakarava, verbally ordered Elders Cannon and Larsen, under penalty of fine and imprisonment, without due process of court, or any written

[1] French president of the Tuamotu group.

charges being made against them, to stop preaching, and at the same time refusing to issue a permit.

In the same month his excellency wrote to Elders Jones and Desfair, at Takaroa, forbidding the holding of a conference of the several branches of the said church on April 6 of the present year, threatening to hold them responsible if said conference was held (though the natives themselves have hitherto for forty years and do now hold such conference irrespective of the presence of foreign missionaries) and instructing the governor[1] and police of Takaroa not to allow the conference to be held. This also was done without due process of court or any specific charges being made against either the missionaries or the natives. The mandate of the governor was strictly obeyed.

Elders Jones and Desplaines were also instructed by his excellency the governor to procure a license to preach within three months or be fined and imprisoned and banished. He abused and insulted them in a most violent manner, calling them vagabonds, and saying they came here to flatter the people for food and sponge on the natives, all of which is untrue. All the elders sent here by the Church of Jesus Christ of Latter Day Saints pay their own fare to and from the islands, take up no collections whatever, and have often refused money offered by the natives of their own free will.

In regard to the matter of marriage, we have strictly followed the advice of the former Governor Tabeau, as has been and is now practiced by the Catholic and Protestant churches. None of the leaders have ever married anyone until the ceremony has been performed by the Government.

We have not willfully or knowingly broken any law of the Republic of France, therefore we respectfully solicit your aid and influence as consul of the Republic of the United States to enable us, as American citizens, to obtain the protection of the French Government, that we may discharge the duties of our calling free from insult and abuse, without molestation, and that we may enjoy the full rights and privileges due American citizens residing in territory of the Republic of France.

Acting upon your valued counsel, we have made application to his excellency Governor Papino for a license permitting the said church, through its agents, to preach and teach the gospel of Jesus Christ in all the islands of this colony, and most respectfully ask that your influence be used to secure favorable action.

Our teachings are such as will tend to produce a public sentiment that will greatly aid the officials of this colony in governing the people thereof, tend to increase its stability and insure domestic peace, for in order for one to be a member of said church in good standing it is absolutely necessary that he be a good citizen of the state, honest, law-abiding, thrifty, and industrious.

We believe in being subject to kings, presidents, rulers, magistrates, in obeying, honoring, and sustaining the law. We have no further desire other than to aid in bringing about a condition of peace, prosperity, and happiness among the inhabitants of these isles and among all men.

Kindly accept our most profound thanks for the many courtesies and valuable counsel you have rendered us.

We beg to remain, etc.,

THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS.
Rev. FRANK CUTLER.

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[1] Chief.

[Subinclosure 2 in No. 584.]

Mr. Uhl to Mr. Doty.

No. 46.] DEPARTMENT OF STATE,
Washington, June 25, 1895.

SIR: The Department has received your dispatch No. 108, May 11, relative to the position of missionaries of the Mormon Church in Tahiti, and the refusal of the local authorities to permit them to preach without special license.

In reply, you are informed that as long as polygamy was one of the purposes of Mormon teaching, the agents of this Government abroad were instructed to refuse protection to Mormon missionaries. Such repressive action was invited in 1889 especially. (See Foreign Relations, 1884, p. 10, etc.) But polygamy is now no longer announced as the chief tenet of Mormonism, and the church has the same civil rights as are enjoyed by other religious bodies in this country. If the Mormon missionaries in Tahiti observe the civil law of marriage, as they profess to do, and preach and practice no doctrine violating law or morality, they should have the same impartial protection as other American citizens enjoy for the defense of their just and lawful rights.

The Department can not complain if, in accordance with local regulations, they are forbidden to preach without a license; but it can not acquiesce in the denial of a license for any trivial cause, or at the arbitrary discretion of the authorities. Assuming that they are law-abiding and moral teachers, they should have equal treatment with other propagandists.

You are instructed to follow the purpose of this instruction in dealing with this question.

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

[Subinclosure 3 in No. 584.]

Mr. Doty to Mr. Uhl.

No. 109.] CONSULATE OF THE UNITED STATES,
Tahita, June 10, 1895.

SIR: I have the honor to inclose herewith for your information a copy and translation of a communication received from the governor of the colony containing the text of the decree prohibiting the establishment in the colony of religious congregations and communities not recognized.

Some well-informed gentlemen maintain that the word "recognized," as used in this decree, means that the governor is to see that no financial or moral support be given to any religious congregation unless it have special authorization from the President of the Republic.

To avoid any further difficulties with the authorities, I have advised the American missionaries to discontinue holding public services until their applications for license shall have received answer. The threat of imprisonment and banishment may be used to intimidate, still I consider the conservative course the wiser one in this instance, and will augment their cause.

I am, sir, etc., J. LAMB DOTY.

[Inclosure 1 in subinclosure 3.]

Mr. Papinand to Mr. Doty.

No. 198.] PAPUTE, *June 8, 1895.*

Mr. CONSUL: In reply to your letter of yesterday, I have the honor to acquaint you that the text of the decree prohibiting me from author-

izing in this colony the establishment of a congregation not recognized is thus worded: "The governor is to see that no religious congregation nor community be established in the colony without the special authority of the President of the Republic." (Decree of December 25, 1885, art. 46.)

Please accept, etc., PAPINAND.

[Subinclosure 4 in No. 584.]

Mr. Adee to Mr. Doty.

No. 47.] DEPARTMENT OF STATE,
Washington, July 26, 1895.

SIR: The Department has received your dispatch No. 109, June 10, inclosing a copy of the decree prohibiting the establishment in Tahiti of religious congregations and communities without special authorization from the French Government and approves the advice given by you to the Mormon missionaries to discontinue holding public services until an answer to their request for a license to do so shall have been answered.

In this connection I inclose copy of a letter from Wilfred Woodruff, George Q. Cannon, and Joseph F. Smith, who constitute the "first presidency" of the Mormon Church, on the subject of the missionaries of the church.

The Department's instruction to you, No. 46, June 25, 1895, seems to sufficiently cover the case. It was assumed in that instruction as in this, that the Mormon missionaries practice as well as preach principles of morality and right living.

I am, etc., ALVEY A. ADEE,
Acting Secretary.

Mr. White to Mr. Hay.

No. 555.] EMBASSY OF THE UNITED STATES,
Berlin, September 29, 1898.

SIR: I have the honor to acknowledge the receipt, on the 23d instant, of the Department's instruction of September 12, in regard to the expulsion from Hanover of Messrs. Charles Richards and Elijah A. Larkin, and to inform you that I at once communicated with our consul at Hanover in the matter.

Mr. Anderson had already reported the case to the embassy, and he had been informed in reply, on August 22 last, that although "in the absence of special instructions from Washington, it was not the policy to intervene in order to enable an American citizen to remain permanently or indefinitely in Germany, the embassy would endeavor to obtain permission for these gentlemen to prolong their stay in Prussia, if he were satisfied that real hardship would be incurred if they were forced to obey the orders of the Prussian authorities (which had already been modified upon his intervention), and if he were willing to set a time when they would agree to leave Prussia of their own accord." It was known at that time that the gentlemen in question were Mormon missionaries, but that fact was not considered as affecting the merits of the case.

A letter has now been received from Consul Anderson, in which he says that the reasons given him by the police for the expulsion of

Richards and Larkin were, "that they were troublesome foreigners, proselyting for the Mormon Church, an institution having a malodorous reputation in Germany, on account of its supposed advocacy of polygamy, breaking up congregations, and interfering with the peace of families by inducing young and inexperienced girls to leave their homes and emigrate to Utah." He further says that they had written permission from the police to hold meetings, but that they were subsequently ordered to leave the country "because their doctrines were claimed to be pernicious and injurious to society." Under the circumstances, the police apparently having acted after giving these gentlemen an opportunity to make the doctrines advanced by them publicly known, and as both of them have already left Prussia (Richards being understood to have gone to Stuttgart, and Larkin to England), after being, as Consul Anderson reports, entirely satisfied that he had done all that was feasible, and not wishing him to make any further efforts with the authorities to obtain permission to prolong their stay, I shall take no action in the matter at present. Consul Anderson also reports that he has been told that there are now two other young men from Utah, presumably to take the place of Richards and Larkin, living in Hanover "incognito," but that he has not seen them and is unacquainted with their plans or intentions. Should these young men get into trouble, appropriate use will be made of the material accompanying the Department's instruction mentioned above in regard to the character of the organization known as the "Church of Jesus Christ of Latter-Day Saints."

In this connection I beg to state that considerable activity has been shown recently by the Mormons in Germany, and that a convention which was held in this city last July was quite largely attended by delegates from the United States.

I am, sir, etc.,

AND. D. WHITE.

Mr. White to Mr. Hay.

No. 562.] EMBASSY OF THE UNITED STATES,
Berlin, October 5, 1898.

SIR: Referring to the last part of my dispatch No. 555, of the 29th ultimo, I have the honor to inform you that the embassy has learned from Consul Anderson, at Hanover, that the two young men who have come to that city to replace the Mormon missionaries, Richards and Larkin, who had been ordered to leave Prussia, are named Penrose and Vickery; and, further, that Consul Anderson had sent for these gentlemen and had cautioned them to be careful to observe every law and regulation, and that they had promised to do so and had assured him that they had already complied with the local police regulations in regard to officially reporting their presence in the city.

I am, sir, etc.,

AND. D. WHITE.

GREAT BRITAIN.

PROTECTION OF AMERICAN INTERESTS BY BRITISH VICE-CONSUL AT VAN.

Mr. Day to Mr. Hay.

No. 334.] DEPARTMENT OF STATE,
Washington, December 2, 1897.

SIR: Our minister at Constantinople has reported, under date of the 10th ultimo, that at his request Sir Philip Currie kindly authorized Her Majesty's vice-consul at Van to take charge of American interests at that place.

This Government has been much gratified at this act of courtesy on the part of the British ambassador, and you are instructed to express in the proper quarter our appreciative thanks therefor.

Respectfully yours,

WILLIAM R. DAY,
Acting Secretary.

Mr. Hay to Mr. Sherman.

No. 208.] AMERICAN EMBASSY,
London, January 11, 1898.

SIR: Referring to your instruction No. 334, of the 2d ultimo, I have the honor to inclose herewith copies of a note which I addressed to the Marquis of Salisbury expressing thanks for the action of Sir Philip Currie, the British ambassador at Constantinople, in authorizing the vice-consul at Van to take charge of American interests there and of the reply which I have received thereto.

I have, etc., JOHN HAY.

[Inclosure 1 in No. 208.]

Mr. Hay to the Marquis of Salisbury.

AMERICAN EMBASSY,
London, December 26, 1897.

MY LORD: The American minister at Constantinople has informed the Secretary of State that at his request Her Majesty's ambassador at Constantinople had been good enough to authorize the British vice-consul at Van to take charge of American interests at that place; and I have the honor to acquaint your lordship that my Government has been much gratified at this act of the courtesy on the part of Sir Philip Currie, and has instructed me to convey to Her Majesty's Government an expression of its thanks for the same.

I have, etc., JOHN HAY.

[Inclosure 2 in No. 208.]

The Marquis of Salisbury to Mr. Hay.

FOREIGN OFFICE, *January 7, 1898.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 26th ultimo, conveying the thanks of the United States Government for the courtesy shown by Her Majesty's ambassador at Constantinople in authorizing the British vice-consul at Van to take charge of American interests at that place.

I am much gratified at this expression of thanks on the part of your excellency's Government, and I have not failed to acquaint Sir P. Currie with the terms of your excellency's note.

I have, etc., SALISBURY.

PROTECTION OF AMERICAN INTERESTS BY BRITISH CONSUL-GENERAL AT TABRIZ.

Mr. Sherman to Mr. Hay.

No. 352.] DEPARTMENT OF STATE,
Washington, December 11, 1897.

SIR: I inclose for your information a copy of a dispatch from the United States minister at Teheran, Persia, inclosing a petition from American citizens resident in Tabriz and Urumia, requesting some acknowledgment from the State Department of the services of Her Majesty's consul-general, Mr. Cecil J. Wood, in their behalf.

You are accordingly instructed to express to the foreign office, in suitable terms, the thanks of the Government for Mr. Wood's timely services.

Respectfully yours, JOHN SHERMAN.

[Inclosure in No. 352.]

Mr. Hardy to Mr. Sherman.

LEGATION OF THE UNITED STATES,
Teherin, Persia, Novembr 4, 1897.

SIR: I have the honor to inclose herewith a petition from American citizens resident in Tabriz and Urumia requesting some acknowledgment from the State Department of the services of Her Britannic Majesty's consul-general, Mr. Cecil G. Wood, in their behalf. While matters of grave import are referred to this legation, many questions which can be speedily settled without such reference and the consequent delays of correspondence have been promptly and satisfactorily adjusted by the tact and courtesy of Mr. Wood. This legation has not infrequently expressed its obligation to Mr. Wood, but now, on the occasion of his leaving, some further recognition seems fitting, and I would transmit the accompanying petition with the recommendation that it receive such acknowledgment by the State Department as may seem to it proper.

I have, etc., ARTHUR S. HARDY.

[Subinclosure in No. 352.]

PETITION.

Whereas Her Britannic Majesty's consul-general, Mr. Cecil G. Wood, after five years of official residence in Tabriz, Persia, is about to leave on furlough;

And whereas we, American citizens residing in Persia in the cities of Tabriz and Urumia, are under great obligations to Consul-General Mr. Wood for the courtesy and friendship shown by him in affording protection to our lives and property, as well as for his ability and efficiency in carrying to a successful issue all matters concerning which we have requested his friendly interest. Times of riot and danger, vexatious interference by officials, local difficulties, and sudden emergencies requiring immediate action have rendered such protection and aid specially valuable;

Therefore we respectfully request His Excellency Mr. Arthur S. Hardy, United States minister at Teheran, to forward this expression of our appreciation of and obligation for the services rendered us by Consul-General Mr. Wood to the Department of State at Washington, with the suggestion that suitable acknowledgment and recognition of these favors be made by our Government to the Government of Her Britannic Majesty.

JOHN N. WRIGHT ET AL.
(Twenty-three additional signatures.)

Mr. Hay to Mr. Sherman.

No. 212.] AMERICAN EMBASSY,
London, January 11, 1898.

SIR: Referring to your instruction No. 352 of the 11th ultimo, I have the honor to inclose herewith copies of correspondence with the foreign office relative to the services rendered to American citizens in Persia by Mr. Wood, Her Majesty's consul at Tabriz.

I have, etc.,

JOHN HAY.

[Inclosure 1 in No. 212.]

Mr. Hay to the Marquis of Salisbury.

AMERICAN EMBASSY,
London, December 26, 1897.

MY LORD: I have the honor to transmit herewith to your lordship the copy of a petition which has been received by the American minister at Teheran from citizens of the United States resident at Tabriz and Urumia, containing an expression of their appreciation of the numerous services rendered to them both in the protection of their lives and property and otherwise by Her Majesty's consul-general at Tabriz, Mr. Cecil Wood, and suggesting that official acknowledgment thereof be made to Her Majesty's Government.

The minister, in commending this document to the favorable consideration of the Secretary of State, has furthermore informed him that the American legation at Teheran has also been frequently indebted to the tact and courtesy of Mr. Wood for the prompt adjustment in its behalf without reference to the minister of many questions which, had they been so referred, would only have been settled after much loss of time and protracted correspondence.

I have the honor, therefore, to acquaint your lordship that I have received instructions from my Government to express its high appre-

ciation to Her Majesty's Government of the numerous and valuable services rendered with so much tact and courtesy during the past five years to American citizens resident in Persia by Mr. Cecil Wood, Her Majesty's consul-general at Tabriz, and its sincere thanks for the same.

I have, etc.,

JOHN HAY.

[Inclosure 2 in No. 212.]

The Marquis of Salisbury to Mr. Hay.

FOREIGN OFFICE, *January 7, 1898.*

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of December 26th last expressing on behalf of the United States Government their high appreciation of the numerous and valuable services rendered by Mr. Wood, Her Majesty's consul at Tabriz, to American citizens resident in Persia during the last five years, and of the tact and courtesy with which he has discharged his duties in relation to the American legation at Teheran.

I am much gratified at this testimony on the part of your excellency's Government to Mr. Wood's zeal and ability, and I have not failed to acquaint him with the contents of your excellency's note.

I have, etc.,

SALISBURY.

ALASKAN RELIEF EXPEDITION—PASSAGE OF, THROUGH CANADIAN TERRITORY, ETC.

Mr. Sherman to Sir Julian Pauncefote.

No. 859.] DEPARTMENT OF STATE,
Washington, December 20, 1897.

EXCELLENCY: Permit me to call your attention to a law enacted by the Congress of the United States and approved by the President on Saturday, December 18, 1897, a copy of which is attached hereto. You will observe that the purpose of this act is to appropriate $200,000 to be expended (or so much thereof as may be necessary) in the discretion and under the direction of the Secretary of War for the purpose of subsistence stores, supplies, and materials for the relief of people who are in the Yukon country, or other mining regions of Alaska, and to purchase transportation and provide means for the distribution of such stores and supplies.

I am advised by the honorable Secretary of War that in order to carry into effect the provisions of this act it will be necessary to cross the territory of the Canadian government so as to reach the Yukon River country with the stores, supplies, and materials of which the people of that region stand in great need. It is the purpose of the Secretary, with the permission of the Canadian government, to promptly proceed to carry out the humane provisions of this act and to transport the supplies, accompanied by military escort, over Canadian territory to the Yukon River country and other mining regions of Alaska.

Your excellency will observe that the act also provides that, with the consent of the Canadian government, the Secretary of War may

in his discretion cause the relief thus provided to be extended in Canadian territory. Permission for that purpose is also respectfully asked, and for the admission of supplies duty free to Canadian territory. As it is necessary that the measures of relief contemplated shall be promptly carried into effect, I have the honor to request the attention of your excellency to the matter in order that the train may be directed, if the action of your Government shall warrant that course, to proceed with the proper military escort over Canadian territory. As permission for the passage of such escort is involved, and with a view to gaining time, I beg that the inquiry may be made and the requisite permission be obtained by telegraph.

I have, etc.,

JOHN SHERMAN.

[Inclosure in No. 859.]

Fifty-fifth Congress of the United States of America, at the second session, begun and held at the city of Washington on Monday the sixth day of December, one thousand eight hundred and ninety-seven.

AN ACT authorizing the Secretary of War, in his discretion, to purchase subsistence stores, supplies, and materials for the relief of people who are in the Yukon River country, to provide means for their transportation and distribution, and making an appropriation therefor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of two hundred thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be expended (or so much thereof as may be necessary) in the discretion and under the direction of the Secretary of War for the purchase of subsistence stores, supplies, and materials for the relief of people who are in the Yukon River country or other mining regions of Alaska, and to purchase transportation and provide means for the distribution of such stores and supplies: *Provided*, That with the consent of the Canadian government first obtained, the Secretary of War may cause the relief herein provided for to be extended into Canadian territory.

That the said subsistence stores, supplies, and materials may be sold in said country at such prices as shall be fixed by the Secretary of War, or donated, where he finds people in need and unable to pay for the same.

That the Secretary of War is authorized to use the Army of the United States in carrying into effect the provisions of this act, and may, in his discretion, purchase and import reindeer and employ and bring into the country reindeer drivers or herders not citizens of the United States, or provide such other means of transportation as he may deem practicable. The said reindeer or other outfit may be sold and disposed of by the Secretary of War when he shall have no further use for them under the provisions of this act, or he may turn over the same or any part thereof to the Department of the Interior, and the proceeds arising from all sales herein authorized shall be covered into the Treasury.

SEC. 2. The Secretary of War shall make report in detail to Congress at the beginning of its next regular session as to all purchases, employments, sales, and donations or transfers made under the provisions of this act.

THOMAS B. REED,
Speaker of the House of Representatives.

GARRET A. HOBART,
Vice-President of the United States and President of the Senate.

Approved, December 18, 1897.

WILLIAM MCKINLEY.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, December 21, 1897.

SIR: I have the honor to acknowledge the receipt of your note No. 859, of the 20th instant, respecting the facilities required from the

Dominion government to carry out the provisions of the act of Congress for the relief of the people in the Yukon country.

I have communicated its contents to the Governor-General of Canada by telegraph, and I shall not fail to apprise you of the answer I may receive thereto.

I have, etc., JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, December 27, 1897.

SIR: As I had the honor to inform you in my note of the 21st instant, I communicated the contents of your note No. 859 by telegraph to the Governor-General of Canada, and I am now in receipt of his excellency's reply, to the following effect:

The Dominion government have decided to permit the entry to the Yukon district, free of duty, of convoys of provisions for gratuitous distribution to distressed persons.

Also that convoys may be accompanied by such reasonable escort as the United States Government may desire to provide for them, and each convoy shall be likewise accompanied by a Canadian officer, the expenses of such Canadian officers being borne by the Dominion government.

I have, etc., JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
IMMEDIATE.] *Washington, February 4, 1898.*

SIR: I have the honor to inform you that I am in receipt of a telegram from the Marquis of Salisbury instructing me to ascertain on what grounds application has been made by the United States Government to that of the Dominion of Canada to permit the passage of an armed United States force in charge of relief supplies through Canadian territory to Circle City, Alaska.

The request, I am informed, is contrary to the unofficial understanding which was arrived at recently between the United States Secretary for War and the Canadian minister of the interior, which provides that the Dominion government should furnish escort for the expedition after reaching the summit of the pass, beyond which point no United States armed force should proceed.

The guard agreed upon to escort the expedition through Canadian territory has been already provided by the Dominion government.

In bringing the above to your notice, I have the honor to request you to be good enough to furnish me with the information, as specified above, which is desired by Her Majesty's Government.

I have the honor to be, etc.,

JULIAN PAUNCEFOTE.

Mr. Day to Sir Julian Pauncefote.

No. 915.] DEPARTMENT OF STATE,
Washington, February 16, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 4th instant, making inquiry upon what grounds application has been made for permission for an escort of United States troops to accompany the Alaska relief expedition through Canadian territory.

Copy of your note was immediately communicated to the Acting Secretary of War with a request for the desired information. The reply from the War Department, just received, states that the Alaska relief expedition was designed to relieve persons in distress, not only in Alaska but also those in the Klondike gold regions and those en route to those regions through the lower passes near Dyea and Skagway; and in view of the fact that the armed force that accompanies this expedition is absolutely necessary for the protection of the expedition, its supplies, and funds against disorderly persons in Alaska after it has passed through Canadian territory and crosses the boundary into the territory of the United States, permission was desired for the detachment of armed troops—55 soldiers and the necessary officers—to accompany the expedition through Canadian territory. Without this armed escort it would be hazardous and inadvisable for the expedition to start for Alaska over the proposed route, and it might become necessary to select a route to Alaska entirely within the territory of the United States, which would in part defeat the object of the expedition.

Mr. Meiklejohn adds that, from the tenor of the last clause of the note from your embassy dated the 27th December last, this permission had been confidently expected, and, as the expedition is now on the way to Lynn Canal, it is important that this question should be settled at the earliest moment practicable.

I have, etc.,

WILLIAM R. DAY, *Acting Secretary.*

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
IMMEDIATE.] *Washington, February 17, 1898.*

SIR: I have the honor to acknowledge the receipt of your note No. 915, of the 16th instant, informing me of the grounds upon which it is desired by the United States War Department that the relief expedition which it is proposed to send to Circle City, Alaska, should be accompanied on the passage through Canadian territory by an armed United States force.

I am authorized by the Marquis of Salisbury to state to you that the Dominion government are quite willing that United States troops which are destined for places in Alaska beyond the one hundred and forty-first meridian, and are considered necessary for the protection of the relief expedition while in United States territory, should pass through Canadian territory under the same regulations which govern the passage of Canadian mounted police through United States terri-

tory, namely, that the men shall not be under arms, and that arms and munitions of war shall go through Canadian territory as baggage.

The Dominion government at the same time desire to make it clear that they fully appreciate the wish of the United States Government to afford relief, and have forwarded instructions to the local officials to facilitate the expedition in every possible way. An escort of Dominion police will be furnished for the expedition during its passage through Canadian territory.

I shall be glad to learn as soon as possible whether the above arrangement is satisfactory to your Government, in which case I will so advise the Marquis of Salisbury and the Governor-General of Canada.

I have the honor, etc.,

JULIAN PAUNCEFOTE.

Mr. Day to Sir Julian Pauncefote.

No. 917.] DEPARTMENT OF STATE,
Washington, February 17, 1898.

EXCELLENCY: Referring to previous correspondence concerning protection of the relief expedition which the United States proposes to send to Circle City, Alaska, accompanied by an armed United States force, I have the honor to acknowledge the receipt of your note of to-day stating that the Dominion government is willing that the United States troops considered necessary for the protection of the expedition in question should pass through Canadian territory under the same regulations which govern Canadian mounted police passing through United States territory, namely, that the men shall not be under arms and that the arms and munitions of war shall go through Canadian territory as baggage.

The Department notes with pleasure your statement that the Dominion government desires to make it clear that it fully appreciates the wish of the United States to afford the relief and that to this end the Canadian local officials have been instructed to facilitate the expedition in every possible way.

A copy of your note has been communicated to the Secretary of War with the request that he inform the Department as soon as practicable as to whether the arrangement indicated in your communication is satisfactory to him.

I have, etc., WILLIAM R. DAY.

Mr. Day to Sir Julian Pauncefote.

No. 923.] DEPARTMENT OF STATE,
Washington, February 21, 1898.

EXCELLENCY: Referring to previous correspondence concerning the application of this Government for permission for a military force to escort the United States Alaskan relief expedition to Circle City, and particularly with reference to your note of the 17th instant giving assurance that the Dominion government will permit United States troops deemed necessary to protect the expedition in question, while

en route, to pass through Canadian territory under the same regulations which govern the passage of Canadian mounted police through United States territory, I have the honor to inform you that the Department has received a letter from the Acting Secretary of War stating that the arrangements indicated in your note will be entirely satisfactory to the War Department.

The Acting Secretary of War adds that the courtesies so kindly extended to facilitate the expedition are fully appreciated by this Government.

I have, etc., WILLIAM R. DAY,
Acting Secretary.

PASSPORTS—EVIDENCE OF CITIZENSHIP REQUIRED.

Mr. Day to Mr. White.

No. 462.] DEPARTMENT OF STATE,
Washington, February 17, 1898.

SIR: I have to inform you that the passport applications which accompanied your dispatch of December 31 last have been received and examined.

It is observed that a passport was issued (No. 144, October 22, 1897) to Albert Foy, who was born in England, emigrated to this country, and was naturalized before "a court at Boston on or about the year 1874." He produced no naturalization certificate, nor is there any statement from the embassy showing that other proof that he acquired citizenship was produced. In proof of his identification the embassy accepted a circular letter of instruction, but such a letter is not evidence of citizenship, nor does it usually contain any statement that the holder is an American citizen. It contained no such statement in this case. People in Mr. Foy's class are the very ones whose applications require close scrutiny. Growing up in the United States and identified with no other country, they imagine they are citizens, and even in many cases perform functions of citizenship although they have never legally acquired it.

Respectfully yours, WILLIAM R. DAY,
Acting Secretary.

TAMPA (FLA.) CELEBRATION OF QUEEN'S BIRTHDAY—PARTICIPATION OF BRITISH WAR VESSEL.

Mr. Sherman to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, March 14, 1898.

MY DEAR SIR JULIAN: His excellency the governor of Florida writes me that the chamber of commerce of the port of Tampa, together with other citizens of Florida, have decided to again celebrate the birthday of Her Majesty Queen Victoria on the 24th day of May next. At the governor's instance, I have the pleasure to acquaint you with this purpose, and, in view of the very good impression produced

last year when a ship of Her Majesty's navy visited Tampa on a like occasion, to invite your kindly offices, with the view of extending to Her Majesty's Government the invitation and request that a British naval vessel again visit Tampa and unite with the citizens of Florida in this friendly commemoration.

Believe me, etc. JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY, *March 16, 1898.*

DEAR MR. SECRETARY: In acknowledging the receipt of your letter of the 14th instant, I have pleasure in informing you that I have forwarded to the Marquis of Salisbury the courteous invitation, indorsed by you, from the governor of Florida, for a British ship to be present at Tampa on May 24 next, on the occasion of the celebration of the Queen's birthday.

I am, etc., JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Moore.

WASHINGTON, *May 3, 1898.*

SIR: With reference to Mr. Sherman's note of March 14 last, conveying, at the instance of the governor of Florida, an invitation and request that a British man-of-war should again visit Tampa on the 24th instant, on the occasion of the Queen's birthday, I have the honor to inform you that I am in receipt of a dispatch from Her Majesty's principal secretary of state for foreign affairs stating that the invitation in question has been referred to the commander in chief on the North American and West Indies station, who will, I have no doubt, take such steps as the exigencies of the service permit to meet the desire so kindly expressed by the governor of Florida.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Moore to Sir Julian Pauncefote.

No. 1001.] DEPARTMENT OF STATE,
Washington, May 5, 1898.

EXCELLENCY: Referring to the Department's note of March 14th last, inviting your Government to take part in the commemoration by the Port Tampa Chamber of Commerce of Queen Victoria's birthday on the 24th instant, I have the honor to acknowledge the receipt of your communication of the 3d instant stating that the matter in question has been referred to Her Majesty's commander in chief on the North American and West Indian station.

A copy of your note has been sent to the governor of Florida for his information.

I have, etc., J. B. MOORE, *Acting Secretary.*

CANADIAN COPYRIGHT.

Mr. Hay to Mr. Sherman.

No. 354.] AMERICAN EMBASSY,
London, April 13, 1898.

SIR: I have the honor to transmit herewith a copy of a note received to-day from the foreign office in answer to a note of the 9th of last June on the subject of Canadian copyright. This long delay has been occasioned as stated in the note by the necessity of consulting with the Dominion Government in regard to the matters under discussion.

The present position of the British and Dominion governments as to copyright is so clearly stated in the note that I need not repeat the statement. The essential point is that the Canadian government are not disposed to entertain our proposal for a convention, but they are considering the whole question of copyright, and hope to submit to Parliament amended legislation on the subject.

I am, etc.,

JOHN HAY.

[Inclosure in No. 354.]

Mr. Villiers to Mr. Hay.

FOREIGN OFFICE, *April 12, 1898.*

YOUR EXCELLENCY: I have carefully considered, in consultation with the secretary of state for the colonies, your excellency's note of the 9th of June last, pointing out the difficulty experienced by United States authors in obtaining copyright in Canada, and inquiring whether the draft convention submitted by the United States Government on the 4th of February, 1896, would, in the opinion of Her Majesty's Government, have the effect of putting the question upon a more satisfactory basis.

The somewhat complicated nature of the question and the necessity of consulting with the Dominion government have occasioned, I regret to say, considerable delay in replying to your excellency's note, but I am now in a position to state to your excellency the views of Her Majesty's Government on the subject.

It may be of advantage briefly to resume the facts of the case.

Under the English copyright law any person, whether a native or an alien, can obtain copyright throughout Her Majesty's dominions (Canada, of course, included) by the mere fact of first publication in any part of those dominions; but first publication in some part of Her Majesty's dominions, even by a native author, is a necessary condition for acquiring copyright. It is not, however, necessary that a book should be printed as well as first published within Her Majesty's dominions.

By virtue of the President's proclamation under the United States copyright act of 1891, British authors can get copyright in the United States on the condition, so far as regards literary works, of republishing and reprinting from the type set in the United States.

The balance of advantage would therefore seem to be on the side of the United States.

There is, however, a Canadian copyright act in force which conflicts to some extent with the imperial law.

The fourth section of this act provides that any person domiciled in Canada or in any part of the British possessions, or being a citizen of any country having an international copyright treaty with the United Kingdom, who is the author of any book, map, chart, etc., shall have the sole right of printing, publishing, etc., for a certain term of years, on the conditions laid down in subsection (2).

It is contended that the United States enactment of March 3, 1891, and the President's proclamation of July 1, 1891, does not constitute an international agreement within the meaning of the act, and United States authors are therefore debarred from benefiting under it.

This is it which gives rise to remonstrance on the part of your excellency's Government and to their present proposals.

Before discussing the latter, I may be permitted to reiterate on behalf of Her Majesty's Government the assurances already given to Mr. Lincoln and Mr. White on the 16th of June, 1891, and on the 12th of November, 1892, respectively, and to point out again that the English copyright law runs in Canada as in every part of Her Majesty's dominions, and that it is therefore open to United States authors to protect their rights in Canada by registering at Stationers' Hall in London.

Her Majesty's Government are, however, most anxious—as a matter of good feeling—to do all in their power to facilitate registration by United States authors under the Canadian copyright act, also if this privilege should appear to your Government to present any additional advantages to that of registration at Stationers' Hall. The Dominion government has therefore been consulted as to their willingness to agree to the conclusion by Her Majesty's Government of the convention proposed by your Government.

A reply has now been received that the Dominion government are not disposed in present circumstances to entertain the proposal. The whole question of copyright is at present under their consideration, and they hope to submit to Parliament amended legislation on the subject.

They will be prepared to accord to the United States authors under the Canadian, as distinct from the Imperial English law, the privilege of copyright in Canada on publishing only, if a similar favor were conceded to Canadian authors who desire copyright in the United States.

I trust that the above explanations will convince your Government, not only that citizens of the United States do now enjoy in Canada, under the English law, the same measure of protection as British subjects, but that the Canadian government is prepared to amend the Canadian law upon the subject in a spirit of the most complete reciprocity.

I have, etc., F. H. VILLIERS.

SIERRA LEONE—MASSACRE OF MISSIONARIES.

Mr. Hay to Mr. Day.

No. 383.] AMERICAN EMBASSY,
London, May 9, 1898.

SIR: I have the honor to inform you that I received a note this morning from the foreign office, dated the 7th instant, transmitting an extract from a telegram to Her Majesty's secretary of state for the colonies from the governor of Sierra Leone, reporting the death of certain American missionaries at the hand of the insurgents in that colony and mentioning others as being safe at Freetown, of both of which I inclose herewith copies.

I beg also to inclose herewith a copy of your telegraphic instruction, together with my telegraphic reply thereto, both of this date and relative to the above subject.

I have, etc., JOHN HAY.

[Inclosure 1 in No. 383.]

Lord Salisbury to Mr. Hay.

FOREIGN OFFICE, *May 7, 1898.*

YOUR EXCELLENCY: I have the honor to transmit to you an extract from a telegram received through Her Majesty's secretary of state for the colonies from the governor of Sierra Leone, reporting the death of certain American missionaries at the hands of the insurgents in that colony and mentioning certain others as being safe at Freetown.

I have received the news of this sad loss of life with much concern, and I have to request your excellency to accept on behalf of the relatives of those killed the expression of the sincere sympathy with them of Mr. Chamberlain and myself.

I have, etc., FRANCIS BERTIE.
(In the absence of the Marquis of Salisbury.)

[Subinclosure in No. 383.]

Extract from a telegram from Governor Sir F. Cardew to Mr. Chamberlain.

Regret to inform you that the following American missionaries, Mr. and Mrs. Cain, Misses Archer, Hatfield, and Schenck, killed by insurgent bands at Rotifunk; but Miss Ward, as well as the following American missionaries, Mr. and Mrs. Minshall, from Shengeh, and Miss Mullen, from Manaligi, are here quite safe. Please inform American ambassador.

[Inclosure 2 in No. 383.—Telegram.]

Mr. Day to Mr. Hay.

DEPARTMENT OF STATE,
Washington, May 9, 1898.

Inquire what information foreign office has regarding alleged massacre American missionaries and destruction mission property Sierra Leone.

DAY.

[Inclosure 3 in No. 383.—Telegram.]

Mr. Hay to Mr. Day.

LONDON, *May 9, 1898.*

I received the following from the foreign office this morning:

Extract from telegram from Governor Sir F. Cardew to Mr. Chamberlain: "Regret to inform you that following American missionaries, Mr. and Mrs. Cain, Misses Archer, Hatfield, and Schenck, killed by insurgent bands at Rotifunk; but Miss Ward, as well as following American missionaries, Mr. and Mrs. Burtner and Mr. and Mrs. Minshall, from Shengeh, and Miss Mullen, from Mamaligi, are here quite safe." Please inform American ambassador.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 12, 1898.

Telegram about missionaries received. Inquire as to the fate of Mr. and Mrs. L. A. McGrew, stationed about 40 miles farther interior than Rotifunk.

DAY.

Mr. Hay to Mr. Day.

No. 396.] AMERICAN EMBASSY,
London, May 14, 1898.

SIR: Referring to your telegraphic instruction of the 12th instant, relative to the fate of Mr. and Mrs. L. A. McGrew, I have the honor to inform you that I lost no time in causing a prompt inquiry to be made at the colonial office in this regard, and was informed that the name of McGrew did not appear upon the list at that office of those killed in Sierra Leone, but that the missionaries formerly at Robethel, which, being a station 40 miles in the interior from Rotifunk, is supposed to be the place where the McGrews were living, were all safe at Freetown. I sent you a cablegram to this effect yesterday, a copy of which is also inclosed.

I further beg to transmit herewith a copy of a note from the foreign office, dated the 13th instant and received this morning, which officially confirmed my telegram to you above mentioned.

I have, etc., JOHN HAY.

[Inclosure 3 in No. 396.]

Lord Salisbury to Mr. Hay.

FOREIGN OFFICE, *May 13, 1898.*

YOUR EXCELLENCY: With reference to my note of the 7th instant, respecting the United States missionaries in Sierra Leone, I have the satisfaction to inform you that the secretary of state for the colonies

has received a telegram from the governor of Sierra Leone from which it appears that the United States missionaries from Robethel are all safe at Freetown.

I have, etc., FRANCIS BERTIE.
(In the absence of the Marquis of Salisbury.)

Mr. Hay to Mr. Day.

No. 400.] AMERICAN EMBASSY,
London, May 18, 1898.

SIR: Referring to your telegraphic instruction of the 12th instant, a copy of which is herewith inclosed, and to previous correspondence relative to the fate of Mr. and Mrs. L. A. McGrew, I have the honor to inform you that a special telegram in this regard was sent from the colonial office on that day to the governor of Sierra Leone to which a reply was received on the following day stating that Mr. and Mrs. McGrew were said to be alive but detained by the chief of Taima, the sense of which was conveyed to you in my cablegram of the 17th instant, a copy of which is also herewith inclosed.

A further communication from the colonial office on the above subject was received this morning, conveying the intelligence that Taima is about 10 miles to the interior from Kwabu and that Colonel Woodgate left Freetown on the 12th instant to push on a column to the relief of Kwabu. A copy of my cablegram to you of to-day's date to this effect is also inclosed herewith.

I have, etc., JOHN HAY.

[Inclosure 1 in No. 400—Telegram.]

Mr. Hay to Mr. Day.

AMERICAN EMBASSY,
London, May 17, 1898.

Informed by colonial office McGrews said to be alive, but detained by chief of Taima or Kiama.

HAY.

[Inclosure 2 in No. 400—Telegram.]

Mr. Hay to Mr. Day.

AMERICAN EMBASSY,
London, May 18, 1898.

Re McGrews. Further informed by colonial office, Taima, 10 miles interior from Kwabu. Relief column from Freetown sent thither 12th instant.

HAY.

Mr. Day to Mr. Hay.

No. 671.] DEPARTMENT OF STATE,
Washington, June 3, 1898.

SIR: I have received your telegram of the 28th ultimo reading as follows:

Colonial office has received following message from governor Sierra Leone: "Regret to report Reverend and Mrs. McGrew murdered Paina (Taima?) about 8th May."

Respectfully, yours,

WILLIAM R. DAY.

DEATH OF MR. GLADSTONE.

Mr. Day to Mr. Hay.

No. 643.] DEPARTMENT OF STATE,
Washington, May 21, 1898.

SIR: I append on the overleaf copy of my telegram of the 19th instant, directing you to express to his family, through the proper channel, the sympathy of the American people, in view of the death of Mr. Gladstone.

Respectfully, yours, WILLIAM R. DAY.

[Inclosure in No. 643—Telegram.]

Mr. Day to Mr. Hay.

DEPARTMENT OF STATE,
Washington, May 19, 1898.

Through appropriate channel express to Mr. Gladstone's family the sympathy and sorrow of the American people at the passing away, in the ripeness of years and fullness of honors, of one of the most notable figures of modern civil statesmanship.

DAY.

Mr. Hay to Mr. Day.

No. 419.] AMERICAN EMBASSY,
London, June 7, 1898.

SIR: I have the honor to transmit herewith an autograph letter from the Right Hon. Herbert J. Gladstone, expressing the grateful appreciation of all his family for the message of sympathy which by your instructions I transmitted to him on the occasion of his father's death. He would be glad if you would kindly submit the letter to the President.

I am, etc., JOHN HAY.

[Inclosure in No. 419.]

Mr. Gladstone to Mr. Hay.

HAWARDEN CASTLE, *Chester, June 5, 1898.*

DEAR COLONEL HAY: On behalf of my mother and the family I beg through you to offer to the President of the United States our most grateful thanks for the kind message of sympathy sent to us on his part and that of the American people.

We see in it the recognition of the abiding interest which my father cherished in the welfare and wonderful progress of America, and we value it all the more because it has been sent by the President at a time of inevitable pressure and absorption.

With our best wishes for the prosperity of the President and the American people,

I have, etc., HERBERT J. GLADSTONE.

Mr. Moore to Mr. Hay.

No. 717.] DEPARTMENT OF STATE,
Washington, June 27, 1898.

SIR: I have to inform you that your dispatch of the 7th instant transmitting an autograph letter from the Right Hon. Herbert J. Gladstone, expressing the grateful appreciation of all his family for the message of sympathy which by the instruction of the Department you transmitted to him on the occasion of his father's death has been received.

The letter in question was shown to the President.

Respectfully yours,

J. B. MOORE,
Acting Secretary.

SETTLEMENT OF BERING CLAIMS AWARD.

Mr. Day to Sir Julian Pauncefote.

No. 1054.] DEPARTMENT OF STATE,
Washington, June 15, 1898.

EXCELLENCY: I have the honor to inform you that the Congress of the United States has made the necessary appropriation to enable the United States Government to discharge its obligations under the treaty between it and Great Britain of February 8, 1896, and the award of the commission organized in accordance with that treaty. A copy of the act of Congress is herewith inclosed for your information.

It will be seen that the sum appropriated by Congress for the purpose indicated is $473,151.26. An examination of the terms of the award rendered by the commissioners shows that this amount not only includes the sum awarded by virtue of the treaty, but contains other sums awarded for certain claims respecting which the commission had no special jurisdiction, but which, by agreement between the Secretary of State and yourself, the commissioners proceeded to consider and

determine; and for which it assessed the damages sustained by the claimants. These claims are those of the *Black Diamond*, arising in 1886, and of James Gaudin, master of the *Ada*, in 1887. While the Government of the United States has contested the validity of these two claims, nevertheless, being desirous of reaching a conclusion of these long-standing differences, it is prepared to make payment of the sum appropriated by Congress as above indicated, with the understanding that it is in full satisfaction of the two claims herein cited as well as of those definitely acted upon by the commission. I should be pleased to have an expression of your views as to the manner of the payment which I am now empowered and ready to make.

I have, etc.,

WILLIAM R. DAY.

[Inclosure in No. 1054.]

[PUBLIC—No. 134.]

AN ACT making an appropriation to pay the Bering Sea awards.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to enable the President to pay to the Government of Her Britannic Majesty the amount awarded by the commissioners appointed pursuant to the stipulations of the convention of February eighth, eighteen hundred and ninety-six, between the United States and Great Britain, providing for the settlement of the claims presented by the latter against the former in virtue of the convention of February twenty-ninth, eighteen hundred and ninety-two, the sum of four hundred and seventy-three thousand one hundred and fifty-one dollars and twenty-six cents is hereby appropriated out of any money in the Treasury not otherwise appropriated. This appropriation is made without the admission that any liability exists for any loss of prospective profits to British vessels engaged in pelagic fur sealing; or for interest on the sums awarded to Great Britain, and without admitting the authority of the arbitrators to make any award on the basis of damages for the arrest or detention of vessels not included in the submission contained in the treaty.

Approved, June 15, 1898.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
Washington, June 17, 1898.

SIR: I have the honor to acknowledge with thanks the receipt of your note No. 1054 of the 15th instant, inclosing copy of the act of Congress of the 15th instant making an appropriation to pay the Bering Sea awards. I have transmitted copy of this note to the Marquis of Salisbury, by whom, I doubt not, the payment by check, which has since been adopted, will be entirely approved.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., July 25, 1898.

SIR: Upon receipt of your note No. 1054, of the 15th ultimo, I fully notified Her Majesty's principal secretary of state for foreign affairs

that the Congress of the United States had made the necessary appropriation to enable the United States Government to discharge its obligations under the treaty of February 8, 1898, and the award of the commission organized in accordance therewith.

I have now received a dispatch from the Marquis of Salisbury, desiring me to express to you the satisfaction felt by the Government of Her Majesty at the final settlement of these claims.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Day to Sir Julian Pauncefote.

No. 1108.] DEPARTMENT OF STATE,
Washington, July 28, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 25th instant, expressing the satisfaction felt by the Government of Her Majesty at the action of the Congress of the United States in making the necessary appropriation to enable this Government to discharge its obligations under the treaty of February 8, 1896.

I beg to assure you that this Government shares the sentiments of the Marquis of Salisbury in regard to the final settlement of the claims in question.

I have, etc., WILLIAM R. DAY.

COUNTERVAILING DUTIES ON SUGARS, ETC.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., July 20, 1898.

SIR: By desire of the Marquis of Salisbury I have the honor to invite your attention to a decision given by the United States Board of General Appraisers on April 19 last, overruling a protest on the part of importers at Boston against the assessment, by the customs authority of that port, of a countervailing duty of 2.50 marks per 100 kilograms on a consignment of refined sugar from Liverpool.

The effect of this decision will be to apply the countervailing duty enacted by the tariff act of 1897 to imports of British refined sugars in cases where the raw sugar is not proved to have originated from a country which does not give bounties on sugar.

It appears to Her Majesty's Government that, while the wording of section 5 of the tariff act may be held to cover refined sugar coming from a country which does not produce raw sugar, there is some hardship in applying the full countervailing duty imposed on the produce of a particular bounty-giving country to the refined article in which free cane sugar as well as bounty-fed sugar may have been used. So far as Her Majesty's Government are aware, it has usually been held, in regard to the tariff treatment of refined sugar, that this article is the produce of the country where it has been refined. If it is not deemed possible under the present tariff law to extend this treatment to British refined sugars I am instructed to ask whether the

United States Government would be willing to alleviate the hardship complained of by fixing the countervailing duty on such sugars, in all cases of doubt as to the origin of the raw material used, at as low a point as possible.

It would also be a great relief if the United States Government would consent to accept, in the case of sugars, the produce of British West India colonies or other nonbounty-giving countries, a declaration of origin by the importer, without the consular certificate at present required.

Hoping that this representation may meet with the favorable consideration of your Government, I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Day to Sir Julian Pauncefote.

No. 1183.] DEPARTMENT OF STATE,
Washington, September 15, 1898.

EXCELLENCY: In your note of July 20 last, relative to the execution of countervailing duty under the provisions of section 5 of the act of July 24, 1897, on imports of British refined sugars in cases where the raw sugar used is not proved to have originated from a country which does not give bounties on sugar, you state that it seems to Her Majesty's Government that, while the wording of said section 5 may be held to cover refined sugars coming from a country which does not produce raw sugar, there is some hardship in applying the full countervailing duty imposed on the produce of a particular bounty-giving country to the refined article in which free cane sugar as well as bounty-paid sugar may have been used; that so far as Her Majesty's Government is aware it has usually been held in regard to the tariff treatment of refined sugar that this article is the produce of the country where it has been refined, and that if it is not deemed possible under the present tariff law to extend this treatment to British refined sugars, Her Majesty's Government desires to inquire whether that of the United States would be willing to alleviate the hardship complained of by fixing the countervailing duty on such sugars in all cases of doubt as to the origin of the raw material used at as low a point as possible.

You add, in conclusion, that it would be a great relief if the United States Government would consent to accept in the case of sugars the produce of British West India colonies or other nonbounty-giving countries a declaration of origin by the importer without the consular certificate at present required.

The Secretary of the Treasury, to whose attention your note was brought, has given careful consideration to the questions presented, and desires me to reply thereto as follows:

While under the tariff of 1894 refined sugar was held to be wholly the product of the country where it was refined, regardless of the origin of the raw sugar used, the provisions of section 5 in the tariff of 1897 imposing countervailing duties on merchandise originating in bounty-paying countries, whether it is imported "in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise," clearly point to the

necessity of ascertaining the origin of the raw materials in each case, and do not admit of the treatment formerly accorded to refined sugars. Nor does the present law confer upon the Secretary of the Treasury the authority implied in your suggestion—to subject the raw sugar of unknown origin to the lowest possible countervailing duty.

The necessity of ascertaining in each case of refined sugar the origin of the raw sugar used being imperative, the Treasury Department is constrained to use the most efficient means to that end, and is therefore unable to allow that the statement of the importer, who is far from the sources of information as to the origin of the raw sugar, be substituted in certain cases for the certificate of the consul to whom such sources are readily accessible.

I have, etc., WILLIAM R. DAY.

SERVICES (AND DEATH) OF MR. RAWSON-WALKER, BRITISH CONSUL AT MANILA.

Mr. Day to Sir Julian Pauncefote.

No. 1132.] DEPARTMENT OF STATE,
Washington, August 11, 1898.

EXCELLENCY: I have the honor to inform you, with regret, that the Department has received a telegram from the consul of the United States at Manila announcing the death on the 2d instant of Mr. Walker, Her Majesty's consul at that port.

I beg you to do me the favor to convey to your Government an expression of the Department's high appreciation of the very valuable services recently rendered by Mr. Walker to this Government in looking after American interests in Manila.

I have, etc., WILLIAM R. DAY.

Mr. Moore to Mr. Hay.

No. 832.] DEPARTMENT OF STATE,
Washington, September 3, 1898.

SIR: I transmit herewith for your information a copy of a communication from the Acting Secretary of the Navy, inclosing a copy of a letter from Rear-Admiral Dewey informing the Navy Department of the invaluable assistance which Mr. E. H. Rawson-Walker, Her Britannic Majesty's consul at Manila, had been to him.

In this connection I inclose for your information a copy of a note which the Department addressed to the British ambassador at this capital upon learning that Mr. Walker had died on the 2d of August last.

You are instructed to express to the British Government the thanks of that of the United States for the services rendered by Mr. Walker to Admiral Dewey.

Respectfully yours, J. B. MOORE,
Acting Secretary.

[Inclosure in No. 832.]

Secretary of the Navy to the Secretary of State.

WASHINGTON, *August 29, 1898.*

SIR: I have the honor to transmit herewith for your information a copy of a letter received from Rear-Admiral Dewey informing this Department of the invaluable assistance Mr. E. H. Rawson-Walker, Her Britannic Majesty's consul at Manila, has been to him.

This Department requests that your Department express to the British Government the thanks of this Government for the services rendered to Admiral Dewey.

Very respectfully, CHAS. H. ALLEN,
Acting Secretary.

[Subinclosure in No. 832.]

Rear-Admiral Dewey to the Secretary of the Navy.

UNITED STATES FORCE ON ASIATIC STATION,
Flagship Olympia, Cavite, P. I., July 27, 1898.

SIR: I have the honor to inform the Department that Mr. E. H. Rawson-Walker, Her Britannic Majesty's consul at Manila, has performed the trying duties of acting United States consul during the last three months in a most able and painstaking manner and has been of invaluable assistance to me, being my only means of communicating with the Spanish authorities and the chief agent in the protection of foreign residents.

I trust the United States Government will see fit to inform Her Britannic Majesty's foreign office of my deep appreciation of Mr. Rawson-Walker's valuable services.

I have, etc., GEORGE DEWEY,
Rear-Admiral, United States Navy,
Commanding U. S. Naval Force on Asiatic Station.

Mr. Adee to Mr. White.

No. 863.] DEPARTMENT OF STATE,
Washington, September 17, 1898.

SIR: I have to apprise you of the receipt of a dispatch from the consul of the United States at Manila, of August 2, 1898, announcing the death of the Hon. E. H. Rawson-Walker, Her Britannic Majesty's consul at Manila, who during the recent war with Spain was temporarily placed in charge of American interests there. Mr. Williams remarks:

> From my dispatches, as from those since sent by Rear-Admiral Dewey, you have information as to the kindly and painstaking manner with which the late lamented Consul Walker discharged his delicate duties as your representative after my departure from Manila, and now that death has too early sealed his lips, I wish to add words of highest praise of his services to our cause and of deepest regret, personal and official, over his death.

I wish to unite hereto an expression of the Department's regret at the death of Mr. Rawson-Walker, whose services on behalf of American interests during the brief period they were in his charge were highly satisfactory, and as such are greatly appreciated.

You will make suitable communication hereof to Her Britannic Majesty's Government through the foreign office.

Respectfully, yours,

ALVEY A. ADEE,
Acting Secretary.

Mr. White to Mr. Day.

No. 524.] AMERICAN EMBASSY,
London, September 19, 1898.

SIR: Referring to your instruction No. 832 of 3d instant, I have the honor to inclose herewith the copy of a note which I have addressed to the Marquis of Salisbury relative to the services rendered by the late Mr. Rawson-Walker, Her Majesty's consul at Manila, to Rear-Admiral Dewey.

* * * * * * *

I have, etc., HENRY WHITE.

Mr. Hay to Mr. White.

No. 887.] DEPARTMENT OF STATE,
Washington, October 4, 1898.

SIR: Referring to previous correspondence relative to the services rendered by the late Mr. Rawson-Walker, Her Majesty's consul at Manila, to Rear-Admiral Dewey, I have to acknowledge the receipt of your dispatch No. 524 of the 19th ultimo. * * *

I regret to say that the copy of your note to Lord Salisbury on the subject, which seems necessary to a full understanding of the situation, did not accompany your dispatch.

I am, etc., JOHN HAY.

Mr. White to Mr. Hay.

No. 552.] AMERICAN EMBASSY,
London, October 14, 1898.

SIR: Referring to your instruction No. 863, of the 17th ultimo, and to my dispatch No. 524, of the 19th ultimo, I have the honor to inclose herewith the copy of a note which I addressed to the Marquis of Salisbury relative to the services rendered to Admiral Dewey by the late Mr. Rawson-Walker, Her Majesty's consul at Manila, and of the reply which I have received to the same.

I also inclose a copy of my note of the 19th ultimo to Lord Salisbury, which should have accompanied my dispatch above-mentioned, but which I regret to find, from your dispatch No. 887, of the 4th instant, was not inclosed therein.

I have, etc., HENRY WHITE.

[Inclosure 1 in No. 552.]

Mr. White to Lord Salisbury.

AMERICAN EMBASSY,
London, September 19, 1898.

MY LORD: I have the honor, in accordance with instructions from the Secretary of State, to express the thanks of my Government to that of Her Majesty for the invaluable assistance rendered by the late Mr. E. H. Rawson-Walker, Her Majesty's consul at Manila, to Rear-Admiral Dewey, a copy of whose dispatch to the Secretary of the Navy setting forth the nature of the consul's services has doubtless been transmitted to your lordship by Sir Julian Pauncefote, to whom it was communicated by the Department of State.

I deem it proper to add that my Government heard, with sincere regret, of Mr. Rawson-Walker's death on the 2d of August.

I have, etc.,

HENRY WHITE.

[Inclosure 2 in No. 552.]

Mr. White to Lord Salisbury.

AMERICAN EMBASSY,
London, September 28, 1898.

MY LORD: With reference to my note of 19th instant, expressing my Government's appreciation of the late Consul Rawson-Walker's services and their regret at his death, I have the honor to transmit to your lordship the following extract, which I have received, from a dispatch addressed to the Secretary of State by the American consul at Manila, viz:

> From my dispatches, as from those since sent by Rear-Admiral Dewey, you have information as to the kindly and painstaking manner with which the late lamented Consul Walker discharged his delicate duties as your representative after my departure from Manila, and now that death has too early sealed his lips, I wish to add words of highest praise of his services to our cause and of deepest regret, personal and official, over his death.

I have the honor also to inclose a copy of the dispatch from Admiral Dewey, which was referred to in my note of the 19th instant.

I have, etc.,

HENRY WHITE.

[Inclosure 3 in No. 552.]

Lord Salisbury to Mr. White.

FOREIGN OFFICE, *October 4, 1898.*

SIR: I have the honor to acknowledge the receipt of your note of the 28th ultimo, inclosing an extract from a dispatch of the United States consul at Manila, together with a copy of a dispatch from Admiral Dewey to the United States Government, bearing testimony to the services rendered by the late Mr. Rawson-Walker, British consul at Manila.

I have, etc., SALISBURY.

Sir Julian Pauncefote to Mr. Hay.

BRITISH EMBASSY,
Washington, November 10, 1898.

SIR: By a dispatch from the acting British consul at Manila the Marquis of Salisbury has learned that on the occasion of the funeral of the late Mr. Rawson-Walker, Her Majesty's consul at Manila, Rear-Admiral Dewey accompanied the body to the cemetery.

Acting under instructions from Lord Salisbury, I take this opportunity of expressing to you the appreciation by Her Majesty's Government of the mark of respect shown by the attendance at the funeral of Rear-Admiral Dewey.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Hay to Sir Julian Pauncefote.

No. 1257.] DEPARTMENT OF STATE,
Washington, November 14, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 10th instant, expressing the thanks of your Government for the mark of respect shown by the attendance of Rear-Admiral Dewey, of the United States Navy, at the funeral of Mr. Rawson-Walker, late British consul at Manila.

In reply I beg to inform you that a copy of your note has been sent to the Secretary of the Navy for his information.

I have, etc.,

JOHN HAY.

PROTECTION OF BRITISH INTERESTS BY THE AMERICAN CONSUL AT LA GUAYRA.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., August 12, 1898.

SIR: I have the honor to inform you that I am in receipt of a dispatch from Her Majesty's secretary of state for foreign affairs acquainting me that Mr. Haggard, Her Majesty's minister at Caracas, has accepted the courteous offer of Mr. Loomis, the United States minister at that capital, to allow the United States consul at La Guayra to take temporary charge of the British vice-consulate there.

I am instructed by the Marquis of Salisbury to convey to your Government the thanks of Her Majesty's Government for Mr. Loomis's action in the matter.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Moore to Sir Julian Pauncefote.

No. 1141.] DEPARTMENT OF STATE,
Washington, August 17, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 12th instant, stating that you have received a dispatch from

the British foreign office acquainting you with the fact that Mr. Haggard, Her Majesty's minister at Caracas, has accepted the offer of Mr. Loomis, the United States minister at that capital, to allow the United States consul at La Guayra to take temporary charge of the British vice-consulate there.

I beg to inform you that the facts above stated were reported to the Secretary of State by Mr. Loomis under date of July 7, received here July 18, and that his course was duly approved by this Government.

The Department will take pleasure in conveying the thanks of your Government to Mr. Loomis, as requested.

I have, etc., J. B. MOORE,
Acting Secretary.

RESPECT SHOWN AMERICAN FLAG IN GREAT BRITAIN.

Mr. Hay to Mr. Day.

No. 518.] AMERICAN EMBASSY,
London, September 13, 1898.

SIR: I have the honor to inform you that on the 8th instant, at the "march past" on Salisbury Plain of the troops which for several weeks previously had been taking part in the military maneuvers, in the presence of the commander in chief of the British army, the secretary of state for war, several members of the royal family, the foreign military attachés, and a vast crowd of people, the national flag of the United States was placed side by side with the British royal standard, the union jack, and the white naval ensign, upon the principal marquee at the saluting point.

There were no other flags on the tent in question but the four mentioned.

I have the honor to be, etc., JOHN HAY.

DEATH OF MR. RAMSDEN, FORMERLY BRITISH CONSUL AT SANTIAGO DE CUBA, ETC.

Mr. Adee to Mr. White.

No. 862.] DEPARTMENT OF STATE,
Washington, September 17, 1898.

SIR: The Department has learned with feelings of deep regret, through the recent press announcements of the death, at Kingston, Jamaica, of Frederick Wollaston Ramsden, esq., formerly Her Britannic Majesty's consul at Santiago de Cuba, and desires to convey through you to the Government of Great Britain an expression of the sympathy of that of the United States on account of his death, and its appreciation of the valuable services Mr. Ramsden rendered in guarding American interests at Santiago during the period of the recent hostilities with Spain.

You will take early opportunity to communicate with the foreign office upon this subject.

Respectfully, yours, ALVEY A. ADEE,
Acting Secretary.

Sir Julian Pauncefote to Mr. Adee.

BRITISH EMBASSY,
New London, Conn., September 26, 1898.

SIR: I have the honor to inform you that I have received a dispatch from the Marquis of Salisbury, bringing to my knowledge a signal act of courtesy on the part of the United States military governor of Santiago de Cuba on the occasion of the death of Mr. Ramsden, late Her Majesty's consul in that port. Her Majesty's Government have been informed that as a mark of respect to this officer, who died in the active discharge of the arduous duties of his post, orders were given by General Wood, on August 12, that all flags in the town be put at half-mast. I am desired by the Marquis of Salisbury to express to you the appreciation with which Her Majesty's Government have learnt of this graceful act of respect to the memory of the late consul.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Adee to Sir Julian Pauncefote.

No. 1208.] DEPARTMENT OF STATE,
Washington, September 29, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 26th instant, in which you express the appreciation with which Her Majesty's Government has learned of the action of the United States military governor at Santiago de Cuba in ordering all flags in that city to be put at half-mast on the occasion of the death of Mr. Ramsden, late Her Majesty's consul at that port.

The efforts of Mr. Ramsden in behalf of American citizens and his watchful attention to their unprotected interests during the war with Spain are held in high value by this Government, and it is a matter of gratification to it that General Wood's simple act of respect to the memory of a worthy officer, whose virtues endeared him to all with whom he became associated during the siege and occupancy of Santiago by the United States forces, meets with so courteous an expression of appreciation on the part of Her Majesty's Government.

The news of the death of Mr. Ramsden was received by this Department with great regret, and the embassy of the United States at London was at once instructed to convey to Lord Salisbury an expression of the sympathy of the Government of the United States and of its grateful acknowledgment of his labors in the interest of its citizens.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. White to Mr. Hay.

No. 548.] AMERICAN EMBASSY,
London, October 12, 1898.

SIR: Referring to your instructions No. 862 of the 17th ultimo, I have the honor to inclose herewith copies of a note which I addressed to the Marquis of Salisbury relative to the death of Mr. F. W. Ramsden,

Her Majesty's late consul at Santiago de Cuba and of his lordship's reply to the same.

You will observe that Lord Salisbury requests me to convey his thanks to you for the communication I was instructed to make to him on the subject.

I have, etc., HENRY WHITE.

[Inclosure 1 in No. 548.]

Mr. White to Lord Salisbury.

AMERICAN EMBASSY,
London, September 28, 1898.

MY LORD: I have the honor in accordance with instructions from my Government to convey to your lordship an expression of their sympathy with Her Majesty's Government in respect to the death at Kingston, Jamaica, of Mr. Frederick Wollaston Ramsden, formerly British consul at Santiago de Cuba.

I am also instructed to express my Government's appreciation of the valuable services rendered by Mr. Ramsden in guarding American interests at Santiago during the recent hostilities with Spain.

I have, etc.,

HENRY WHITE.

[Inclosure 2 in No. 548.]

Lord Salisbury to Mr. White.

FOREIGN OFFICE, *October 5, 1898.*

SIR: I have the honor to acknowledge your note of the 28th ultimo, expressing the sympathy of the United States Government at the death of Mr. F. W. Ramsden, late Her Majesty's consul at Santiago de Cuba, and their appreciation of the services rendered by him in guarding American interests during the recent hostilities with Spain.

I shall be obliged if you will convey to the United States Secretary of State my thanks for this communication.

I have, etc., SALISBURY.

BRITISH CARRYING TRADE IN HAWAII.

Sir Julian Pauncefote to Mr. Adee.

BRITISH EMBASSY,
New London, Conn., September 24, 1898.

DEAR MR. ADEE: From dispatches received from my Government I find that they are somewhat apprehensive lest one of the results of the annexation of the Hawaiian Islands by the United States may be to interfere with the carrying trade between those islands and the United States, no inconsiderable portion of which is now done in British bottoms. The government of New Zealand are especially interested in the question, the fact that certain British steamers are

under contract with them to ply between the colony, Hawaii, and San Francisco.

I understand that there is at present nothing to preclude foreign vessels from trading between the United States and the Hawaiian Islands; and that no legislation is contemplated which would interfere with the trade.

I should be very grateful for any information which you may be at liberty to give me on these points.

I am, etc., JULIAN PAUNCEFOTE.

Mr. Adee to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, September 30, 1898.

MY DEAR SIR JULIAN: I had the honor to receive your personal note of the 24th instant in which you express the apprehension of Her Majesty's Government "lest one of the results of the annexation of the Hawaiian Islands to the United States may be to interfere with the carrying trade between those islands and the United States, no inconsiderable portion of which is now done in British bottoms." You state your understanding that there is at present nothing to preclude foreign vessels from trading betwen the United States and the Hawaiian Islands and that no legislation is contemplated which would interfere with the trade, and request information on these points.

As the question is one properly for the consideration of the Treasury Department, I referred your inquiries to the Secretary of the Treasury and am now in receipt of a letter from Acting Secretary Spaulding in reply.

Your understanding that there is at present no regulation to preclude foreign vessels from such trade, coincides with the view of the Treasury Department, based on an opinion of the Attorney-General, set forth in the appended circulars.

The Acting Secretary of the Treasury is, however, unable to concur in your further understanding that no legislation is contemplated which would interfere with this carrying trade. While he does not undertake to forecast the form which legislation by Congress may take, the general policy of this country to reserve to American vessels trade between American ports is so firmly established that its reaffirmation by Congress in the legislation providing for the extension of American laws to the Hawaiian Islands does not appear to him to be doubtful. He thinks it possible that this policy may be not put into effect until there has been an adjustment of American tonnage to meet the situation created by annexation, but he thinks it probable that at an early date trade between the United States and the Hawaiian Islands will be confined to American vessels.

It may be noted that, in obedience to traditional policy, trade between the United States and Porto Rico has already by regulation been confined to American vessels.

There would seem to be no occasion to apprehend serious interference with the carrying trade between the United States and the Hawaiian Islands as a result of such legislation as Congress may enact. The total combined entries and clearances of vessels from and

to Hawaiian ports and ports of the United States during the fiscal year ended June 30, 1897, were 461 vessels of 361,173 net tons, of which 394 vessels of 283,211 net tons were American, and only 13 vessels of 19,040 tons were British. These figures do not include steamers which merely touch at Honolulu to leave or take on mail and a few cabin passengers and their baggage to and from Asiatic and Australian ports. With regard to these the American consul-general at Honolulu, under date of January 24, 1898, reported:

> The majority of these steamers are British, and as they carry very little freight to and from these islands it is misleading to include them in any report of the nationality of vessels employed by the Hawaiians in their commerce with the world.

I trust the foregoing observations meet your inquiries on the subject, and am, etc.,

ALVEY A. ADEE,
Acting Secretary.

RAISING OF BLOCKADE OF CRETE.

Sir Julian Pauncefote to Mr. Hay.

BRITISH EMBASSY,
Washington, December 13, 1898.

SIR: On behalf and at the request of my colleagues, the representatives of France, Italy, and Russia, as well as on behalf of my Government, I have the honor to transmit to you for the information of your Government the inclosed communication relative to the raising of the blockade in Cretan waters, the institution of which I had the honor to notify to Mr. Sherman on March 24th last year.[1]

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure in British note of December 13, 1898.]

WASHINGTON, *December 13, 1898.*

We, the undersigned, representatives of France, Great Britain, Italy, and Russia, have the honor to inform the Government of the United States that the admirals of the four powers in Cretan waters have issued a notice that the blockade of Crete has been raised from the 5th of December instant, but that the importation of arms and munitions of war is absolutely prohibited.

JULIAN PAUNCEFOTE,
H. B. M. Ambassador.
COUNT CASSINI,
Ambassador of Russia.
THIEBAUT,
Chargé d'Affaires de France.
G. C. VINCI,
Chargé d'Affaires d'Italie.

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[1] Printed in Foreign Relations, 1897, p. 254.

POSTAL UNION CONVENTION, ADHESION OF GREAT BRITAIN TO.

Sir Julian Pauncefote to Mr. Hay.

BRITISH EMBASSY,
Washington, December 13, 1898.

SIR: Her Majesty's postmaster-general has received a letter from the international bureau of the Postal Union which seems to indicate that a doubt exists in some quarters as to whether the adhesion of Great Britain to the Postal Union Convention of Washington implies the adhesion of the British colonies.

To remove all uncertainty on this point, I am instructed by Her Majesty's principal secretary of state for foreign affairs to inform the United States Government that ministerial approval on behalf of Great Britain of the Postal Union Convention, the Final Protocol, and the detailed regulations signed at Washington on June 15, 1897, by the delegates from this country appointed to attend the Postal Union Congress held in that city, implies, in accordance with precedent, equal ministerial approval on behalf of those British colonies which the imperial post-office represents in the affairs of the union—that is to say, all the British colonies belonging to the union except India, Canada, the Cape Colony, Natal, and the Australian colonies.

I have, etc.,

JULIAN PAUNCEFOTE.

HAWAIIAN CONSULS.

Sir Julian Pauncefote to Mr. Hay.

BRITISH EMBASSY,
Washington, December 26, 1898.

SIR: In compliance with a desire expressed by the governor of Queensland, I have the honor to inquire whether the Hawaiian Islands are any longer entitled to be represented by a consul, or whether their consulates have been merged in those of the United States.

By the direction of the Marquis of Salisbury I request you to be good enough to favor me with an early reply to the above question.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Hay to Sir Julian Pauncefote.

No. 1297.] DEPARTMENT OF STATE,
Washington, December 30, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 26th instant, in which, in compliance with the desire expressed by the governor of Queensland, you inquire whether the Hawaiian Islands are any longer entitled to be represented by a consul or whether their consulates have been merged in those of the United States.

By the joint resolution of Congress approved July 7, 1898, providing for the annexation of the Hawaiian Islands to the United States, it is provided that, "until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands, the customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged."

This Government has regarded that provision of law as continuing the commercial relations of the Hawaiian Islands with other states pending such legislation by Congess concerning the Hawaiian Islands as may be deemed necessary or proper, and consequently the United States continues to conduct its commercial business through its own consular officer at Honolulu as a de facto commercial agent, while the Hawaiian consuls in this country continue to act in a similar capacity. Until the commercial dependency of the Hawaiian Islands upon the United States shall be regulated by law, it would seem desirable that the present representatives of the Hawaiian Islands should continue to discharge their commercial functions as such agents in foreign countries, and until such laws shall be passed this Government is not prepared to commission those consular officers as full consular officers of the United States or to merge their functions in those of existing consular representatives of the United States in the same localities.

With regard, however, to the consular officers of foreign governments in the Hawaiian Islands the case is somewhat different, and inquiries on this point have been, in several instances, answered by expressing the opinion of this Government that it would be desirable for the existing foreign consuls in the Hawaiian Islands to receive new commissions from their governments, upon which this Government could issue its exequatur covering the present provisional arrangement with respect to the commercial intercourse of Hawaii with foreign countries.

I have, etc., JOHN HAY.

HAITI.

DISCRIMINATING TAXES UPON FOREIGN MERCHANTS, CLERKS, ETC.

Mr. Powell to Mr. Sherman.

No. 35.] LEGATION OF THE UNITED STATES,
Port-au-Prince, Haiti, September 24, 1897.

SIR: I call the attention of the Department to a law recently enacted by the Chamber of Deputies, a copy of which I herein inclose, and which is to take effect October 1, 1897.

The provisions of this law create an invidious distinction between native and foreign merchants, as well as between native and foreign clerks, which is in direct conflict with the rights of citizens under the treaty (art. 5, treaty with Haiti, p. 551) made between the Governments, as cited in the Metzger case, dispatch No. 19, August 31, 1897.

It is intended to enforce this law rigidly. Those of our citizens that are in business and have large capital invested have asked the protection of the Government, and to protest against its enforcement. They do not and have not objected to paying this tax, providing the native merchant pays the same, nor have they objected to paying a tax slightly in excess of that required of the native merchant to conduct their business. They were aware that the Government needed money, and stood ready in this way to give the required assistance.

The present enactment makes this tax excessive, and virtually drives them out of business, without any compensating feature. Before taking action in reference to this law, will the Department favor me with instruction on the following:

1. Can this Government enact a law that is in conflict with treaty rights?
2. If this right be granted to them, to what extent are we to submit?
3. To what extent shall this protest be made?
4. Such further information as the Department deems necessary.

I also inclose copy of law giving the rates of taxes the native merchant is required to pay; no tax is required from native clerks.

I have, etc.,

W. F. POWELL.

[Inclosure 1 in No. 35.]

THE HOUSE OF COMMONS.

Considering that it is essential to augment by all equitable means the revenues of the communes so as to permit the communal councils to meet the necessities of the administration;

Considering that practice shows the impossibility of preventing foreigners from exercising commerce but under title of consignee's merchants;

Considering on the other part that it is urgent to facilitate the collection of communal taxes by a more rapid procedure than that which has been exercised up to this time;

Using the initiative which the constitution gives, has proposed, and the legislative corps has rendered the following law:

ARTICLE 1. From the 1st of October, 1897, the communal councils shall collect, in the manner established by the communal decrees, a distinct tax of dues for passports:

First. On all tickets for passage delivered by the steamship agents and for each person under 12 years:

	Gourdes.
First. For a voyage out of America	3.00
Second. For a voyage in the Antilles	1.50
Third. For a voyage out of the Antilles, but in America	2.00

On all tickets delivered in a foreign country for Haiti:

First. Each person over 12 years coming from the Antilles	1.50
Second. Each person over 12 years coming from the American continent	2.00
Third. Each person over 12 years coming from other countries	2.00

ART. 2. The agencies established in Haiti are responsible for the payment of the tax. They shall collect them in Haiti, and have them collected by their officers in foreign countries.

ART. 3. From and after October 1, 1897, foreign merchants established in Haiti shall pay license taxes as follows:

	Gourdes.
First. Those who do an exportation or banking trade:	
Commune of first class	400
Commune of second class	300
Commune of third class	250
Commune of fourth class	200
Commune of fifth class	150
Commune of sixth class	100
Second. Those who do an importation or banking trade:	
Commune of first class	500
Commune of second class	400
Commune of third class	300
Commune of fourth class	250
Commune of fifth class	200
Commune of sixth class	150
Third. Those who do an importation trade only:	
Commune of first class	300
Commune of second class	250
Third. Those who do an importation trade only—Continued.	
Commune of third class	200
Commune of fourth class	150
Commune of fifth class	100
Commune of sixth class	60
Fourth. Those who do not import, but purchase on the place, and do a wholesale trade:	
Commune of first class	150
Commune of second class	100
Commune of third class	80
Commune of fourth class	60
Fifth. Foreign haberdashers:	
Commune of first class	100
Commune of second class	80
Commune of third class	50
Commune of fourth class	40
Commune of fifth class	30

Sixth. Inn and restaurant keepers	80
Seventh. Coffeehouses	80
Eighth. Those who keep a coffeehouse or restaurant	140
Ninth. Those who exercise any other kind of commerce excepting that of peddler and traveling merchants, formally forbidden to foreigners	50
Tenth. Coachmen for private carriages	10
Eleventh. Traveling clerks in the town where they land	150
Twelfth. Manufacturers, establishments, and works, not foreseen by the law, owned by foreigners and by Haitians	100

Thirteenth. Machines worked by steam or compressed air or any other system for the use of manufactures, establishments, etc., shall pay—

Gourdes.		Gourdes.
Of 1 to 5 horsepower	20	Of 10 to 20 horsepower 40
Of 5 to 10 horsepower	30	Over 20 horsepower 100

Fourteenth. The employees of fabrics, telephones, submarine telegraphs, and all other societies of transmission	50

ART. 4. The license granted to a foreigner to exercise any commerce or industry shall henceforth be indefinitely valid without there being any need of renewing it each year. Nevertheless the chief of state may revoke the license at any period in case of nonpayment of tax, of smuggling, or of political acts on the part of the foreigner.

* * * * * * *

ARTICLE 1. The laws of October 24 and 30, 1876, on the administration of direct taxes, assessment of tenant, and license taxes are prolonged for the exercise 1897–98, with the following modification bearing on the tariff annexed to that of October 30, 1876.

The quota of license of foreigners employed as clerks or any other service of merchants, tradesmen, manufacturers, or artisans, either natives or foreigners, is modified as follows:

	Gourdes.		Gourdes.
First class	75	Fourth class	40
Second class	60	Fifth class	35
Third class	50	Sixth class	30

ART. 2. The secretaries of state for finance and of commerce and of the interior are charged in that which concerns them with the execution of the present law.

* * * * * * *

ART. 5. Article 18 of the law of 1876 on taxes shall be applied in its form and tenor. However, the communal magistrates have the faculty of requesting the justice of peace, and, in his place, the communal police, assisted by two witnesses, to closing up of any establishment, foreigner or Haitian, who shall not have paid his license within the lawful delay.

A minute of the procedure shall be drawn up on the spot.

ART. 6. In the forty-eight hours of the operation the proprietor of the said establishment shall give a citation to the receiver of the commune before the court of the justice of peace of the section, who shall decide.

ART. 7. If the merchant is found guilty, the judge shall maintain the closing and condemn the proprietor, as is said in article 18 of the law of 1876 on direct taxes.

ART. 8. If the citation is not made within the forty-eight hours, the justice of peace, by the simple presentation of the communal receiver of the minute mentioned in article 5, shall maintain the closing of the establishment and condemn the dilatory, as it has just been said.

The judgments obtained against the contributors are not susceptible to opposition and shall be executed without delay and immediately.

[Inclosure 2 in No. 35.]

Haitian clerks pay no license tax.

Consignees, Haitians, pay as follows:

	Gourdes.		Gourdes.
First class	150	Third class	100
Second class	125	Fourth class	75

Haitians, merchants, importers:

First class	60	Fourth class	30
Second class	50	Fifth class	20
Third class	40	Sixth class	15

ART. 18. Licenses should be taken out each year, from the 1st of October to the 15th of November at the latest.

Every person liable to pay a license, who shall not have taken out a license five days after the delay fixed shall, on being denounced by the communal receiver, be condemned by the justice of peace to a fine of 50 cents for each day of delay and 10 per cent of the amount of the license that they should have taken.

The fine, as well as the amount of the license and the expenses incurred, if not paid forty-eight hours after condemnation, seized by office by the justice of the peace on the goods, products, furniture, and whatsoever effects belonging to the delinquent. The objects thus seized shall be, with short delay, sold at public auction up to the value of the amount to be collected without prejudice to [illegible] No 36 of the penal code touching arrestation.

Mr. Sherman to Mr. Powell.

No. 34.] DEPARTMENT OF STATE,
Washington, October 11, 1897.

SIR: I have received your dispatch No. 35, of the 24th ultimo, transmitting copy of a law recently enacted by the Haitian Chamber of Deputies, to take effect October 1, 1897, which authorizes the levying of discriminatory taxes upon foreign merchants, clerks, etc., in Haiti.

Under this law foreign merchants are to be subjected to a tax many times greater than that imposed upon native merchants. No license or tax is required of Haitian clerks. You state that it is intended to enforce this law rigidly. American citizens in business and having large capital invested in Haiti have asked the protection of this Government. You request instructions.

This is by no means the first attempt which has been made by the Haitian Government to increase its revenues by discriminations against foreigners. (See Mr. Bassett to Mr. Fish, dispatch No. 428, of February 17, 1876; Mr. Fish to Mr. Bassett, instruction No. 261, of March 13, 1876; Mr. Durham to Mr. Gresham, dispatch No. 235, of August 28, 1893, and Mr. Gresham to Mr. Smythe, instruction No. 7, of November 27, 1893.)

In the case first mentioned, when a decree had been promulgated by the Haitian Executive, subjecting foreign merchants, etc., to the payment of a license not required of Haitians, Secretary Fish, in instructing our minister, said:

> The Department is clearly of opinion that the fifth article of the treaty between the United States and Haiti of the 3d of November, 1864, was intended to protect and should protect our citizens from any discriminations in matters of trade to the advantage of Haitian citizens. Consequently, we can not acquiesce in the license law or decree to which your dispatch refers. If, therefore, there should be any attempt to apply such a law to citizens of the United States, you will protest against it, and will, in the name of your Government, claim from that of Haiti the damages which may be sustained in consequence of the contribution which the license would require.

In 1893 our minister called the attention of the Department to a bill pending in the Haitian Chamber of Deputies, the purpose of which was to levy a personal tax on aliens in addition to other business taxes to which they were subjected in common with native Haitians. In an instruction to your predecessor, Mr. Smythe, Secretary Gresham said:

> From every point of view, so far as citizens of the United States established in business in Haiti are concerned, the proposed act appears to violate the reciprocal equality of treatment stipulated by international treaty, and should be so dealt with by you in the event that it becomes a law and an attempt is made to apply it to citizens of the United States.

Article 5 of the treaty referred to above expressly declares that citizens of the United States in Haiti shall not be compelled "to pay any contributions whatever higher or other than those that are or may be paid by native citizens."

In my opinion the law, a copy of which you inclose in your dispatch, is in direct contravention of this provision of the treaty. You will acquaint the Haitian Government with the views of this Government, and if any attempt is made to enforce the law against citizens of the United States, you will protest in the name of your Government and report the facts to the Department.

Respectfully, yours, JOHN SHERMAN.

Mr. Powell to Mr. Sherman.

No. 59.] LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, October 28, 1897.

SIR: I have called the attention of the Department in a previous communication (dispatch No. 35), in reference to the tax imposed by the Government upon foreigners not having native clerks. Since that dispatch (No. 35) was written, Messrs. Weymann & Co. have lodged with the legation a protest upon the imposition of this tax, claiming it

is in violation of section 5 of our treaty with Haiti. They have called upon me in regard to this matter. I have recommended them to pay under protest rather than to have their goods seized and sold, to satisfy this claim, and to be thus inconvenienced in their business, and to file a copy of such protest with me. I call attention of the Department to dispatch No. 428, dated February 17, 1876, during the time that Mr. E. B. Bassett was acting as minister resident, etc., in which he was instructed in No. 261, of March 13, 1876, by the honorable Secretary, Hamilton Fish, "that such license law was illegal; you will protest in the name of your Government against it and claim from that of Haiti, etc."

The questions at present at issue are, and which the Department will favor me with instruction:

First. Under the treaty are American citizens compelled to pay a tax for clerks in their employ not Haitians?

Second. After having paid said tax for a year, are they compelled to pay for the same period of time already paid on account of a recent law enacted by the legislative branch of the Government? If this right be granted, any subsequent legislature may raise such a tax two or three times a year, or whenever they may meet in regular or extraordinary session. I feel that these questions should be settled for all time.

I have, etc.,

W. F. POWELL.

[Inclosure 1 in No. 59.]

Ch. Weymann & Co. to Mr. Powell.

PORT AU PRINCE, *October 15, 1897.*

SIR: We have the honor of informing you that we have this day paid under protest the amount of $75 for the patent of each of our foreign clerks to the municipal board of this city.

Inclosed we beg to hand you copy of the letter we sent to the mayor on this subject.

We have the honor to remain, etc.,

CH. WEYMANN & CO.

[Subinclosure.]

Ch. Weymann & Co. to the Mayor.

PORT AU PRINCE, *October 15, 1897.*

SIR: Herewith we beg to hand you the sum of $75, being the amount of additional taxes you claim on our three foreign clerks, which we pay under protest.

At the same time we beg to inform you that we have laid our claim before the American minister.

We have the honor to remain, etc.,

CH. WEYMANN & CO.

[Inclosure 2 in No. 59.]

Ch. Weymann & Co. to Mr. Powell.

PORT AU PRINCE, *November 22, 1897.*

DEAR SIR: Confirming our conversation of this morning, we now beg to state that we have been established here in Port au Prince since

1877, doing a general import and export trade and banking business.

As to the extent of the trade we do with the States, we beg to say that our turnover with our New York agents since January, 1897, has been $333,000.

We remain, dear sir, etc., CH. WEYMANN & CO.

[Inclosure 3 in No. 59.]

ARTICLE 1. The laws of October 24 and 30, 1876, on the administration of direct taxes, assessment of tenant and license taxes are prolonged for the exercise 1897-98, with the following modification bearing on the tariff annexed to that of October 30, 1876.

The quota of license of foreigners employed as clerks, or any other service of merchants, tradesmen, manufacturers, or artisans, either natives or foreigners, is modified as follows:

	Gourdes.		Gourdes.
First class	75	Fourth class	40
Second class	60	Fifth class	35
Third class	50	Sixth class	30

ART. 2. The secretaries of state for finance and of commerce and of the interior are charged in that which concerns them with the execution of the present law.

ART. 5. Article 18 of the law of 1876 on taxes shall be applied in its form and tenor. However, the communal magistrates have the faculty of requesting the justice of peace, and in his place the communal police, assisted by two witnesses, to closing up of any establishment, foreigners or Haitian, who shall not have paid his license within the lawful delay.

A minute of the procedure shall be drawn up on the spot.

ART. 6. In the forty-eight hours of the operation the proprietor of the said establishment shall give a citation to the receiver of the commune before the court of the justice of peace of the section, who shall decide.

ART. 7. If the merchant is found guilty, the judge shall maintain the closing and condemn the proprietor, as is said in article 18 of the law of 1876 on direct taxes.

ART. 8. If the citation is not made within the forty-eight hours, the justice of peace, by the simple presentation of the communal receiver of the minute mentioned in article 5, shall maintain the closing of the establishment and condemn the dilatory, as it has just been said.

The judgments obtained against the contributors are not susceptible to opposition, and shall be executed without delay and immediately.

Mr. Adee to Mr. Powell.

No. 49.] DEPARTMENT OF STATE,
Washington, November 2, 1897.

SIR: I have to acknowledge the receipt of your No. 59 of the 23d ultimo, in relation to a tax imposed by the Haitian Government upon foreigners employing other than native clerks, your representations having particular reference to a protest filed with you by Messrs. Ch. Weymann & Co, claiming that such a tax is in violation of article 5 of the treaty of 1864 between the United States and Haiti.

The question, as you state, is not new. It was very distinctly presented in 1876, when the remarkable provisions of the Haitian law of December 15, 1875, were brought to the Department's attention. That law, which, not having been agreed upon by the Haitian Chamber, was put in operation by a decree, imposed numerous severe restrictions upon foreigners. By article 13 they were admitted to do business only as consignees at the open ports, and special discrimination of ten times the tax required of such foreign consignees was imposed upon any consignee of Haitian origin who should have acquired foreign citizenship. By

article 16 foreign clerks, whether in native or foreign service, were subjected to special taxes, for the payment of which their employers were to be held responsible. And so with many other vexatious restrictions and discriminations illustrative of the general character, but not specially pertinent to the present inquiry.

Mr. Fish's instruction to Mr. Bassett of March 13, 1876, No. 261, took the ground you recite—that the fifth article of the United States and Haitian treaty of 1864 was intended to protect and should protect our citizens from any discrimination in the matters of trade to the advantage of Haitian citizens, and directed due protest in case of any attempt to apply that law to American citizens in Haiti.

The decree of 1875 was followed by a law of October 27, 1876, of which a copy accompanied your No. 49 of October 12, ultimo,[1] imposing a complete system of internal-revenue taxes (impositions directes). It retained many of the objectionable features of the old laws it replaced, including, by its eleventh article, a tax according to a graduated schedule found annexed to a supplementary law of October 30, 1876, upon all foreigners employed as clerks or in any other capacity by merchants, manufacturers, or tradesmen, whether the latter be natives or foreigners, and rendering the employer responsible for the payment of the clerk's license. Under this law many international disputes have arisen, the Metzger case, with which you are now familiar, being one of the most recent and most prominent, but it is unnecessary here to discuss its particular aspects.

In 1893 your predecessor, Mr. Durham, reported (No. 235, August 28) the introduction of a bill imposing special personal license taxes on all foreigners in Haiti engaged in banking, export, or import trade, on foreign clerks employed in the same branches of business, and upon a number of other trades and businesses scheduled in the eighth article thereof. Besides these enumerated taxes, it was prescribed in the same article 8 that all foreigners exercising professions or industries not provided for by that itemized tariff and open to foreigners, should pay twice the amount of the license tax paid by Haitians in virtue of a preceding law of October 24, 1876.

Mr. Gresham, in his No. 7 of November 7, 1893, answering Mr. Durham's dispatch, characterized the proposed bill as departing wholly from the just principle of law laid down as the motive of the measure; as substituting an inequitable and discriminating treatment at variance with its declared precepts; as resulting in discrimination against our citizens, and as being contrary to the provisions of article 5 of the existing treaty, which specifically prohibits the subjection of the citizens of the United States in Haiti to "any contributions whatever higher or other than those that are or may be paid by native citizens." Mr. Gresham added: "From every point of view, so far as citizens of the United States established in business in Haiti are concerned, the proposed act appears to vitiate the reciprocal quality of treatment stipulated by international treaty, and should be so dealt with by you in the event that it becomes a law and an attempt is made to apply it to citizens of the United States." The law in question failed to pass.

Mr. Gresham's instruction, although in terms called forth by a bill which did not become a law, appears to be applicable to the present contingency, because the taxes complained of exist for the most part in the continuing law of 1876. That instruction is therefore reaffirmed. For your further government in dealing with the question the following observations may be relevant.

[1] Not printed.

So far as the liability of the employer to the tax imposed upon the clerk is concerned no discrimination is professed, native and foreign employers being alike held responsible for payment of the tax. The Department is therefore not prepared to say that an American employer having in his service a clerk of any other than American nationality, or not of a nationality whose subjects may claim exemption from the discriminatory tax imposed upon foreign clerks, could properly plead discrimination and resist payment. But if he employ an American citizen as a clerk, or a citizen of any country entitled by treaty to claim exemption from such discrimination, the transference of the discrimination to the employer, instead of the clerk, is in itself discriminatory and should be protested against. In the case of an American citizen not only is the submission of the clerk to the differential tax an infringement of his treaty right, but transference of the liability for its payment to his American employer works in effect a discrimination founded upon an initial wrong and therefore is an invalid demand, to be opposed.

The foregoing considerations answer your first inquiry as to whether, under the treaty, American citizens are compelled to pay a tax for the clerks in their employ not Haitian.

As to your second inquiry, to wit, whether an American merchant, after having paid the tax in question for a year, is compelled to pay again for the same period on account of the recent law of which you send a copy and translation, the following observations may be made:

It is noted that the new law of September 15, 1897, in the printed form you send, only comprises two articles, the first modifying the tax upon foreign clerks of different classes already imposed by the existing law of 1876, and the second charging the secretary of state, finance and commerce, and the interior with the execution thereof. Your translation adds certain articles numbered 5, 6, 7, and 8 prescribing the procedure to be followed in case of delinquency. These, however, are matters of detail not material to the point. So far as an American clerk is concerned, the fact of a discriminatory tax constitutes the sole ground of protest because contrary to treaty, and it follows that any legislation modifying the tariff of the tax, or retroactively collecting it from him or from his American employer, in addition to taxes already paid, is open to protest on precisely the same treaty ground as the original tax to which your first inquiry refers.

As to the protest of Messrs. Ch. Weymann & Co., the Department is unable to instruct you, in the absence of proof that the protestants are citizens of the United States or that the three foreign clerks, in respect to whom the tax is laid, are American citizens, or are dependents of a State entitled by treaty to have its citizens or subjects exempt from contributions not equally imposed upon natives. If the clerks or any of them, belong to the latter class, good claim for the protection of their own government would seem to lie, without prejudice to the concurrent right of the American employer to protest on the ground that he is burdened with a vicarious tax, in itself illegal. This, however, can only be stated in a general way; the particular case can not be considered as an international reclamation unless a full showing of all the facts and circumstances be submitted under oath for the Department's consideration.

Respectfully, yours, ALVEY A. ADEE.

Mr. Powell to Mr. Sherman.

No. 85.] LEGATION OF THE UNITED STATES,
Port au Prince, November 16 [October 16], 1897.

SIR: I have the honor to state in answer to dispatch No. 49, dated November 2, 1897, that in accordance with instruction received by last mail—dispatch No. 34, dated October 11, 1897—I addressed to the secretary of state, the Hon. Solon Menos, a protest against the payment of the license tax imposed by the Government upon Ch. Weymann & Co., for the clerks in his employ, a copy of which I forwarded to the Department by last mail.

I see from instruction received in dispatch No. 49, that I have erred in sending such protest, as the clerks for whom the firm has paid this license are not Americans. The members of this firm are all Americans, and by the law pay this tax that is required of their clerks to the Government. The Department can see that in referring to Department's dispatch No. 34, dated October 11, 1897, after referring to the action taken by former Secretaries of State, occurs the following: "You will acquaint the Haitian Government with the views of this Government, and if any attempt is made to enforce the law against citizens of the United States, you will protest in the name of your Government and report the facts to the Department."

In dispatch No. 49, November 2, 1897, the Department defines in what cases a protest shall be entered, the proof necessary to be taken, such proof to be under oath or affirmation of the party so making it, as to his nationality or citizenship, all of which is to be submitted to the Department before the same can be "considered an international reclamation," before a protest shall issue from this legation. In dispatch No. 34 my instructions are not thus defined, but are made mandatory, as can be seen by referring to the concluding sentence of that dispatch. I am thus placed in a dilemma. If I withdraw this protest, I shall weaken all future claims that may be made by me to the Government of this Republic. If I do not withdraw, in the face of these instructions conveyed in dispatch No. 49, I am clearly disobeying the orders of the Department.

I have, etc., W. F. POWELL.

Mr. Day to Mr. Powell.

No. 64.] DEPARTMENT OF STATE,
Washington, December 2, 1897.

SIR: I have received your No. 85, of November 16 (misdated October 16), in relation to the note you addressed to the Haitian secretary of foreign affairs on November 11, protesting, on stated grounds, against the tax levied upon certain American merchants in Haiti because of their employment of foreign clerks. Copy of that note had already been received with your No. 81, of November 12, and on reading it the Department inferred that you had written it before the receipt of my instruction No. 49, of November 2, in relation to the character and effects of the tax in question—inasmuch as your argument followed the general lines of my previous instruction No. 34, of October 11, in regard to discriminations against foreign merchants as compared with Haitian merchants doing the same kind of business, and made no reference to the later instruction which dealt with the specific discriminations

against foreign clerks as compared with Haitian clerks. The correctness of this inference is confirmed by your present dispatch No. 85.

I appreciate the difficulty you have experienced in interpreting the diverse conclusions of those two instructions, Nos. 34 and 49, treating as they did of distinguishable classes of complaint, which although alike based upon obvious violation of the treaty rights of our citizens in Haiti, were separable as relating in the one case to discrimination against the trade of the foreign merchant and in the other to the discrimination against the employment of foreign clerks by any merchant. Indeed, when my instruction No. 34 was penned, the Department hardly possessed sufficient data to enable it to intelligently differentiate these two classes of treaty violation. The text of the Haitian law of October 27, 1876, which accompanied your No. 49, of October 12, 1897, touching Mr. Metzger's case, and which was not received here until October 27, supplied the necessary information and led to a connected study of the whole subject.

My instruction No. 34, of October 11, dealt with the facts presented in your No. 35, of September 24, and properly instructed you in respect to the tax levied upon foreign merchants, which you reported to be "many times greater than that imposed upon native merchants." The protest you addressed to Mr. Solon Menos on November 11 correctly applies that instruction to the case you state, namely, that there is "a tax levied upon American merchants higher than that imposed upon Haitian merchants in conducting their business," and such being the case, you correctly referred to the position heretofore taken by this Government in reference to the course of the Haitian legislation in "enacting a higher tax upon American merchants * * * when such tax was different from that imposed (upon) or paid by the Haitian merchant." If, as may very possibly be, our merchants in Haiti suffer such discrimination, your protest is sound as a general proposition, although precise instances thereof be not adduced. It would be well to report to the Department the facts of any such discrimination as they come to your knowledge.

Your error, if it may be so termed, lay in coupling the matter of the license fee levied upon foreign clerks with the general question of discrimination against foreign merchants. As shown in my No. 49, of November 2, the foreign clerks' license tax is peculiar and anomalous, in that, while directly discriminating against all foreign clerks, it is vicariously collected of the merchant employing such clerks, whether the merchant be a Haitian or a foreigner. At least, that is the prescription of article 11, of the law of October 27, 1876. The Department is not advised of any subsequent modification of the law or relaxation in its enforcement whereby such foreign clerk tax is only collectible from foreign employers. If this, however, be the case, your protest of November 11, 1897, rests on sound premises throughout. You should report upon this point.

I see at present no need of withdrawing or modifying your protest of November 11. It is for the Haitian Government to meet your statements and arguments. If the Haitian reply should be confined to the specific question of the foreign clerks for whose license fee Messrs. Ch. Weymann & Co. are held responsible, and should allege that a Haitian merchant in the like case would be similarly and equally burdened, further discussion may turn upon the discrimination against foreign clerks themselves, for as to this point good ground of specific protest would subsist if those clerks (who you now state are not American citizens) should be citizens or subjects of a power entitled by treaty to

the most-favored-nation treatment in this regard, inasmuch as the positive rights of American citizens could be invoked by way of equal favor in their behalf. As said in my No. 49, of November 2, if the employed clerk be an American citizen, or a citizen of any country entitled by treaty to claim exemption from the discrimination in question, transference of the discrimination to the American employer by making him liable for the payment of the tax "works in effect a discrimination founded upon an initial wrong, and, therefore, is an invalid demand, to be opposed."

In the absence, however, of a full showing of all the facts and circumstances of the cases which originated your protest, giving the information which the concluding paragraph of my No. 49 invited you to furnish, the Department is unable to instruct you definitely touching your further treatment of the matter, and the more so as the character and arguments of the Haitian reply to your note of November 11 can not well be foreseen.

It would seem better, on the whole, that you let your protest stand, and that, on receipt of the Haitian reply, you merely transmit it to the Department for instructions, acknowledging it meanwhile and stating that you have so referred it. This will give ample opportunity for examination and decision, and the Department's rejoinder can be so phrased that you may simply communicate it by reading and leaving copy, if that course be deemed proper.

Respectfully, yours,

WILLIAM R. DAY.

CAMPBELL CLAIM.

Mr. Moore to Mr. Léger.

No. 13.] DEPARTMENT OF STATE,
Washington, May 3, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 25th ultimo in which you state the result of your conferences with the Solicitor of this Department in regard to the claims of Bernard Campbell against the Government of Haiti.

In reply, I have the honor to say that the Solicitor has made his report of the negotiations with you, showing that the claims of Bernard Campbell against the Republic of Haiti has been adjusted by the agreement of Haiti to pay to the United States legation at Port au Prince $10,000 in American gold, to wit, $5,000 June 1, 1898, and $5,000 June 1, 1899, with 6 per cent interest from June 1, 1898. The report further shows that you, in making this settlement, stated that it should not be taken as an admission that the assault on Campbell was committed by order of the supreme authority of Haiti, while the Solicitor maintained that the evidence on which the claim was founded proved that the assault was committed by common soldiers in consequence of threats made against Campbell's life by the captain of the Haitian war ship in which he refused to accept service.

* * * * * * *

An instruction will be sent to our minister to Haiti in conformity with the foregoing report of the result of the negotiations, which is approved by the Department. While there is some slight discrepancy between your note and the Solicitor's report as to all that was said in

the course of the negotiations, this does not affect the substantial adjustment so happily agreed on, on the foregoing terms, and I join with you in felicitations on the happy solution arrived at.

Accept, etc.,

J. B. MOORE,
Acting Secretary.

Mr. Léger to Mr. Sherman.

LEGATION OF HAITI,
Washington, April 25, 1898.

Mr. SECRETARY OF STATE:

Referring to the last interview which I had on the 22d instant with Mr. W. L. Penfield, Solicitor of the Department of State, I have the honor to inform you that we have been able to reach an understanding on the following points:

1. The Campbell case: In his dispatch addressed to Mr. Smythe, under date of May 2, 1896, Mr. Olney admits that the attack of which Campbell complains was made suddenly and without premeditation. Mr. Penfield has likewise admitted that the authorities of the Cape had not given orders to maltreat Campbell on account of his refusal to enter the service of Hyppolite. The ill treatment which that American citizen claims to have suffered was therefore the result of a purely accidental conflict.

Nevertheless, the Government of Haiti, desiring above all to maintain cordial relations with the United States, consents to pay the sum of $10,000 for the settlement of this case in full. This amount, after it shall have been appropriated by the legislative body, will be paid in two installments to the United States legation at Port au Prince, viz, $5,000 on the 1st day of June next, and $5,000 on the 1st day of June, 1899; the balance remaining due after the first payment ($5,000) will bear interest for the year at the rate of 6 per cent.

* * * * * * *

I should be obliged to you if you would inform me whether we are agreed as regards the foregoing, and, congratulating myself on the happy settlement of the slight difficulties that existed between Haiti and the United States,

I gladly avail myself, etc..

J. N. LÉGER.

Mr. Powell to Mr. Day.

No. 298.] LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, June 13, 1898.

SIR: I respectfully transmit draft in favor of Secretary of State on Messrs. Lyon & Co. for $4,950.50 received by me from the Haitian Government as the first payment on the Campbell claim.

I have, etc.,

W. F. POWELL.

TAXES ON AMERICANS REMOVED.

Mr. Powell to Mr. Sherman.

No. 242.] LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, May 5, 1898.

SIR: I am glad to inform the Department that a question which has been attended with considerable correspondence in regard to certain privileges and rights that should be enjoyed by American citizens in business, or employed as mechanics, workmen (artisans), or clerks, and which was denied to them under what was known as the patent or license act, has been definitely and satisfactorily adjusted in our favor, as will be seen by the inclosed correspondence. All that I have claimed from this Government in the adjustment of this question has been conceded, so that this question, which has been pending for a period of thirty years, is forever removed from the arena of diplomatic controversy.

In the satisfactory adjustment of this question opens to us greater benefits than the most sanguine could expect; by it all barriers are removed, and places the American citizen, in whatever business he may be in, upon an equal footing with Haitian citizens in like business. * * *

I have agreed that no demand will be made by my Government for a refunding of the money paid for patents or licenses prior to August 30, 1897, at which time my letter was filed with them.

We have here nearly 1,000 American citizens, 500 of whom are in business. They pay an average patent or license tax of $50,000 yearly, and for the twenty years this law has been in effect about $1,000,000 has been paid into the Haitian treasury. * * *

All avenues of business and trade are open to our citizens, they being, by the adjustment made, placed upon an equal footing with Haitian citizens. * * *

I trust the Department will indorse the action I have taken in bringing about a happy solution of this matter.

I have, etc.,

W. F. POWELL.

[Inclosure 1 in No. 242.]

Mr. Powell to Mr. St. Victor.

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, April 30, 1898.

SIR: Your dispatch received by me to-day was a surprise and, I frankly say to you, a serious disappointment. I thought from the interview held at your residence yesterday everything was amicably settled and arranged. I felt so certain in regard to this that I had prepared a dispatch to my Government covering our correspondence, stating that after a period of twenty years, after an unlimited correspondence, this question had at last been settled. Through the views expressed by yourself, I thought we had arranged to forever remove this question of contention which was at any time apt to involve the Governments of the two Republics in unhappy results.

You state that my dispatch to you of yesterday has caused you to halt in concluding this matter; that you did not consider the case of Mr. Metzger should be considered in this measure. There is where I think you are wrong; you are confounding two matters in one. I have claimed in all my dispatches in regard to this case, both to yourself and to your predecessor, Mr. Menos, in my dispatch to him of August 31, 1897, No. 9, that our rights under the treaty were violated when the commune sought to make Mr. Metzger pay a license for workman that was not required under the communal law of Haitian workmen. I have rightfully claimed from that

date to the present the commune had no such right. If this right be conceded to them to so violate treaty stipulations as well as treaty rights, then I should consider the authority of the commune to be paramount to the national laws of the Republic. If this be taken as the true interpretation of this law, then my Government has made a serious error in not recognizing the commune as the supreme body, and the national authority as being but secondary to it. Further, that all treaties should have been made with it; that my Government should have accredited its representatives to it instead of to his excellency.

You can thus see, to admit such a construction, the peculiar position in which your Government would be placed. I have contended and I think fully shown to you, both in dispatches and in interviews held, the falsity and absurdity of such view, to which you yourself I thought had agreed.

I think your error, if it may be called an error, lies in this. Mr. Metzger's case, while primarily bearing upon the rights of American citizens under the treaty, and in the violation of those, is a separate matter entirely. In Mr. Metzger's case a claim is made to an unwarrantable seizure of goods, to an illegal sale of the same, and to the stoppage of his business, wherein he claims he has suffered serious loss and damage.

The question now pending between us is our rights under the treaty in taxation imposed. The unjust discrimination shown in compelling American citizens to pay a higher rate for such patents or license does not settle this case, except where it bears upon the principle whether a tax or license should have been collected.

The question of reimbursement of damages for losses or injuries sustained are questions yet to be settled when this case is reached.

I trust, Mr. Minister, you can see the difference in these cases, and that you will adhere to our agreement made at the recent interview I allude to. In so doing you will happily bring our countries in accord the one with the other.

Accept, Mr. Minister, my high regard and esteem.

I have, etc. W. F. POWELL.

[Inclosure 2 in No. 242.—Translation.]

Mr. St. Victor to Mr. Powell.

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, April 29, 1898.

MR. MINISTER: Permit me to express to you the astonishment caused me by your letter of April 27, No. 97, after the entirely friendly interview that we had had the morning of the same day.

It had been agreed between us that I should answer your letters of the 15th and 25th of April, current, when you should have confirmed, by your answer to my dispatch of the 25th of this month, the promise by which your Government engages itself not to return to the question of the contributions paid by your citizens in Haiti up to the date of September 30, 1897.

By your letter of April 26 you have kindly done so; with the exception of a slight difference in the date at which the attention of my predecessor was called to the interpretation of Article V of the treaty, our interview was confirmed. My answer was ready and I was going to sign it when your letter of April 27 reached me.

By that dispatch I have the regret to find that your legation has confounded two distinct things—the "Metzger" claim and the interpretation of Article V of the treaty of 1864.

In the Metzger affair it is a question of knowing whether the commune had the right to assimilate the workmen of the establishment of Mr. Metzger to foreign clerks, in exacting of them the license that is claimed of foreign clerks, and if the seizure made at the place of the patron of these workmen for what the latter owed was legal or not.

It seems to me that this question does not relate in anywise to the question of the interpretation of Article V of the treaty from the point of view of the equality of taxes between Haitians and the citizens of the United States. In an interview that we had at the time at your legation I set forth the difference that exists between these two cases.

I hope that your legation will kindly recognize that these two questions are distinct one from the other, and I am obliged to refer you to my dispatch of February 4, where it is exclusively question of the Metzger claim.

Accept, etc., B. ST. VICTOR.

[Inclosure 3 in No. 242.]

Mr. Powell to Mr. St. Victor.

No. 101.] LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, May 4, 1898.

SIR: I cordially acknowledge the receipt of your communication announcing that from August 31, 1897, the Government of Haiti would not require from American citizens any higher tax than that required of Haitian citizens, either in business as merchants or as workmen.

I am more than glad that this question of patents and licenses, which has resulted in a large correspondence between the representatives of our respective Governments for the past twenty years, has at last received a definite and complete settlement for all time, and to extend to you my compliments for the personal efforts you have made to attain this result.

I inclose certain letters to you which will explain themselves.

Accept, Mr. Minister, my sincere as well as my deep regards.

I have, etc.,

W. F. POWELL.

[Subinclosure 1 in inclosure No. 3.]

Messrs. Weymann & Co. to Mr. Powell.

PORT AU PRINCE, *May 4, 1898.*

DEAR SIR: We beg to acknowledge receipt of your notification that in future all fees paid in Haiti for patents, etc., by American citizens shall in all respects be the same as those paid by Haitians; that this ought to be in force since August 31, 1897, in accordance with the existing treaty between the United States and Haiti; and that, in consequence, the surplus amount paid by us last year under protest would be refunded us should we insist upon it.

Considering the unfortunate financial position of the country at the present time, we do not desire to press this claim, and herewith waive all claim to repayment of such amounts.

We beg to tender you our best thanks for all the trouble you have had in this matter, and remain, dear sir, yours, etc.,

CH. WEYMANN & CO.

[Inclosure 4 in No. 242.—Translation.]

Mr. St. Victor to Mr. Powell.

MR. MINISTER: I have the honor to acknowledge receipt of your letters of the 15th and 25th April, bearing numbers 38 and 94.

Under cover of the first you have kindly transmitted to me a copy of the instructions that you have received from the honorable the Secretary of State, Mr. John Sherman, touching article 5 of the treaty of 1864. By the second you request me to make to you in due time an answer definitely transmitting the sentiments and views of my Government on the subject of the license question.

In the first place, I can not prevent myself from rendering a brilliant justice to the spirit of conciliation of which you have given precious testimony in inviting Messrs. R. Nortz and Ch. Weymann to pay over their respective license to the funds of the commune, up to the settlement of the question. (Dispatch of November 11, 1897, to Mr. Menos.) It is impossible to better make us feel the full price that you attach to the maintenance of the friendly relations that have always existed between our two countries. My Government, in the same spirit of understanding, believes to respond to the national desire in saying to you that its intention is to bind closer our commercial and political relations, the more so as, to arrive at this, it will not fail to propose in seasonable time a modification of the treaty of 1864, of which the imperfection revealed itself at the time of the extradition of the American citizen George Grant. It imports, in fact, that by additional articles or by a supplementary convention we may know precisely the real bearing of certain stipulations or fill up the gaps that have escaped the negotiators.

In the meantime I have the honor to bring to your knowledge that my Government gives its adhesion to the interpretation of article 5 of the Haitian-American treaty of 1864, in the sense indicated by the Government of the United States of America.

The American citizens residing in Haiti shall pay in the future the same taxes as the Haitians. It is well understood that this adhesion in no wise alters the promise made in your letter of April 26 last, No. 95, by which you informed me that the Government of the United States of America will not demand the reimbursement of the contributions paid for license by Americans to the communal funds up to August 19, 1897.

Allow me to profit the occasion, Mr. Minister, to renew to you the assurances of my high consideration and of my personal esteem.

The secretary of state for foreign relations:

B. ST. VICTOR.

[Inclosure 6 in No. 242.]

Mr. Powell to Mr. St. Victor.

PORT AU PRINCE, HAITI.

MY DEAR MR. MINISTER: Mr. Battiste has just informed me of your recent visit to the legation and that I attributed to you certain statements in a recent dispatch that you had never made. I therefore, as soon as my attention was called to the same, desire on my part to remove from your mind any such thought. Unfortunately, it seems to me that my letters to you are distorted. If you will refer to dispatch No. 9, written to Mr. Menos, you will find the language there you complain of that I allude to you as you think.

In presenting the case of Mr. Metzger to your Government, Mr. Menos stated to me that it was a question in which the National Government could not interfere; that the commune acted under such special laws, which governed the case of Mr. Metzger, that the only redress open to him was through the local courts. In my reply to Menos I used this language: That my Government could not accept such; to do so would be to make the commune above the national authority; if such was the case, then my Government erred in making a treaty or sending a representative to be accredited to His Excellency, but rather should have made such treaty with the commune, etc.

This letter refers entirely to the view held by Mr. Menos at the time and at the commencement of our correspondence, and could in no wise reflect upon you at this time. Our intercourse in regard to Mr. Metzger has been in an entirely different vein, so that any of the previous correspondence could not in the least reflect upon you.

I trust to make my letters plain always to you, and at no time seek to take an unfair advantage, nor to impute to you that which you have not said.

Do me the justice to recall my letters and construe them as I send them. In so doing, such an unfortunate occurrence could not take place.

I am, etc.,

W. F. POWELL.

ITALY.

CERRUTI AWARD.[1]

PROTOCOL.

The Government of the Kingdom of Italy and the Government of the Republic of Colombia desiring to put an end to the causes of disagreement which have arisen between them out of the claims of Mr. Ernesto Cerruti against the Colombian Government, for losses and for damages to his property in the State (now department) of Cauca in the said Republic, during the political troubles of 1884, and, further, desiring to justly settle the said claims;

His excellency, Baron Blanc, minister of foreign affairs of His Majesty the King of Italy, on the one hand, and Mr. José Marcellino Hurtado, envoy extraordinary and minister plenipotentiary of the Republic of Colombia to His Majesty the King of Italy, on the other hand, who are duly authorized by their respective Governments, have signed this protocol, subject to the approval of the Congress of Colombia, to which it shall be submitted at the present session.

The Italian Government and the Colombian Government agree to submit the aforementioned matters and claims to arbitration for the purpose of arriving at a systematization of the same in as far as they are pending between the two governments.

To this effect as soon as this protocol shall have been approved by the Congress of Colombia, they shall join in asking His Excellency the President of the United States of America to be pleased to accept the office of arbitrator in this case, and to perform the relative duties, as a friendly act toward both Governments.

As soon as the arbitrator, by accepting this office, shall have acquired title to enter upon his functions, he will be invested with full power, authority, and jurisdiction to do and to perform and to dispose that everything, without any limitation whatever, that in his own judgment may be necessary or conducive to the accomplishment in a right and just manner of the aims and the purposes which the present agreement is intended to secure shall be done and performed.

And he shall therefore proceed to examine and to decide, according to the documents and proofs which may be submitted to him by each of the two Governments, or by the claimant as one of the parties interested in the suit, and to the principles of public law, in the first place, which, if any, of the said claims of Mr. E. Cerruti against the Colombian Government form a claim or claims within the competence of an international judgment; and, in the second place, which, if any, of the claims of Mr. E. Cerruti against the Colombian Government form a claim or claims within the competence of the territorial courts of Columbia.

And as to what concerns the claim or claims, if there should be any, which in the judgment of the arbitrator shall have the character and shall belong to the first order of claims above defined, the arbitrator will proceed to determine and to declare the amount of the indemnity, if any, should be due to him, which the claimant, Mr. Cerruti, may have

[1] See Colombia, p. 245 (1).

the right to receive from the Colombian Government through diplomacy. And as to what concerns the claim or claims of Mr. E. Cerruti, if there should be any, which in the judgment of the arbitrator shall have the character and shall belong to the second order of claims defined, the arbitrator shall declare them such, and shall take no further action in the matter of such claim or claims.

The claims to which this protocol refers shall be presented, together with the documents and proof in their support, to the arbitrator and be submitted to him not before six calendar months nor after seven calendar months from and after the date of the acceptance of the office of arbitrator by His Excellency the President of the United States of America.

Each one of the two parties interested in the suit shall defray the expenses incurred by its individual authorization and in its interests; but all the expenses incurred by authorization or with the sanction of the arbitrator for the purpose of conveniently discharging his functions or duties, or for the advantage of both parties interested in the suit, shall be borne in equal parts by both.

The two Governments solemnly bind themselves to abide by the decisions of the arbitrator, which shall be final and conclusive and not subject to discussion or appeal. And they also agree not to reopen diplomatic negotiations or discussions on any point or points on which the arbitrator may have decided or settled, or which he may declare to have already been settled according to public law; nor upon any claim or claims of Mr. E. Cerruti which the arbitrator may declare to have an internal and territorial character.

In witness whereof his excellency, Baron Blanc, minister of foreign affairs of His Majesty the King of Italy, and Mr. José Marcellino Hurtado, envoy extraordinary and minister plenipotentiary of the Republic of Colombia to His Majesty the King of Italy, affix their signatures to the present protocol, at Castellamare di Stabia, on the 18th of August of the year 1894.

[L.S.] A. BLANC.
[L.S.] J. M. HURTADO.

The minister of foreign affairs to the ambassador of the United States of America in Rome.

ROME, *January 30, 1895.*

MR. AMBASSADOR:

Between the Kingdom of Italy and the Republic of Columbia, by a protocol signed at Castellamare the 18th of August, 1894, it has been agreed to decide by arbitration the controversy existing for many years between the Italian citizen Mr. Cerruti and the Colombian Government, and to entrust the high office of arbitrator to His Excellency the President of the United States of America.

That international agreement has been regularly approved and accepted by the contracting Governments, and the time has now come to carry it out. Together therefore with the Hon. Marcellino Hurtado, envoy extraordinary and minister plenipotentiary of Colombia, for this purpose duly authorized by his Government, I have the honor of asking your excellency to be pleased to send to His Excellency the President of the Confederation the official request, which I formulate in the name of the Government of His Majesty the King of Italy, to accept the position of arbitrator which has been conferred on his excellency by the two high contracting parties.

Herewith enclosed I send your excellency an authentic copy of the text of the said protocol and its translation into English, begging you to send them to his excellency the arbitrator selected, together with three copies of the Italian text, which I enclose in case they should be needed.

In expressing the hope that His Excellency Mr. Cleveland will receive our request as a new proof of the sentiments of friendship and of high esteem of the Government of His Majesty the King of Italy, I beg your excellency to make known to me, at your convenience, the answer of His Excellency the President of the United States, while thanking your excellency in advance for your kind intervention, I take the occasion, etc.

BLANC.

The ambassador of the United States of America in Rome to the minister of foreign affairs of Italy.

ROME, *March 30, 1895.*

YOUR EXCELLENCY:

I have the honor to refer to my note of the 1st of March, addressed to your excellency, and to enclose herewith, in confirmation of the information, which I then had the pleasure of transmitting, a copy of the note which I have received from the Department of State, announcing the acceptance by the President of the United States of the joint invitation of the Governments of Italy and Colombia to arbitrate between them in regard to the claims of one Ernest Cerruti.

I have, etc.,

WAYNE MACVEAGH.

IMPORTATION OF FRESH MEATS.

Mr. Sherman to Mr. Draper.

No. 121.] DEPARTMENT OF STATE,
Washington, March 8, 1898.

SIR: I inclose copy of a letter from the Secretary of Agriculture, transmitting a copy of one from the Armour Packing Company, of Kansas City, Mo., asking whether there are any restrictions governing the importation of fresh meats into Italy, and whether they can be shipped in bond through Genoa into Switzerland.

He also requests information as to the Italian duties on meats.

The Department will be glad to have a report which will serve to answer the inquiries.

Respectfully, yours,

JOHN SHERMAN.

Mr. Draper to Mr. Sherman.

No. 144.] EMBASSY OF THE UNITED STATES,
Rome, Italy, March 26, 1898.

SIR: I have the honor to acknowledge the receipt of your instruction No. 121, of March 8, with letters from the Secretary of Agriculture and

the Armour Packing Company, on the subject of the importation of fresh meats into Italy and through Italy, in bond to Switzerland; and to reply that I have made inquiries of the director-general of customs, and from him have obtained the following information:

There are no restrictions on the importation of fresh meats into Italy, beyond the requirement of an American certificate of sanitary inspection. The duty is 12 francs in gold, per hundred kilos. So far as Government regulation is concerned the meat can be sent in bond through Genoa to Switzerland.

As to the Swiss tariff and regulations I am unable to give definite information, although the copy of the Swiss tariff in my possession indicates no duty on fresh meats. I would be glad to make further inquiry on this point, if desired, but presume that this information can be obtained more easily through the Swiss mission.

I am, etc.,

WILLIAM F. DRAPER.

ABOLITION OF ITALIAN BUREAU AT ELLIS ISLAND—PROTECTION OF ITALIAN IMMIGRANTS.[1]

Mr. Sherman to Count Vinci.

No. 314.] DEPARTMENT OF STATE,
Washington, March 31, 1898.

SIR: Referring to the Department's note of May 7, 1894, and the letter addressed by the Secretary of the Treasury, on June 15, of the same year, to Baron Fava, concerning the effort to protect Italian immigrants into the United States from the evils of the padrone system, I have the honor to inclose a copy of a letter from the Secretary of the Treasury explaining that he has deemed it necessary to abolish the arrangement by which a room at the immigration station at Ellis Island, New York, was assigned to the agent designated by the Italian Government to aid in the effort above mentioned.

The arrangement will be abolished from and after April 15, proximo.

Accept, sir, etc.,

JOHN SHERMAN.

(Inclosure in No. 314.)

Mr. Gage to Mr. Sherman.

No. 15880.] TREASURY DEPARTMENT,
Washington, D. C., March 25, 1898.

SIR: In further relation to the subject of a communication to you from this Department, No. 6662, of May 4, 1894, I have the honor to state that on June 15, 1894, a letter was addressed to Baron Fava, ambassador extraordinary and minister plenipotentiary of the Italian Government at this capital, informing him that the Superintendent of Immigration has been directed to cause a room on the main floor of the immigration station at Ellis Island, New York, to be prepared for the accommodation of such persons as should be designated by the said Government for the purpose of giving aid and information to Italian

[1] See Foreign Relations, 1894, p. 367.

immigrants and to protect them from the evils of the padrone system, with the understanding that the persons so designated should give to the United States immigration officials such information as might come under their notice of infringements of the alien contract labor law.

In accordance with the terms of said letter, a room was assigned for the purposes indicated and an agent was appointed by the Italian Government, to take charge of the business thereof.

After an experience extending over nearly four years, and a painstaking endeavor on the part of the Commissioner of Immigration at the port of New York to afford every facility and aid in his power to the successful operation of the experiment, it has been found that the plan in practical operation fails utterly in accomplishing the objects for which it was designed, besides being the occasion of additional trouble and uncertainity in the administration of the immigration laws at that port.

It has been determined, therefore, to abolish the said arrangement on the 15th proximo, and I have to request that you will so inform Baron Fava.

Respectfully, yours,

L. J. GAGE, *Secretary.*

Mr. Day to Mr. Gage.

DEPARTMENT OF STATE,
Washington, March 31, 1898.

SIR: I have, by direction of the Secretary of State, the honor to acknowledge the receipt of your letter of the 25th instant, advising the Department that you have deemed it necessary to put an end to the arrangement concluded with Baron Fava, the ambassador of Italy at this capital, by which a room at the immigration station at Ellis Island, New York, was assigned to the agent designated by the Italian Government to aid in attempting to protect Italian immigrants from the evils of the padrone system.

In reply I have the honor to say that a copy of your letter has been forwarded to the Italian embassy and notice given that the abolition of the arrangement would date from April 15 proximo.

Respectfully, yours,

WILLIAM R. DAY,
Assistant Secretary.

[Telegram.]

Mr. Day to Mr. Gage.

DEPARTMENT OF STATE,
Washington, April 2, 1898.

SIR: In view of a telegram just received from Ambassador Draper, I would suggest that the order to discontinue the Italian bureau at Ellis Island, N. Y., be either suspended or revoked for a short time, as it is not desirable to provoke unnecessary feeling on the part of the Italian officials at Rome.

DAY.

Mr. Draper to Mr. Day.

No. 158.] EMBASSY OF THE UNITED STATES,
Rome, Italy, April 2, 1898.

SIR: I beg leave to inform you that this morning the minister of foreign affairs called my attention to a dispatch which he had received from his chargé at Washington, and which was substantially as follows:

That our Treasury Department had given notice that it withdrew its consent to the continuance of the Italian immigration bureau at Ellis Island, said withdrawal to take effect on the 18th of April.

This bureau, I am informed, was created to aid in the protection of immigrants against the system of "padrones," and it is also said that after four years of experience it is not considered by the Treasury Department to have attained its end. The Marquis Visconti Venosta was very much surprised and disturbed by the reception of this notice, without more definite reason being assigned and without opportunity being given for modification or explanation. He stated that if in any way the bureau was not found to operate well he would be glad to assent to any suitable modifications of its work or manner of operation. He added that he might not object to its abolition if reasons were given him a sufficient time in advance, but that a notice to quit within fifteen days, without opportunity to discuss or even understand the reasons, seemed to him at least unusual. He remarked that if the change were insisted upon in the manner above stated it would produce a disagreeable impression upon the public here.

I told him that, of course, I knew nothing of the reasons, but was sure that there could be no intention of wounding the sensibilities of a friendly nation, and that I would immediately make suitable representations to the State Department. Unless there is very important reason for the action, therefore, it seems to me wiser to propose modifications rather than to refuse to permit the bureau to exist longer; and even if its longer existence is objectionable to us, could not sufficient time be given to explain the reasons to the Italian Government?

The Marquis Visconti Venosta declared that he had supposed that the arrangement was working well; that he had no interest in the general subject of emigration different from ours; that he was anxious to act harmoniously with us in that matter; and that he had recommended to other American States the plan which he had supposed was doing so well at Ellis Island.

I telegraphed to you on this subject this afternoon and presume I shall have received reply before you have this.

I have, etc.,

WILLIAM F. DRAPER.

[Telegram.]

Mr. Sherman to Mr. Draper.

DEPARTMENT OF STATE,
Washington, April 5, 1898.

Secretary of the Treasury has suspended the order relative to Ellis Island. Hope to advise if further action during day.

SHERMAN.

Mr. Sherman to Count Vinci.

No. 319.] DEPARTMENT OF STATE,
Washington, April 9, 1898.

SIR: Referring to the Department's note of the 5th instant, I have the honor to inclose for your information copy of a letter from the Secretary of the Treasury stating that his order abolishing the Italian bureau at the immigration station at the port of New York has been temporarily suspended.

Accept, etc., JOHN SHERMAN.

[Inclosure in No. 319.]

Mr. Gage to Mr. Sherman.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 5, 1898.

SIR: I have the honor to inform you that, in consequence of the representations of your letter of the 2d instant and of the telegram from Hon. William F. Draper, our ambassador to Italy, the order of March 25, 1898, abolishing the Italian bureau at the immigration station at the port of New York, to take effect on the 15th instant, has been temporarily suspended.

Respectfully, yours, L. J. GAGE, *Secretary.*

Mr. Day to Baron Fava.

No. 341.] WASHINGTON, *June 6, 1898.*

EXCELLENCY: Referring to the Department's note No. 314, of March 31 last, I have the honor to inform you that after the oral explanations made by you in our interviews, and upon consultation with the Secretary of the Treasury, it is understood that the Italian immigration bureau will be allowed to remain at Ellis Island upon the same conditions as stated in the letter addressed to your excellency by the Treasury Department of June 13, 1894.

Accept, etc., WILLIAM R. DAY.

DESECRATION OF THE NATIONAL FLAG.

Mr. Draper to Mr. Day.

No. 212.] EMBASSY OF THE UNITED STATES,
Rome, Italy, May 21, 1898.

SIR: Referring to your instruction No. 130, of March 25 last, directing me to obtain and forward to the Department copies of any Italian laws which might be in force to prevent the use of the Italian flag for advertising purposes, I beg leave to say that I am informed by the minister for foreign affairs that there are no legislative enactments expressly forbidding the use of the flag for such purposes.

It is none the less understood, however, that no such use of it would be permitted, on account of the lofty meaning and character attached to said flag as the emblem of honor representing the nation.

I have, etc.,

WILLIAM F. DRAPER.

PRESENTATIONS AT COURT.

Mr. Draper to Mr. Sherman.

No. 113.] EMBASSY OF THE UNITED STATES,
Rome, Italy, February 3, 1898.

SIR: Referring to my dispatch No. 112, of February 12, in which I described the diplomatic reception held annually at the Palace, the next ceremony that it is important for the chief of mission in Rome to understand about in detail is the presentation of his fellow-countrymen at court. Prior to leaving America I was told by the preceding ambassador that this function caused him more embarrassment than any other one duty assigned him; and on my arrival last June I found, even at that time, applications from American ladies desiring presentation the coming winter.

These applications increased in number until, when the opportunity for presentation came, I had about sixty names on the list. The number to be presented by the American ambassador is nominally limited to sixteen; but the pressure has been so great that the ceremony on January 24, just passed, there were actually presented twenty-six. The limitation I understand to be for Americans only, as from most European countries the only eligible persons are those who have been presented at the court of their own sovereign, which makes a small number to select from; while any one of our seventy-five millions of people who visit Rome considers himself, or especially herself, eligible. It being impossible to present, or recommend for presentation, all of my fellow-citizens who made the request, I sought from the court chamberlain such rules as, in his judgment, should govern a choice. They were substantially as follows:

First. No Americans can be presented without the recommendation of the American ambassador.

Second. Such as are presented must be known to him or recommended to him as of high character and position. Outside these conditions the matter is left to his discretion.

As everyone applying was highly recommended and presumably of good character, I was compelled to make for myself the following additional rules, on which I have acted:

First. I gave preference to gentlemen in official position under the American Government and members of their families.

Second. To those bringing letters from the Secretary of State.

Third. To other parties where the ladies desiring presentation were accompanied by a gentleman of their family. This last division was made on account of an intimation received by me that it was desirable that American men, as well as women, should be presented.

Nothing can make an ambassador more unpopular among his traveling countrymen than the necessity of such a choice as must be made here for court presentation, and no duty, as my predecessor intimated in his own case, has brought upon me so much pressure. If the rules that I have laid down above are not complete guides for my successors they will at least indicate to the Department the lines upon which I have acted if complaint is made in any case.

Coming to the ceremonial, I received from the dean of the diplomatic corps, M. Billot, the ambassador of France, on January 15, a letter, copy of which is inclosed with a translation. After receiving it I forwarded the selected list, enlarged by permission, to the Marquise di Villamarina and the Marquis Guiccioli, respectively. The officials com-

municated by letter with each of the persons recommended, and on January 24 the presentation took place. The ambassador is never present on these occasions, which are conducted by the officials of the court just mentioned. It is intimated that there has been such a demand this year that still another opportunity will be given.

It may be fair to say that the pressure for presentation does not indicate simply a desire to meet royalty, as the honor secures an invitation to court balls and is supposed to open the door to other social functions.

I have, etc.,

WILLIAM F. DRAPER.

[Inclosure No. 1 in dispatch No. 113, of February 3, 1898—Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
NEAR HIS MAJESTY THE KING OF ITALY,
Rome, January 15, 1898.

The ambassador of the French Republic, dean of the diplomatic corps, has the honor to notify his colleagues that Her Majesty the Queen, as in former years, will hold, Monday, the 24th of January, at 10 o'clock in the evening, a reception for the presentation of strangers of distinction who shall have expressed the desire to be admitted to the court.

The request should be addressed, through the medium of the chiefs of mission before the 20th of January for ladies alone or accompanied by their husband or members of their family, to her excellency the Marquise di Villamarina, dame of honor to Her Majesty; for gentlemen to the Marquis Guiccioli, gentleman of honor.

CONSULAR INSPECTION OF EMIGRANTS.

Mr. Draper to Mr. Sherman.

No. 124.] EMBASSY OF THE UNITED STATES,
Rome, Italy, February 17, 1898.

SIR: I have the honor to inform you that some time ago, at the request of the United States consul at Naples, I asked, through the foreign office, that the "consular inspection" (using the words quoted) of emigrants for the United States at that port, which heretofore had been usually made in the open air, might henceforth take place in the Government's shed, and also suggested that the consular and the governmental examinations might well be simultaneous. Both arrangements, as was stated by the consul-general at Rome, would conduce greatly to the health and comfort of all concerned. The Italian foreign office promptly granted these requests in a note, of which I send you herewith a copy, with translation, but asked in behalf of their emigration officials that the examination of emigrants' luggage should actually be made by the consul, the vice consul, or the chancellor of the consulate, excluding all other persons; that the practice should be followed, not only at Naples, but at Palermo and Genoa; and that the examinations should be not only simultaneous, but upon agreement by the consul and the Government committee.

On their face these requests from the Italian authorities seemed reasonable, and I caused their suggestions to be made known to the

United States consuls at Naples, Genoa, and Palermo, through the consul-general in Rome. You will note by the replies from these officials, copies of which I inclose, that they raise certain objections to the propositions of the Government's agents. As I have no authority in such a situation, I refer the matter to the State Department for further instructions, assuring the foreign office that their requests would have careful attention. If the wishes of the foreign office are found reasonable in your view, I shall be glad if the arrangements mentioned can be made, because the Italian Government, having granted us a favor in this matter, it seems ungracious not to reciprocate unless these are good reasons for refusing.

I am, sir, etc.,

WILLIAM F. DRAPER.

[Inclosure 1 in No. 124.]

Marquis Visconnti Venosta to Mr. Draper.

MINISTRY OF FOREIGN AFFAIRS,
Rome, Italy, January, 1898.

MR. AMBASSADOR:

I have carefully examined and have communicated to the ministry of the navy the note which your excellency was pleased to address to me on December 7 last, requesting:

That the consul at Naples be allowed to inspect the luggage of the emigrants leaving for the United States in the shed which will be destined to shelter the emigrants during the inspection made by the royal authorities; that the inspection made by the consul and that made by the Government may take place simultaneously.

In the name of my colleague of the navy I am now happy to say that I can give your excellency an affirmative answer.

I beg leave to add a few considerations which will give a better order to the above-mentioned proceedings.

It is known that the consuls of the United States inspect at present in the ports of the Kingdom the luggage of the emigrants, either personally or by the means of delegates.

The latter way occasionally caused inconveniences, as the delegates were not always fit to fulfill the duty intrusted to them.

I therefore deem it advisable that the inspection be made, henceforth, not only in the port of Naples but also in those of Palermo and Genoa, either by the United States consul, vice consul, or by the chancellor of the consulate and excluding any other person.

And as the two Governments agree in their wish that the emigrants should go to the United States in hygienic conditions, it is also my belief as well as that of my colleague of the navy that the inspection of the luggage of the emigrants be made not only simultaneously but also upon agreement by the United States consul and by the Government committee.

Your excellency will doubtless perceive how much more usefully and rapidly such an inspection would be accomplished, and how much easier a duty it would be to accomplish for those who inspect and for those who are inspected.

If your excellency deems it advisable to adopt the new system in the ports of Palermo, Genoa, and Naples, I beg you to inform me, that the necessary instructions be given to the proper authorities.

I have the honor to offer to your excellency the acts of my highest consideration.

For the minister:

THE SECRETARY OF STATE,
BONIN.

[Inclosure 2 in No. 124.]

Mr. Byington to Mr. De Castro.

CONSULATE OF THE UNITED STATES,
Naples, Italy, February 1, 1898.

SIR: I have the honor to acknowledge the receipt of your dispatch with the translation of the letter of the minister for foreign affairs in re the inspection of emigrants.

I beg to inform you that the vice and deputy consul has charge of the inspection at my post, and that when the chief of the consular bureau, Mr. R. S. Chilton, jr., made his last inspection of consulates he praised Mr. Seger's efficient management most highly, and urged me, before I left Washington, not to make any changes in the personnel of the inspection, as he had arranged everything in regard to it satisfactorily to all parties interested (and added that it "was the only really thorough inspection that he had seen at any of the consulates").

In regard to holding the inspections simultaneously, I think that this should be left to be arranged between the two commissions, as most convenient for all concerned, because it would in many cases be impracticable to perform the duty at the same time.

I am, etc.,

A. H. BYINGTON,
United States Consul.

[Inclosure 3 in No. 124.]

Mr. Fletcher to Mr. De Castro.

CONSULATE OF THE UNITED STATES,
Genoa, Italy, February 3, 1898.

SIR: The arrival of three United States war ships in this port at different dates during the past week, and the consequent demands on my time incident to these events, has made it almost an impossibility on my part to reply to your letter dated the 29th ultimo until the present moment.

And now, having carefully read the copy of the note of the Italian minister for foreign affairs, concerning the inspection of emigrants, which you kindly sent me in said letter, I beg to state that the utmost harmony exists to-day, as it has for years past, between the Government officials here and this consulate in the management of emigration to the United States. Indeed, it is not more than one year ago, I believe, since the Italian Government, in a communication to our ambassador, commended most cordially the "humane and thoughtful" manner in which its poor subjects were treated by the United States consul at Genoa before they embarked for the United States.

The same inspector does the work to-day that has done it for years past, and the consul is also present at the work when possible.

It would not be possible for the vice-consul to attend to inspection of

emigrants, for his time is closely taken up in his own business affairs. Besides, as he draws no pay from the United States Government, it would be unfair to demand his services for such work.

Such is the state of affairs here, and I candidly believe the suggestions of the Italian minister of foreign affairs, even if they could be carried out in every way, could not make inspection of emigrants and their baggage more satisfactory than the way inspection is conducted at present.

I am, etc.,

JAMES FLETCHER,
United States Consul.

[Inclosure 4, No. 124.]

Mr. Howe to Mr. De Castro.

CONSULATE OF THE UNITED STATES,
Palermo, February 2, 1898.

SIR: Referring to yours of January 29, inclosing translation of note from the minister for foreign affairs of Italy to our embassy at Rome, relative to changes in mode of inspection of emigrants leaving for the United States, I can see no objections to having the inspection performed in the shed simultaneously with that made by the royal authorities. The suggestion that the inspection hereafter be made by the United States consul or vice-consul or by the chancellor (clerk) of the consulate, and excluding any other person, is wrong and should not be considered for a moment. To require consuls to personally unpack and handle the contents of the trunks and boxes of emigrants was not, in my opinion, contemplated by our Government. The present regulations allow the consul to employ others to do this work and the steamship company pay for the same. In my judgment the consul, vice-consul, or chancellor of the consulate should be present and personally supervise the inspection, but they should be allowed at all times such assistance as in their judgment is necessary, and the expenses of the same should, as now, be paid by the steamship company. To prohibit the aid of assistants would result in a much less thorough inspection than at present.

Good reasons exist for making the inspection more rigid, if anything. You may not be aware of the fact that while the emigrant pays 136 to 200 lire for his passage to New York the steamship company are now receiving only 80 lire of this amount.

Under this condition of affairs inspections should be very thorough, for there are those who are pushing the business not in the exclusive interests of the poor emigrant.

I have, etc.,

CHURCH HOWE, *Consul.*

Mr. Day to Mr. Draper.

No. 189.] DEPARTMENT OF STATE,
Washington, May 27, 1898.

SIR: I have to acknowledge the receipt of your No. 124, of February 17, 1898, in regard to the consular inspection of emigrants at Naples by United States and Italian officials.

I inclose for your information a copy of an instruction addressed to the United States consul at Naples, directing him to cooperate with the Italian authorities in the matter.

You will apprise the Italian Government of the purport of this instruction.

Respectfully, yours, WILLIAM R. DAY.

[Inclosure in No. 189.]

Mr. Cridler to Mr. Byington.

No. 19.] DEPARTMENT OF STATE,
Washington, May 27, 1898.

SIR: Our ambassador at Rome has communicated to this Department a request made by the Italian Government that the consular inspection of emigrants for the United States be made by the consul of the United States, or some one from his office, excluding every other person, the inspection to be made simultaneously with that conducted by the Italian officers.

The Department is of the opinion that the arrangement will greatly simplify the inspection of emigrants, and will be productive of fully as effective results as the system now in vogue.

It must be understood that in times when there is no epidemic prevailing the method suggested will presumably suffice, but that in the event of an outbreak of an epidemic disease, or in the event of a shipment from Italian ports of emigrants from other countries which may be infected with epidemic disease, a different procedure may become necessary, particularly should circumstances render it necessary for the detailing of a medical officer of the United States to serve in your office pursuant to the act of Congress approved February 15, 1893. (See U. S. Stat. L., vol. 27, p. 450, sec. 2.)

You are therefore instructed to cooperate with the Italian authorities in this matter, after acquainting them with the character of this instruction, discontinuing the present examination and relying on that made by the Italian officials under your observation or the observation of some one in your office.

Respectfully, yours, THOS. W. CRIDLER,
Third Assistant Secretary.

Mr. Draper to Mr. Day.

No. 237.] EMBASSY OF THE UNITED STATES,
Rome, Italy, June 22, 1898.

SIR: I have the honor to inform you that the Italian Government desires an extension, to the United States consuls at Genoa and Palermo, of order No. 19, of May 27 last, to Mr. Byington, consul at Naples, in reference to emigrant inspections. These inspections up to date, according to Mr. Byington, are as follows:

First. Inspection of passports and papers by the Italian authorities This is to make sure that the men emigrating have the right to leave Italy; that none of the emigrants has a criminal record, and that they have a sufficient amount of money so as not to arrive in the United States as paupers.

Second. Inspection of the ship made by the Italian authorities, during which a representative of the United States consul is present to see that only the proper number of emigrants are allowed to embark so as to avoid overcrowding, and to make sure that the sanitary conditions for this number are all right.

Third. Inspection under the direction of the United States consul—hitherto, but not now, made by unofficial persons appointed by the consul, and being the particular inspection which the Italian Government complained of as incompetent. This seems to have been intended to prevent the carrying on board of food (which might decay), or of other objectionable articles, in the emigrant's baggage. Connected with this baggage examination was a cursory medical inspection conducted by nonmedical persons who have rejected such people as had the external appearance of contagious disease.

How important this medical inspection, not made by a medical officer, may be I am not prepared to judge, but the consul at Naples, Mr. Byington, thinks it highly necessary. From my point of view, I should say that if a medical inspection were required, as it may be at certain times, it would be wiser to have a medical officer detailed for the purpose at ports like Naples where the amount of emigration is large.

As to the inspection of baggage, mentioned under the third head, I believe that if the consul-general at Rome, Mr. De Castro, were authorized to visit Naples, Genoa, and Palermo, with his expenses paid (which would not be large) and with authority to regulate the inspection, in accordance with the instructions of the Department and after conference with the Italian authorities, the results would be valuable, far beyond the cost attending such visits. At any rate a uniformity of system could be established, and a thorough understanding with the Italian officials might be arrived at.

I am, etc.,

WILLIAM F. DRAPER.

Mr. Moore to Mr. Draper.

DEPARTMENT OF STATE,
Washington, August 1, 1898.

MY DEAR MR. DRAPER:

I have acknowledged officially to-day, to Mr. Iddings, your dispatch No. 237, of June 22 last, touching the desire of the Italian Government that the order of May 27 last, to the United States consul at Naples, in reference to emigrant inspections be extended to our consulates at Genoa and Palermo, and have told him that the consul general at Rome was instructed by telegraph, on the 27th ultimo, to go to Naples and investigate the matter of the inspection of emigrants. This telegram has been followed by an instruction by mail directing the consul general to visit also the other consulates in Italy and to make an investigation of the inspection of emigrants at those points as well as a general investigation of the consulates.

I advise you of this, knowing your interest in the matter.

Very truly, yours,

J. B. MOORE,
Acting Secretary.

Mr. Draper to Mr. Hay.

No. 301.] EMBASSY OF THE UNITED STATES,
Rome, Italy, October 11, 1898.

SIR: I have the honor to state that in my dispatch No. 124, of February 17, 1898, I inclosed a note from the Italian foreign office, in which the request was made that the consular and Italian governmental inspections of immigrants might be simultaneously made at the ports of Palermo and Genoa, as well as at Naples, where that course has since been adopted.

Just before sailing on my leave of absence, June 24, I received another note from the foreign office on this subject, dated June 20, a copy of which I inclose, with translation. This note I referred to in the following language in my dispatch No. 237, of June 22, 1898:

> I have the honor to inform you that the Italian Government desires an extension to the United States consuls at Genoa and Palermo of the Order No. 19, of May 27 last, to Mr. Byington, consul of Naples, in reference to immigrants' inspection.

During my absence two other notes have been received in regard to this subject, but Mr. Iddings, chargé, thought best to await my return before making further communications concerning it. In consequence, perhaps, of my dispatch of June 22, above mentioned, Mr. de Castro, the consul-general, was ordered to make an inspection of the consulates, particularly in regard to questions concerning immigration; and he informs me that he has reported at length to the Department. As the question has been open for some time, however, I have asked him to report to me in brief whether, as a result of his inspection, he would recommend that the plan now adopted at the port of Naples for simultaneous inspections, be also, on our part, adopted for the ports of Genoa and Palermo. His letter to me on this subject you will find inclosed. From the facts that have come to my knowledge, including the report of Mr. de Castro, I join in his recommendation that similar instructions be given for the ports of Genoa and Palermo in regard to the inspection of immigrants and their luggage.

I am, etc., WILLIAM F. DRAPER.

[Inclosure 1 in No. 301.—Translation.]

The Marquis Cappelli to Mr. Draper.

ROME, *June 20, 1898.*

MR. AMBASSADOR:

I thank your excelleney for the communication made me in the note of the 10th instant, concerning the inspections to be made of the luggage of emigrants to the United States, of which I will immediately inform the royal ministry of the navy, and will make his answer known to you.

In the meanwhile I beg your excellency to tell me whether the Government of the confederation intends to have the enactment adopted for the port of Naples extended also to the ports of Genoa and Palermo, according to the proposal which my predecessor made to your excellency in his note of the 24th of January last.

Pray accept, etc., R. CAPPELLI.

[Inclosure 2 in No. 301.]

Mr. de Castro to Mr. Draper.

ROME, *October 11, 1898.*

SIR: In consequence of the thorough examination I made of the emigration question at the United States consulates of Naples, Palermo, and Genoa, and upon which I have reported at length to the State Department, I would recommend that the inspection of emigrants by the United States consular officers at the port of Genoa and Palermo be also made, as suggested by the Italian Government, simultaneously with inspection performed by the local police and health department authorities, or at least in accord with them.

This I suggest more in view of giving to our consular officers an opportunity of witnessing the inspection made by the local police at the above-named ports, and to ascertain that no emigrant be allowed to embark who does not fill the requirements of the United States laws and regulations relating to emigration.

I am, etc.,

HECTOR DE CASTRO,
Consul-General.

PORK INSPECTION.

Mr. Draper to Mr. Sherman.

No. 106.] EMBASSY OF THE UNITED STATES,
Rome, Italy, January 19, 1898.

SIR: I have the honor to acknowledge the receipt of your instruction, No. 97, of the 3d instant, in which you inclose a copy of a letter from the Secretary of Agriculture, stating that the consular visé is still required for certificates accompanying meat exports from the United States to Italy; and you add that it is hoped that the Italian minister of commerce has fulfilled his promise to modify this decree by the close of the year 1897. In reply, I have now to say:

As mentioned in my No. 97, of the 27th of December, 1897, the promise of the minister for foreign affairs, in behalf of the minister of commerce, to modify the royal decree requiring the consular visé referred to, was given on the 26th of November last. The resignation of the di Rudini Government and the formation of a new cabinet under the same chief occupied the first two weeks of December—from the 3d to the 14th—as stated in my dispatch, No. 85, of the 15th of that month. Among the changes which resulted was the appointment of a new minister of agriculture and commerce—the Hon. Sig. Cocco-Ortu; and I was not surprised that, in view of the excitement and delay incidental to the crisis on January 1, 1898, I had not learned from the minister for foreign affairs that the promised modification of the consular-visé regulation had been ordered before the close of the year 1897.

On January 6, however, I called upon the minister for foreign affairs, and expressed regret that the promise of the minister of commerce had not been fulfilled. He pleaded the delay and disarrangement of public business incident to the formation of a new government, but promised to see to it that the modification was immediately ordered. Not hearing from him, on January 12 I wrote to the minister for foreign affairs, referring to our conversation of the 6th instant, in the course of which he had assured me that this matter should certainly be attended to. I inclose a copy of my note.

Since then the minister for foreign affairs has been away from his office on account of the illness of his second son, who died day before yesterday. However, as nothing had been heard from his ministry on the subject of the promised modification despite the conversation of the 6th of January and my note of the 12th, and having, meantime, received your instruction No. 97, of the 3d instant, I called yesterday upon Signor Malvano, the secretary-general of the ministry for foreign affairs, and explained to him the urgency of the situation. He promised his immediate attention, and said he would communicate at once with the minister of agriculture and commerce.

I have just received, this afternoon, a note from Signor Malvano, in which he states that the delay now is only a matter of a few days, and inclosing a copy of a memorandum from the ministry of agriculture and commerce which reiterates that the delay attending the modification of the consular regulation will now be brief. I send you herewith, for your more complete information, a copy (with translation) of the memorandum from the ministry of agriculture and commerce.

I am, etc.,

WILLIAM F. DRAPER.

[Inclosure 1 in No. 106.]

Mr. Draper to the Minister of Foreign Affairs.

EMBASSY OF THE UNITED STATES,
Rome, January 12, 1898.

YOUR EXCELLENCY: Referring to your esteemed note of November 26 last, informing me that, according to assurances received by you from the royal ministry of commerce, article 3 of the royal decree of January 26, 1897, would be, without fail, modified in order to abolish the obligation of the consular visé upon the certificates of meats exported to Italy from the United States, and that this promised modification would be made, doubtless, before the end of the year 1897; and recurring also to our conversation on this subject on Thursday last, January 6, when I had the honor of a few moments' interview with your excellency; I now venture to bring the wishes of my Government once more before you, and to say that a strong desire is felt at Washington that the promised modification of the royal decree may soon be announced.

I avail myself, etc.,

WILLIAM F. DRAPER.

[Inclosure 2 in No. 106.—Translation.]

Memorandum from the ministry of agriculture and commerce.

The provision mentioned in the telegram of yesterday relating to the certification of sanitary certificates of origin, delivered by the United States authorities for the importation into Italy of meats, has not been put into effect for the reason that it is complicated with other modifications of the circular of January 26, 1897, in the matter of prohibitions and ordinances regarding importations of animals, of their products, and of remnants of animals. When these modifications are condensed (codified?) there will be issued, in a short time, a single circular which will from now on, regulate the matter. The delay will only be of a few days.

For the minister:

SIEMONI.

ROME, *January 19, 1898.*

[Telegram.]

Mr. Draper to Mr. Sherman.

ROME, *February 3, 1898.*

Consular visé on pork-meats certificates abolished from January 28.

DRAPER.

Mr. Sherman to Mr. Draper.

No. 106.] DEPARTMENT OF STATE,
Washington, February 5, 1898.

SIR: I have to acknowledge the receipt of your No. 106, of the 19th ultimo, relating to the decree requiring the Italian consular visé on certificates accompanying American meat exports.

I have been much gratified to receive your telegram of the 3d instant, confirmed on the overleaf, announcing the withdrawal of the decree.

Respectfully, yours,

JOHN SHERMAN.

Mr. Draper to Mr. Sherman.

No. 119.] EMBASSY OF THE UNITED STATES,
Rome, Italy, February 8, 1898.

SIR: I have the honor to confirm overleaf a telegram which I sent to you on the 3d instant, informing you that the consular visé on pork meats was abolished from January 28 last. Inclosed herewith please find a copy of the note (with translation) received from the minister for foreign affairs in regard to this subject.

I am, etc.,

WILLIAM F. DRAPER.

[Inclosure I in No. 119.—Translation.]

MINISTRY FOR FOREIGN AFFAIRS,
Rome, February 2, 1898.

MR. AMBASSADOR: Referring to the note which your excellency was pleased to send to me on the 12th of January last, referring to sanitary certificates for prepared swine meats of the United States, I hasten to inform you that the royal minister of commerce has notified me that by a telegraphed circular of January 28 past, to the prefects of the maritime provinces, he has ordered that swine flesh, salted, smoked, or in any other way preserved, coming from the United States, shall, from that day, be admitted to importation into the Kingdom, with sanitary certificates of origin, issued by competent local authorities, without the obligation of the visé of the royal consular agent.

In this way the wish of the Government of the American Confederation is fully satisfied.

Pray accept, Mr. Ambassador, the assurance of my highest consideration.

For the Minister:

MALVANO.

Mr. Sherman to Count Vinci.

No. 309.] DEPARTMENT OF STATE,
Washington, March 17, 1898.

SIR: By a note, dated February 2 last, the royal minister of foreign affairs at Rome advised the embassy of the United States that the minister of commerce had, on January 28 last, issued a circular abolishing the Italian consular visé required for American sanitary certificates accompanying exports of swine flesh to Italy.

I have the honor to inclose a translation of that note.

From the inclosed [1] correspondence between the Armour Packing

[1] Not printed.

Company and the Italian consular agent at Kansas City, it would seem that the latter had received no instructions in the case, as he still insists that the consular visé must be affixed to the certificate and charges therefor.

I have the honor to request that you will kindly inquire into the matter and advise the consular officer.

Accept, etc.,

JOHN SHERMAN.

Mr. Sherman to Mr. Draper.

No. 137.] DEPARTMENT OF STATE,
Washington, April 5, 1898.

SIR: Referring to your No. 119, of the 5th of February last, I inclose a copy of a note from the Italian chargé d'affaires at this capital, from which it appears that the Italian circular of January 28 last, relative to the abolition of the consular visé on certificates accompanying exports of swine's flesh from the United States, has never been communicated to the Italian consular officers in this country.

The Department can not understand the delay, and trusts that these officers will immediately receive the necessary instructions.

Respectfully, yours,

JOHN SHERMAN.

Count Vinci to Mr. Sherman.

ITALIAN EMBASSY, *April 9, 1898.*

MR. SECRETARY OF STATE: With reference to my note of the 26th of March last, I have the honor to inform your excellency that from the reading of a bulletin of the royal ministry of foreign affairs which reached me the day before last, the royal ministry of agriculture, industry, and commerce, by a decree of the 28th of January last, has prescribed that from that date all swine's flesh (salted, smoked, or preserved in any other way) shall be admitted into Italy with the certificate of origin from the local authorities, without the obligation of the consular visé.

Accept, etc., C. C. VINCI.

Mr. Sherman to Count Vinci.

No. 320.] DEPARTMENT OF STATE,
Washington, April 13, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, stating that you have been advised of the abrogation of the decree requiring the Italian consular visé to be affixed to certificates accompanying exports from the United States of swine's flesh, salted, smoked, or preserved in any other way.

Accept, etc.,

JOHN SHERMAN.

Mr. Draper to Mr. Sherman.

No. 180.] EMBASSY OF THE UNITED STATES,
Rome, Italy, April 21, 1898.

SIR: I have the honor to acknowledge the receipt of your instruction No. 137, of the 5th instant, informing me that the Italian circular of January 28 last, relative to the abolition of the consular visé on certificates accompanying exports of swine's flesh from the United States has never been communicated to the Italian consular officers in the United States.

Acting upon your instruction, I have called upon the minister for foreign affairs and conveyed to him the contents of your communication. He has agreed to telegraph the necessary information to the Italian chargé d'affaires in Washington, and I presume that he has already done so.

I am, etc., WILLIAM F. DRAPER.

Mr. Draper to Mr. Hay.

No. 324.] EMBASSY OF THE UNITED STATES,
Rome, Italy, November 14, 1898.

SIR: I beg leave to report to you that I learn that an attempt is about to be made to replace the Italian consular visé on meats of American origin, or to introduce some other restriction tending to prevent or diminish the importations into this country of American meats. It will be remembered that this visé was removed by a decree dated January 28, 1898, after a somewhat long correspondence between this embassy and the Italian Government. I have already made representations, both written and oral, in regard to the matter, to the minister of foreign affairs, and shall do my best to prevent the establishment of any discrimination against our products.

I have, etc.,

WILLIAM F. DRAPER.

Mr. Draper to Mr. Hay.

No. 329.] EMBASSY OF THE UNITED STATES,
Rome, Italy, November 18, 1898.

SIR: I beg leave to state, calling attention to my dispatch No. 324, of November 14, that I had a very satisfactory interview yesterday with Admiral Canevaro, minister of foreign affairs. He said that, in spite of efforts that might be made to have a discrimination against American meats reestablished, the present ministry would not take steps in that direction. I suppose I may accept this as settling the matter, unless the pressure should become stronger than is now anticipated. I have had various letters from importers of American meats, who are much alarmed, and have asked them to acquaint me with anything that may reach them on the subject.

I have, etc., WILLIAM F. DRAPER.

Mr. Hay to Mr. Draper.

No. 304.] DEPARTMENT OF STATE,
Washington, December 7, 1898.

SIR: I have to acknowledge the receipt of your No. 234, of the 14th ultimo, stating that you have heard that an attempt will be made to renew the regulation requiring the Italian consular visé on shipments to Italy of meats of American origin.

You add that you have already made representations, oral and written, against such action.

Your course is approved.

A copy of your dispatch has been forwarded to the Secretary of Agriculture for his information.

I am, etc., JOHN HAY.

Mr. Hay to Mr. Draper.

No. 344.] DEPARTMENT OF STATE,
Washington, January 27, 1899.

SIR: Referring to your No. 301, of the 11th of October last, I inclose for your information copy of the Department's No. 29, of the 15th ultimo, to our consul-general at Rome directing the system of consular inspection of emigrants, instituted at Naples, to be carried on without charge, save for actual expenses incurred, and to be extended to Genoa and other Italian ports.

I am, etc, JOHN HAY.

[Inclosure in No. 344.]

Mr. Cridler to Mr. de Castro.

No. 29.] DEPARTMENT OF STATE,
Washington, December 15, 1898.

SIR: Referring to your No. 26, of October 29 last, relative to certain instructions issued by you to our consul at Naples in regard to the inspection of emigrants, etc., you are informed that you have in part misapprehended the meaning of the Department's instruction to you, No. 25, of October 4 last.

The policy of the Department is that no charge whatever should be made by the consul or anyone connected with the consulate in connection with the inspection of emigrants and the dispatching of vessels, except as authorized in the "Tariff of United States consular fees."

You will therefore withdraw that portion of your instruction to the consul at Naples, permitting the vice-consul to accept from the steamship company a sum of 60 lire in each instance. You are also informed that the consul or, if he prefers, the vice consul acting as his representative, should attend these inspections. If the vice-consul act it must be as the representative of the consul, not as "official inspector," no such title being recognized by the Department. In case the services of the vice consul are not available the consul may designate some other employee of the consulate to attend to the work, but it should be

some person in whose reliability he has confidence, and for whom he is willing to assume responsibility. Expenses actually and necessarily incurred in going to or returning from vessels may of course be paid by the steamship company.

With these modifications your instructions of October 22 last to our consul at Naples are approved.

You are directed to similarly instruct our consuls at Genoa and other ports in Italy.

I am, etc.,

THOS. W. CRIDLER,
Third Assistant Secretary.

JAPAN.

COMPLAINT OF MESSRS. LAKE & CO. AS TO RIGHT TO STORE CERTAIN GOODS ON HIS VESSEL, THE ADVENTURE.

Mr. Buck to Mr. Day.

No. 189.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, September 6, 1898.

SIR: I have the honor to inclose herewith copies of a body of correspondence which passed between Mr. Harris, United States consul at Nagasaki, and Lake & Co. (Edward Lake), of Nagasaki, and the consul and the commissioner of customs at that port, together with a copy of the consul's dispatch with which the correspondence came to me, all relating to a complaint made by Mr. Lake, that, under the "treaty and regulations under which American trade is to be conducted in Japan," he has the right to transship to his vessel, the *Adventure*, certain goods, which has been denied him by the customs officials at Nagasaki. I also inclose copy of my dispatch to Mr. Harris, setting forth my view of the case.

As the question is exhaustively treated in the inclosures herewith, from which all the facts are clear, I will not go into it further. I consider Mr. Lake's position untenable, as it does not appear that it was his intention to clear his vessel, but rather to make use of her as a storeship contrary to the spirit and intention of the customs regulations.

I have, etc.,

A. E. BUCK.

[Inclosure 1 in No. 189.]

Mr. Harris to Mr. Buck.

No. 202.] CONSULATE OF THE UNITED STATES OF AMERICA,
Nagasaki, Japan, August 9, 1898.

SIR: I have the honor to inform you that at the request of Edward Lake, a citizen of the United States, I inclose herewith the correspondence had between Mr. Lake, the Japanese authorities, and myself in regard to the steamship *Adventure*, owned by Edward Lake, for such action as you shall deem best to protect the interests of Mr. Lake.

Mr. Lake desires to use the steamship *Adventure* as a storage ship and also to transship from her to other ships such cargo as he may wish. He claims and requests that he be allowed the same rights and privileges as are allowed by the Japanese authorities to other ships and shipowners. His claims and requests in this matter the Japanese authorities positively refuse to grant.

I have also the honor to call your attention to the following facts connected with the steamship *Adventure*: The steamship *Adventure* was formerly a Japanese vessel named the *Ito Maru*. She was sold and transferred

to Edward Lake by Umeya Kichiju, a Japanese subject, on the 9th of March, 1893; the port of registry of such vessel was Nagasaki; official (Japanese) No. 123; register tonnage, 88½; 93.23 feet in length; 14.9 feet in breadth; built of wood and propelled by a single screw. The papers of said steamship *Adventure* were last deposited in this consulate on the 24th day of January, 1896, and have remained here since that time. Such papers consist of the bill of sale from said Umeya Kichiju to said Lake, and attached to said bill of sale is a certificate of W. H. Abercrombie, then consul of the United States at this port, that the sale of said vessel "has been proved satisfactory to me to have been duly executed by the subscribing party;" on the back of such certificate is another certificate by Consul Abercrombie, that on the 9th day of March, 1893, the name of said vessel was "changed from that of *Ito Maru* to *Adventure*." With such papers there are two certificates from United States consul at Chefoo, China—one dated April 23, 1895, and on the 8th day of May, 1895—given to master of the steamship *Adventure* on deposit of ship papers, also certificate from Consul Abercrombie of May 25, 1895, that said vessel had exhibited to him the clearance of said steamer and that he had delivered to the master of said vessel the register and paper of said steamer, and that the vessel was built at Nagasaki and is owned by an American citizen named Edward Lake. Bill of sale recorded in the office signed W. H. Abercrombie, United States consul; also deposited with such bill of sale and certificate are receipt for tonnage dues, one paid 18th of April, 1895, at Jeuchuan and one from Chefoo dated 26th of April, 1895, and a receipt from S. R. de Souza for United States consul at this port for 89 cents gold, tonnage dues. No other papers belonging to said vessel are in this office.

I have, etc.,

CHARLES B. HARRIS,
United States Consul.

[Inclosure 2 in No. 189.]

Lake & Co. to Mr. Harris.

NAGASAKI, *May 10, 1898.*

SIR: On the 9th instant we applied to the Japanese custom-house at Nagasaki for permission to ship on board the steamship *Adventure* 300 sacks of American flour. The customs authorities refuse to grant permission to ship any cargo on said vessel, and have repeated their refusal again this day without giving any just reason for so doing.

The *Adventure*, we believe, is entitled to the same privilege as any other vessel entering this port, and has the right to ship and discharge cargo as any other nation's vessel. Will you be so kind and inquire into this matter? We remain,

Very respectfully,

LAKE & CO.

[Inclosure 3 in No. 189.]

Mr. Harris to Lake & Co.

CONSULATE OF THE UNITED STATES,
Nagasaki, May 11, 1898.

GENTLEMEN: I am in receipt of yours of the 10th instant, notifying me that you have been refused by the custom-house authorities permission to load 300 sacks flour on the steamship *Adventure*, and requesting me to make inquiries why you were refused such permission. You

inclose application for export entry, showing that the flour was to be shipped to uncertain points. Yesterday morning I had a personal interview with the commissioner of customs, and he informed me that if the *Adventure* will clear the port you will be allowed to load flour as you request, but before you are granted that permission you must state in your export entry application to what port the *Adventure* clears for.

I am, etc.,

CHARLES B. HARRIS,
United States Consul.

[Inclosure 4 in No. 189.]

Lake & Co. to Mr. Harris.

NAGASAKI, JAPAN, *May 11, 1898.*

SIR: To-day we have again applied to the Japanese custom-house officials for permission to place on board the United States merchant vessel *Adventure* 300 sacks of American flour.

The custom-house officials refuse to grant permission or allow the flour placed on board of said vessel in any way either as storage from shipment or for export.

We remain, etc.. LAKE & CO.

[Inclosure 5 in No. 189.]

Mr. Harris to Lake & Co.

CONSULATE OF THE UNITED STATES,
Nagasaki, May 12, 1898.

GENTLEMEN: I am in receipt of your letter of yesterday informing me that you had again that day applied to the custom-house officials for permission to place on board the steamship *Adventure* 300 sacks of flour, and that the officials refuse to grant you the permission requested, and you further state that the officials will not allow you to place the flour on board said vessel either for storage, export, or transshipment. You also inclose export entry application showing that you applied to ship such flour to Chefoo and ports.

I have this day written the commissioner of customs asking him to please be so kind as to advise me why it is that you are so refused admission to place on the *Adventure* the flour; also calling his attention to the fact that you had informed me that for three years last past up to three months since you had been allowed to use such vessel for storage purposes.

I will communicate with you further on receipt of an answer to my letter to the commissioner of customs.

I am, etc.,

CHARLES B. HARRIS,
United States Consul.

[Inclosure 6 in No. 189.]

Mr. Harris to Mr. Noda.

CONSULATE OF THE UNITED STATES,
Nagasaki, May 12, 1898.

SIR: Since my interview with you yesterday in relation to the refusal of the custom-house officials to allow Lake & Co. to export 300 sacks of

flour on the steamship *Adventure* on the 10th instant to uncertain ports I have received from them under date of yesterday a letter informing me that they had again applied for permission to load said flour on the said vessel, and inclosing an export entry application showing that the flour was to be shipped to Chefoo and ports, they state that they were again refused permission to place said flour on said vessel either for storage, export, or transshipment.

Lake & Co. further inform me that for three years last past and up to within three months of this da e that they have been allowed by the custom-house officials to use the steamship *Adventure* as a storage ship. Please be so kind as to advise me why it is that you at this time refuse to grant their request for the storage of the flour on board of that vessel, to there await transshipment to Chefoo and ports.

I have, etc.,

CHARLES B. HARRIS,
United States Consul.

[Inclosure 7 in No. 189.]

Mr. Noda to Mr. Harris.

IMPERIAL CUSTOMS.
Nagasaki, 11th day, Fifth Month, 31st year.

SIR: I have the honor to acknowledge the receipt of your letter dated 12th instant, requesting to know what is the reason of the refusal against the application produced by Messrs. Lake & Co. to ship 300 sacks of flour to the steamship *Adventure.*

In reply to the above I beg to state to you that if she will leave the port carrying the said goods, of course I would not insist on refusing it, just as I told you when I had interview with you on the 11th, but I am unable to give the permit to load any goods in order to store on board the above vessel when she will not proceed to sea.

Once I thought that the *Adventure* herself will actually set sail for the exportation or transportation of the goods for a certain port, so I allowed to ship some goods at that time, but I have never allowed to use her as a storeship.

I have, etc.,

T. NODA,
Superintendent of Custom-House, Nagasaki.

[Inclosure 8 in No. 189.]

Mr. Harris to Messrs. Lake & Co.

CONSULATE OF THE UNITED STATES,
Nagasaki, May 16, 1898.

GENTLEMEN: I am in receipt of a letter from the superintendent of custom-house, Nagasaki, in answer to my letter of the 12th instant, in reference to the refusal of the custom authorities to allow you to ship 300 sacks of flour on the steamship *Adventure* for Chefoo and ports.

The superintendent informs me that he will grant your application, provided the steamship *Adventure* clears the port, and not otherwise. He also informs me that he is "unable to give the permit to load any goods in order to store on board the *Adventure* when she will not proceed to sea."

I am, etc.,

CHARLES B. HARRIS,
United States Consul.

[Inclosure 9 in No. 189.]

Messrs. Lake & Co. to Mr. Harris.

NAGASAKI, *June 28, 1898.*

SIR: I am in receipt of your esteemed letter dated 14th May, referring to a letter addressed by you to the superintendent of customs at this port dated 12th ultimo, and his (the superintendent's) reply, in which he states he will grant permission to ship 300 sacks flour on board the American steam vessel *Adventure*, provided that vessel clears the port, and not otherwise. May I ask how it is possible under the existing treaty to ship cargo (from ship cargo) on board an American vessel after said vessel has cleared port (cleared from consulate and customs). My impression is that such actions on my part would involve me in breaking the customs regulations and existing treaty between United States and Japan, whereas I would be subject to a fine of from $125 to $1,000. Such preposterous statement by customs officials is ridiculous and shameful on their part. The *Adventure* has been entered at the United States consulate and at customs, according to treaty and customs regulations, and should be entitled to all privileges granted to vessels of the United States or any other nation, which have been denied to me and to my vessel.

The customs authorities have granted permission to transship cargo from other vessels to *Adventure*, and to ship cargo to and from *Adventure*, as they do and have done for all national vessels.

As the customs refused to grant permission to transship 300 sacks of flour from *Empress of Japan* to *Adventure*, or from customs sheds to *Adventure*, which is duty free, I applied for permission to transship the 300 sacks of American flour to the Japanese steamer *Higo Maru* on the 13th of May, and on the 14th of May, in the afternoon, received permission to ship the flour to *Higo Maru*.

Previous to receiving permission to ship the flour on the 14th ultimo to *Higo Maru*, our employees put 220 sacks of the flour into our cargo boat. At the same time the customs authorities caused to be carted away to bonded warehouse 80 sacks of the 300 sacks, where it now lies in bonded warehouse at the risk and responsibility of the Japanese Government.

I further beg to call your attention as well as the Japanese customs authorities to the fact that under treaty the Japanese customs authorities have the right to seal the hatch of vessels between sunset and sunrise. In the case of the steamship *Adventure*, they have sealed the hatches at sunset and have not removed the seals for days, without special request from me to do so, and are now sealed.

I remain, etc.,

EDWARD LAKE.

[Inclosure 10 in No. 189.]

Mr. Buck to Mr. Harris.

LEGATION OF THE UNITED STATES,
Tokyo, Japan, August 19, 1898.

SIR: Your dispatch No. 202 of the 9th instant, with eight inclosures, has been received, from which it appears that Edward Lake complains to you of the action of the Japanese customs officers at Nagasaki in denying him a right and privilege, as he claims, granted to him as a

citizen of the United States by virtue of the existing treaty with Japan and the regulations of trade thereunder.

In the letter of Mr. Lake of May 10 last, it appears that he complains that the Japanese customs officials, on May 9, refused to grant him permission to transship to his vessel, the *Adventure*, for export, 300 sacks of American flour, giving him no just reason therefor. Whereupon Mr. Lake claims that he is entitled to the privilege refused him, and asks that you inquire into the matter, inclosing to you a copy of the export entry he had asked to be made, stating therein his vessel to be the steamship *Adventure* and giving her destination as "unknown."

From a copy of your letter in reply to Mr. Lake, of May 11, it appears that you informed Mr. Lake that you had seen the commissioner of customs, who had stated to you that if the *Adventure* would clear the port, he (Lake) would be allowed to load flour as requested; but before he could be granted that permission, he must state in his export entry what port the vessel clears for.

Mr. Lake again addressed you on May 11, in which he informs you that he had that day again applied for permission to take on board the *Adventure* the 300 sacks of flour and again been refused. Attached to his letter is a copy of form of export entry filled out as before, except that "Chefoo and ports" is inserted instead of "uncertain," as designation of the vessel. In consequence, it appears that you, on May 12, addressed a note to the commissioner of customs, setting out the facts of the second refusal as presented by Mr. Lake and asking the reason therefor. In reply, the commissioner, under date of May 14, informs you that "if she (*Adventure*) will leave the port carrying the said goods, of course I (he) would not insist on refusing it, just as I (he) told you on the 11th; but I (he) am unable to give the permit to load any goods in order to store on board the above vessel when she will not proceed to sea. Once I (he) thought the *Adventure* herself would actually set sail for the exportation or transportation of the goods for a certain port; so I (he) allowed to ship some goods at that time, but I (he) have never allowed to use her as a storeship."

On communicating the above to Mr. Lake, which you did on May 16, he writes to you on June 28 at length and rehearses his complaints and asks, "How is it possible, under existing treaties, to ship cargo (from ship cargo) on board an American vessel after said vessel has cleared the port—cleared from consulate and customs?" He claims that it would involve him in breaking the customs regulations and existing treaties between the two countries, and that he would be subjected to a heavy fine. He claims that the *Adventure* has been entered at the United States consulate and customs according to the treaty and regulations and should be entitled to all privileges guaranteed to the vessels of the United States or of other powers, which has been denied her. He further claims that the customs authorities have heretofore granted permission to transship goods to and from the *Adventure* from and to other ships, as they have also done for ships of other nations.

It appears from the record of the *Adventure*, as given in your dispatch and inclosures, that she is owned by Mr. Lake; that she has been lying in the harbor of Nagasaki continuously for some years past, and that Mr. Lake has used her "as a storeship, and also to transship from her to other ships such cargo as he may wish;" and that this vessel has unintentionally been allowed to be so used by the customs authorities.

From the case as made up and submitted, it appears:

First. That Mr. Lake in claiming customs entry for the 300 sacks of flour to be put on board of the *Adventure* for "uncertain" ports

expressed no purpose of clearing his vessel, but it is to be inferred on the contrary that he desired to store the flour on his vessel for such time as would suit his convenience to dispose of it.

Taking into consideration the fact that Mr. Lake had used his vessel for some years for storage purposes, the customs officers had reason to suppose that in asking a permit or export entry for the flour to be put on board the *Adventure* for "uncertain" ports, he intended to store it upon his vessel for such time as he desired, else he would have declared his purpose to clear his vessel and for some certain port, and the fact that he had previously used the *Adventure* as a storehouse was no good reason to demand that he should continue to do so, if not in accord with customs regulations.

The customs regulations upon which it seems that Mr. Lake bases his claim, as a right guaranteed to him by treaty and regulations, as applying to his first application for export entry, provides that:

> Cargo may be transshipped to another vessel in the same harbor without the payment of duty; but all such transshipment shall be made under the supervision of Japanese officers, and after satisfactory proof has been given to the customs-house authorities of the bona fide nature of the transaction, and also under permit to be granted for that purpose by such authorities.

This regulation, taken in connection with other paragraphs of the regulations, is to be construed as meaning that a vessel entering a port with merchandise may transship goods to another vessel about to depart for some other port without their going through the custom-house, as in such case the goods are supposed to be in continuous transportation and not intended for import at the port where transshipped. Otherwise, whether the goods are subject to duty or not, by a vessel's becoming a storeship and thus evading the regulations, the Japanese customs officials would be deprived of their right to warehouse charges, and in my opinion they were right in refusing Mr. Lake the export entry for the flour to be transshipped to his vessel for "uncertain" ports.

Second. It appears that Mr. Lake, in making the second application for the export entry of the flour, stated "Chefoo and ports" as the destination of his vessel. From the reply of the commissioner of the customs to your note to him of May 12, it appears that if Mr. Lake should make it clear that the *Adventure* would clear the port, the permit would be granted; but it could not be granted to him to load any goods upon his vessel in order to store them.

While Mr. Lake's application names "Chefoo and ports," it does not appear that he gives any assurance to the commisssoner of customs of his purpose to clear the port, but relies on his rights under the regulations, as he assumes, to transship his flour. The commissioner of customs, it seems, did not demand that Mr. Lake should actually clear the port as a condition precedent, but simply stated that he would grant permission to ship the flour on board the *Adventure* provided the vessel cleared the port, and Mr. Lake's conclusion that he would have to violate the regulations and subject himself to a fine, in order to comply with the requirements of the customs officials, is not justified.

The fact that the *Adventure* had been lying in the harbor for some years, and had been used as a storeship, and that Mr. Lake had given no proof, as it seems, either by declaration to the customs officials or by any notice by advertisement or otherwise that the vessel was about to clear the port for "Chefoo and ports," were sufficient to warrant them in withholding permission to ship the flour till it was made known that the vessel was actually to sail within a limited time. Hence I see no

reason, in consideration of the present status of the case, for diplomatic interference. If Mr. Lake will give notice of his vessel to sail within a reasonable time, and show that he is at once to procure clearance papers for the *Adventure* to leave for Chefoo, and then after such compliance in good faith, with what I understand to be the requirement of the commissioner of customs, if he then should not be permitted by the customs officials to ship the flour or the goods, then it may be proper for me to take some action for the protection of his rights under the "treaty and regulations under which Americans' trade is to be conducted in Japan."

I am, etc., A. E. BUCK.

Mr. Hay to Mr. Buck.

No. 161.] DEPARTMENT OF STATE,
Washington, October 8, 1898.

SIR: I have received your dispatch No. 189, of the 6th ultimo, inclosing copies of a body of correspondence which has passed between Mr. Harris, the United States consul at Nagasaki and Lake & Co. of that city, and the consul and the commissioner of customs thereof, with the consul's report in the case, all relating to a complaint made by Mr. Lake that his alleged right to transship to his vessel, the *Adventure*, certain goods under cover of export clearance, but really for storage thereon until transshipment to other vessels may be effected, has been denied by the customs officials at Nagasaki.

The Department concurs in the views expressed by you in your communication No. 140, of August 19, to Consul Harris. The enactment of suitable warehouse regulations by Japan is obviously a right enjoyed in common with all commercial nations, and its refusal to sanction a proceeding in clear evasion of such regulations, inasmuch as Lake & Co.'s purpose appears to have been to transship to a vessel lying in port goods with the intention not of clearing or shipping, but of making use of her as a storeship, does not call for any protest on the part of this Government.

I am, etc., JOHN HAY.

Mr. Buck to Mr. Hay.

No. 213.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, November 8, 1898.

SIR: I have the honor to acknowledge the receipt of your instruction No. 161, of date the 8th ultimo, informing me of the Department's concurrence in my deeming justified the refusal of the customs authorities at Nagasaki to allow Mr. Lake, of Lake & Co., of that city, to use his vessel, the *Adventure*, as a storeship, contrary to customs and warehouse regulations, as set forth in my dispatch No. 189, of date the 6th September, and its inclosure.

To enable him to meet possible future protests from Mr. Lake, I shall communicate this ruling of the Department's to our consul at Nagasaki.

I have, etc.,

A. E. BUCK.

TAX ON LAND.

Mr. Buck to Mr. Hay.

No. 237.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, January 9, 1899.

SIR: I have the honor to inform you that on the 20th ultimo a bill increasing the land tax on rural property by 0.8 per cent and that on urban property by 2.5 per cent was passed by the lower house by a safe majority, thanks to the support of the Liberal party and of some independents. This makes the total tax on rural property 3.3 per cent (0.7 per cent less than proposed by the Government) and on urban property 5 per cent. The operation of this law is conditional upon the simultaneous reassessment of the taxable values of lands, where inequalities of incidence now occur, which reassessment is assured by a bill passed at the same time. The changes made by the committee of the lower house reduced by about half the revenues to have accrued from the bill as introduced by the Government, which provided for a general increase from 2.5 to 4 per cent on all lands. The period of operation of the law is set at five years.

A series of Government bills for increasing the revenue to be derived from the sake tax, which includes the increase of the tax on various kinds of sake from 6 and 7 to 12 yen per koku, and on alcohol and spirits from 8 to 13 yen per koku, the prohibition of private brewing for domestic use, and the limitation of the holders of licenses to brew to those manufacturing a considerable amount has also been passed. From this source additional revenue of at least 23,000,000 yen is expected.

These two important revenue measures being inadequate quite to meet the expenses of carrying out the post bellum programme, in order to make up the deficit, recourse is being had to a number of smaller means of swelling the national revenue, to wit, to a bill for empowering the Bank of Japan to increase its issue of notes, such issue to be taxed at 1.5 per cent, a bill amending the income tax, a bill amending the statutory tariff, so as to raise the duties on Chinese sake, alcohol, and tobacco, and a bill extending the tobacco monopoly to imported tobaccos, of which the Government would thus become the sole purchaser. These bills are now in various stages of passage.

Of legislation of interest to foreigners in Japan may be mentioned bills now in the hands of committees providing for changes in the press laws, by which the restriction upon nationality is removed, and any resident of the age of at least 21 may edit, publish, or print a paper in Japan, and also a modification of the business tax law (No. 33, issued 1896), in the sense that when there are stores or other business premises at several places in Japan and abroad, if the capital is not differentiated, the portion of it that is employed at each place of business in Japan shall be estimated and the tax shall be imposed upon that portion, though some of the business premises be in places where the law is not operative.

Early in the session of the present Diet a sum of 20,000,000 yen was voted to be transferred to the Crown property from the Chinese indemnity, and was formally accepted by the Emperor. The same spirit of solicitude for the welfare of the Imperial family is to be seen in a vote of funds for the repair and preservation of some of the ancestral imperial tombs.

The above sums up the important legislation thus far. It is undoubted that the Government is deeply indebted to the Liberal party for their stanch support, by which alone the necessary laws could be passed. While the present cabinet will in all probability remain in office until the end of the present session of the Diet, it is generally believed that thereafter a number of portfolios will be given to Liberals, and the premier's portfolio, very likely, to Marquis Ito, who, though not yet actually a member of any party, has always had cordial relations with the Liberals.

I have, etc., A. E. BUCK.

PRACTICE OF MEDICINE BY WOMEN.

Mr. Sherman to Mr. Buck.

No. 68.] DEPARTMENT OF STATE,
Washington, January 3, 1898.

SIR: I inclose herewith a copy of a letter dated the 28th ultimo, from Dr. J. M. Withrow, dean of the Laura Memorial Woman's Medical College, of Cincinnati, Ohio, stating that two women graduates of that college, natives of Japan, have been denied by the Japanese Government permission to practice medicine on their return to their native land, the ground for such refusal being, as alleged, that said Government does not admit physicians from the United States to practice in its territory, unless they have been graduated from some few schools in New York, Philadelphia, and Chicago.

You are instructed to report to the Department the Japanese rule in this regard in order that Dr. Withrow may be properly advised in the matter.

Respectfully, yours, JOHN SHERMAN.

Mr. Buck to Mr. Sherman.

No. 95.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, February 14, 1898.

SIR: I have to acknowledge the receipt of instruction No. 68, of date the 3d ultimo, inclosing copy of a communication from Dr. J. M. Withrow, dean of the Laura Memorial Medical College, of Cincinnati, Ohio, stating that two women graduates of that college, natives of Japan, have been denied by the Japanese Government permission to practice medicine on their return to their native land, the ground for such refusal being, as alleged, that said Government does not admit physicians from the United States to practice in its territory, unless they have been graduated from some few schools in New York, Philadelphia, and Chicago.

The rule of the Japanese Government in this regard, as furnished by the department of home affairs, is as follows:

ARTICLE I. Any person who has received a license from the department of home affairs, upon examination, may follow the profession of physician.

ART. IV. When a person who has received a diploma of graduation from the medical department of a foreign university or from a medical college abroad, or has received a license to practice medicine in a foreign country, shall make application for a license to practice in Japan, inclosing the said diploma or license, the department of home affairs may, upon scrutiny of the said certificates, grant a license to such person without examination.

The point involved in the case under discussion, it would appear from the above-quoted regulations, is not that the Japanese "Government does not admit physicians to practice medicine in its territory unless they have been graduated from some few schools in New York, Philadelphia, and Chicago," as stated by Dr. Withrow, but that the right of practice without examination has been denied to the graduates of the Laura Memorial Medical College under the regulations.

The practical question would seem to be how to secure for the said college such recognition of its diploma as will enable its graduates to practice medicine in Japan without further examination; and, as that is evidently a question of privilege rather than a question of right, may I request that I be furnished by Dr. Withrow, with the approval of the Department, such further information relating to the requirements, course of study, etc., of the Laura Memorial Medical College, together with certified copies of papers showing the membership of the college in the American College Association as will enable me to make an intelligent presentation of the case to the home department of the Japanese Government with a view of obtaining, if practicable, the desired recognition.

I have, etc.,

A. E. BUCK.

Mr. Day to Mr. Bliss.

DEPARTMENT OF STATE,
Washington, March 10, 1898.

SIR: I have the honor, by direction of the Secretary of State, to inclose herewith, for your information, a copy of dispatch No. 95, of the 14th ultimo, from our minister at Tokyo, in relation to the refusal of the Japanese Government to allow graduates of the Laura Memorial Woman's Medical College, of Cincinnati, Ohio, to practice medicine in Japan without examination; and to request that you will furnish this Department, if practicable, with a statement from the Commissioner of Education showing the standing, etc., of this college, as indicated in the last paragraph of the minister's report.

Respectfully, yours,

WILLIAM R. DAY,
Assistant Secretary.

Mr. Bliss to Mr. Sherman.

DEPARTMENT OF THE INTERIOR,
Washington, March 12, 1898.

SIR: Your letter of the 10th instant has been received, inclosing a copy of a dispatch from the United States minister at Tokyo, in relation to the refusal of the Japanese Government to allow graduates of the Laura Memorial Women's Medical College, of Cincinnati, Ohio, to practice medicine in Japan without examination, and requesting a statement showing the standing, etc., of this college.

I have the honor to state that your letter, together with the accompanying dispatch, has been referred to the Commissioner of Education for consideration and report, after which you will be duly notified.

Very, respectfully,

C. N. BLISS.

Mr. Sherman to Mr. Buck.

DEPARTMENT OF STATE,
Washington, March 30, 1898.

SIR: I have to acknowledge the receipt of your dispatches Nos. 95 and 97, dated, respectively, the 14th and 18th ultimo, on the subject of such recognition of the diploma of the Laura Memorial Medical College, of Cincinnati, Ohio, as will enable its graduates to practice medicine in Japan without further examination, and to send you, herewith inclosed, in compliance with your request, such further information, furnished by the Secretary of the Interior, and relating to the requirements, course of study, etc., of said college, as will enable you to make an intelligent presentation of the case to the Japanese Government, with a view to obtaining, if practicable, the desired recognition.

Respectfully, yours,

JOHN SHERMAN.

[Inclosure.]

Mr. Bliss to Mr. Sherman.

DEPARTMENT OF THE INTERIOR,
Washington, March 21, 1898.

SIR: In further reply to your communication of the 10th instant, inclosing a copy of a dispatch from the United States minister at Tokyo, in regard to the refusal of the Japanese Government to allow graduates of the Laura Memorial Women's Medical College, of Cincinnati, Ohio, to practice medicine in that country without an examination, and requesting to be advised as to the standing, etc., of said college, I have the honor to transmit herewith a copy of a letter and accompanying inclosure from the Commissioner of Education, to whom the matter was referred, giving further data regarding said college, from which it appears that it is a member of the Association of American Medical Colleges.

Very respectfully, C. N. BLISS.

[Subinclosure.]

Mr. Harris to Mr. Bliss.

DEPARTMENT OF THE INTERIOR,
BUREAU OF EDUCATION,
Washington, March 17, 1898.

SIR: I have the honor to acknowledge, by reference from the Department, the letter of the Assistant Secretary of State, inclosing a copy of a letter from Hon. A. E. Buck, envoy extraordinary and minister plenipotentiary to Japan, requesting information as to the standing of the Laura Memorial Women's Medical College, of Cincinnati.

I have the honor to state that the above-named institution, which opened in 1890 as the Woman's State Hospital Medical College, has been reporting to this Bureau for a number of years. It has a four years' course, and the last report showed that it has 19 professors, 7 assistants, 40 students, and 9 graduates for that year. The institution is recognized by the Illinois State board of health, as shown in the list published in the Journal of the American Medical Association, Chicago, November 27, 1897. The high standard of professional education insisted upon by the former

secretary, Dr. Rauch, made the Illinois State board of health well known throughout the world, no institutions being quoted on its list except those known to require a strict examination for entrance, a four years' course of study, and a rigid examination for diploma.

The Laura Memorial Women's Medical College is a member of the Association of American Medical Colleges. The requirements for the admission of a medical school to this association are set forth in the accompanying rules. (Exhibit A.)

Very respectfully, etc.,

W. J. HARRIS, *Commissioner.*

[Subinclosure.]

EXHIBIT A.—*Association of American Medical Colleges.*

SECTION 1. Each college holding membership in this association shall require of each student before admission to its course of study an examination, the minimum of which shall be as follows:

1. In English, a composition on some subject of general interest. This composition must be written by the student at the time of the examination, and should contain at least 200 words. It should be criticised in relation to thought, construction, punctuation, spelling, and handwriting.

2. In arithmetic, such questions as will show a thorough knowledge of common and decimal fractions, compound numbers, and ratio and proportion.

3. In algebra, such questions as will bring out the student's knowledge of the fundamental operations, factoring, and simple quadratic equations.

4. In physics, such questions as will discover the student's understanding of the elements of mechanics, hydrostatics, hydraulics, optics, and acoustics.

5. In Latin, an examination upon such elementary work as the student may offer, showing a familiarity usually attained by one year of study; for example, the reading of the first fifteen chapters of Cæsar's Commentaries and the translation into Latin of easy English sentences involving the same vocabulary.

SEC. 2. In place of this examination, or any part of it, colleges members of this association are at liberty to recognize the official certificates of reputable literary and scientific colleges, academies, high schools, and normal schools, and also the medical student's certificate issued by any State examining board covering the work of the foregoing entrance examination.

SEC. 3. Colleges members of this association may allow students who fail in one or more branches in this entrance examination the privilege of entering the first year's course, but such students shall not be allowed to begin the second course until the entrance requirements are satisfied.

SEC. 4. Colleges, members of this association, are free to honor official credentials issued by medical colleges of equal requirements, except in the branches of study embraced in the last year of their own curriculum.

SEC. 5. Candidates for the degree of doctor of medicine in the year 1899 and thereafter shall have attended at least four courses of medical instruction, each course of at least six months' duration, no two courses of which shall have been in the same calendar year.

SEC. 6. Colleges, members of this association, are free to give to students who have met the entrance requirements of the association additional credit for time on the four years' course as follows: (*a*) To students having the A. B., B. S., or equivalent degree, from reputable literary colleges, one year of time. (*b*) To graduates and students of colleges of homeopathic or eclectic medicine, as many years as they attended those colleges, provided they have met the previous requirements of the association and that they pass an examination in materia medica and therapeutics. (*c*) To graduates of reputable colleges of dentistry, pharmacy, and veterinary medicine, one year of time.

SEC. 7. Colleges, members of this association, may confer the degree of doctor of medicine during the year 1898 upon students who have attended three courses of six months' duration each. Each course shall have been in a separate calendar year.

Mr. Buck to Mr. Sherman.

LEGATION OF THE UNITED STATES,
Tokyo, Japan, May 21, 1898.

SIR: Referring to your instructions Nos. 68 and 102, (the receipt of which is hereby acknowledged) of dates January 3 and March 30, respectively, and to my dispatches Nos. 95 and 97, of dates the 14th and 18th of February last, in regard to the refusal of the Japanese authorities to grant to two Japanese graduates of the Laura Memorial Medical College the privilege of practicing in this country without further examination, I have the honor to state that I am in receipt of information to the effect that the Japanese authorities have withdrawn their objections and granted to the two graduates of that institution permits to practice without further examination, having decided, it seems, in view of the evidence which has been furnished of the standing, etc., of the Laura Memorial Medical College, to consider its diploma sufficient proof of fitness.

I have, etc., A. E. BUCK.

EXPORT OF SILK.

Mr. Dunn to Mr. Sherman.

No. 488.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, May 12, 1897.

SIR: I have the honor to inclose herewith translation copy of a law promulgated April 27, 1897, for the encouragement of the direct export of silk, together with a note upon this subject addressed to me, as "doyen" of the diplomatic corps at this capital, by the Yokohama Chamber of Commerce, and my reply thereto.

I also inclose two clippings from the Japan Mail of April 2 last, relating to the new law.

I have, etc., EDWIN DUNN.

[Inclosure 1 in No. 488.—Translation.]

LAW (NO. 48) FOR ENCOURAGEMENT OF DIRECT EXPORT OF SILK.

ARTICLE I. Any mercantile company composed, members and shareholders, of Japanese subjects and Japanese subjects only, engaged in the direct export of silk to foreign countries, and complying with the following conditions, shall receive money for the encouragement of the direct export of silk under the provisions of this law: The materials must be of Japanese manufacture. The materials must be stamped with a registered trade-mark. The materials must receive inspection, 500 kin or more at a time, at the inspection office, and pass the examination fixed by imperial ordinance.

ART. II. The quality of the raw silk and the sums of money to be granted according to the purpose of this law shall be fixed by imperial ordinance.

ART. III. Any person who shall receive money under the provisions of this law by fraudulent means shall be liable to a fine of not less than 200 yen and not more than 1,000 yen. He shall return the money so received and forfeit all right to the bonus herein provided for. Any person who shall be guilty of an attempt to violate the provisions of this law shall be prosecuted according to the law of criminal intent.

ART. IV. The penalties mentioned in the preceding article shall be inflicted upon the business manager or the member or members of the company responsible for the conduct of the company's affairs.

ART. V. The detailed regulations for the enactment of this law shall be determined by the minister of the department of agriculture and commerce.

Appendix.

ART. VI. This law shall be enforced for a period of five years, from April 1, 1898, to March 31, 1903.

Received imperial sanction April 22, 1897.

Promulgated April 27, 1897.

[Inclosure 2 in No. 488.]

YOKOHAMA GENERAL CHAMBER OF COMMERCE,
Yokohama, April 8, 1897.

YOUR EXCELLENCY:

I have the honor to hand you herewith a letter addressed to you as "doyen" of the diplomatic corps of Tokyo by the committee of this chamber, and to inform you that printed copies of the same will be forwarded to all the foreign representatives here.

I have, etc.,

AKIN, *Secretary.*

His Excellency EDWIN DUNN, etc.

YOKOHAMA GENERAL CHAMBER OF COMMERCE,
Yokohama, April 8, 1897.

YOUR EXCELLENCY:

The committee of the General Chamber of Commerce of Yokohama desire to ask the attention of your excellency to the bill proposed by the Imperial Japanese Government, and passed at the last session of the Japanese Diet (but which has not yet received imperial sanction), providing for the payment to direct Japanese exporters of raw silk a bounty or subsidy upon their shipments from Japan to foreign countries.

This bill, as originally presented, allowed a bounty of 50 yen per picul on silk of best color and quality, 2 deniers variation; 30 yen per picul on silk of good color and quality, 3 deniers variation; 20 yen per picul on silk of fair color and quality, 4 deniers variation; which would amount, roughly, to about 6 per cent on the value of the best, 4 per cent on the value of the good, and 3 per cent on the value of the fair. Filature or reruled silks produced in this country.

The details were, however, altered in committee by the Diet, so that the amount of the subsidy and the classification of the silk have been left to be determined by the Government department of agriculture and commerce. According to article 1, the proposed bounty is restricted to Japanese subjects engaged in the direct export of silk to foreign countries.

It is not payable to the growers and reelers of silk, who might thereby be stimulated to improve their production (in which case no possible objection could have been taken to the measure), but gives to specially favored Japanese exporters a benefit not available to others. The grant of this bounty will, indeed, be injurious to the producer of silk, as the bounty-favored exporter will, by means of the subsidy which he receives, be enabled to sell his silk at lower prices than his competitors without incurring loss, thereby inducing a decline in value on the markets abroad, which must cause a fall also in Japan to the detriment of the growers and dealers in silk here.

The Imperial Government of Japan has for many years past expressed the desire to revise its treaties with Western powers on a footing of equality and upon principles of equity and mutual benefit; and in the new treaty signed in 1894 between Japan and Great Britain (Article I) it is expressly stated that the subjects of the contracting parties shall enjoy in the dominions and possessions of the other the same privileges and rights as native subjects, while Article VII states: "The subjects of each of the contracting parties shall enjoy in the dominions and possessions of the other a perfect equality of treatment in all that relates to bounties, facilities, and drawbacks."

It is true that the provisions of the new treaty do not come into force until July, 1899, but it is surprising to see that while the Imperial Japanese Government is with one hand signing treaties according equality of treatment to Japanese and foreigners, it is with the other offering bounties to some of its own subjects that will directly injure the silk trade of the foreign residents of this country, a trade which their enterprise has fostered and trebled in importance during the past thirty years.

It is evident that the provisions of this bounty, proposed to be given for seven years, will be in direct conflict with the new treaties; and the committee of this

chamber consider that they are also contrary to the spirit of the previous treaties between Japan and foreign powers.

The preamble to the Japanese-Austro-Hungarian treaty of 1869 expresses the desire of their majesties, the sovereigns of those countries, to facilitate the commercial intercourse between their respective subjects, and Article VIII states that at each of the open ports Austro-Hungarian citizens shall be at full liberty to purchase therein and export to their own or any other ports all manner of merchandise not contraband, paying the duties thereon as laid down in the tariff, and no other charges whatsoever.

In the form in which the bill has passed the Diet it will be obvious to your excellency that it is open to the Japanese Government to determine the amount of subsidy and the standard of quality in such a manner as might effectually render competition impossible on the part of foreign firms engaged in the silk export trade, and that the full liberty provided for in the treaty will no longer exist, and commercial intercourse will be impeded instead of being facilitated as called for.

The committee of this chamber venture to hope that your excellency will bring this question, which greatly affects a trade valued at some £4,000,000 per annum, before your colleagues, in the hope that concerted action on the part of the foreign representatives in Tokyo may result in the imperial sanction being withheld from a measure which would be unfair and injurious to the foreign merchants so long established in Japan, while being of no real benefit to the silk trade in other directions.

I have, etc.,

W. B. WALTER, *Chairman.*

His Excellency EDWIN DUNN.

[Inclosure 3 in No. 488.]

LEGATION OF THE UNITED STATES,
Tokyo, Japan, April 17, 1897.

SIR: Referring to your communication of date the 8th instant, relative to the bill lately passed by the Japanese Diet providing for the payment of a bounty to the Japanese exporters of raw silk, which you addressed to me as "doyen" of the diplomatic corps, I beg to state that the foreign representatives do not consider that it would be expedient, under existing treaties, for them, as a body, to make any representation whatever to His Imperial Japanese Majesty's Government in the matter.

I am, etc.,

EDWIN DUNN.

W. B. WALTER, Esq.,
Chairman of the Committee of the Yokohama General Chamber of Commerce.

[Inclosure 4 in No. 488.]

The direct export encouragement law has evidently produced a very bad impression on the foreign merchants in Yokohama, as indeed was inevitable. If the Government aimed uniquely at improving the quality of Japanese silk, the proposed bounties should be given to the producer, not to the exporter. Of course, it is very well understood that a great part of the purpose of the bill is to put an end to the present system of intrusting silk, before sale, to the foreign local merchant, who takes it into his godown and employs his own experts to inspect it there. Such a system presents many objectionable features from the Japanese point of view, and the fact that it owes its origin to the untrustworthiness of the native sericulturist or middleman enhances rather than diminishes its irksomeness. But there is this indisputable fact to be considered, namely, that not the slightest chance exists at present of getting foreign manufacturers to buy Japanese silk unless it has been previously inspected and passed by foreign experts. When the Government offers a bounty to direct exporters, it does not assist the Japanese merchant to find a route by which his silk may reach Western buyers without the intervention of foreign agents or foreign inspecting experts; it merely devotes some hundreds of thousands of public money to transfer the place of inspection from Yokohama or Kobe to New York or Lyons. There are three Japanese firms now engaged in the business of direct export, and not one of them can get foreign manufacturers to buy a bale of silk until it has undergone foreign inspection. Will foreign manufacturers be more disposed to forego inspection because the Japanese exporter receives a bounty from the Government? The original idea was that they would. The original idea, so far as we can understand, was that since a bounty could not be obtained except by silk of

very high quality, the fact that a bounty had been obtained would be in itself a guarantee of quality. In short, the Government proposed to put its cachet upon silk for direct export, hoping that by such a method foreign manufacturers might be disposed to accept Japanese inspection as conclusive, and thus the trustworthiness of the Japanese sericulturist and the competence of the Japanese inspecting expert would ultimately be established. Considered in that light, the law will be seen to be, not a deliberate means of discriminating against the local foreign merchant, but a plan for raising the status of the Japanese silk grower and silk inspector in Western markets. With such a motive the local foreign merchant himself will sympathize, but he can not be expected to forget that, in practice, the new law discriminates most injuriously against him, since it offers a premium for his exclusion from the silk trade; nor can he be expected to appraise the projected programme by any standards except those of hard common sense, which tells him that, whether the inspection on this side of the water be official or private, it will not satisfy foreign buyers so long as it is Japanese. The Government, we repeat, will simply find itself paying to have the foreign inspection done in New York or Lyons, instead of in Yokohama or Kobe, and if that be a proper object to compass, by a large expenditure of public money, we are wholly unable to detect the propriety. Everything that really tends to promote the development of Japanese commerce has at all times the hearty support of intelligent foreigners, even though some local sacrifice be entailed. But this direct export law is a mistake, a most unquestionable mistake, and while we are very fully persuaded that the officials of the department from which the bill emanated do not entertain any shadow of desire to discriminate against the local foreign merchant, we can not acquit them of having framed a measure that will so discriminate, and that will not conduce in any degree to the improvement of Japanese sericulture or the establishment of Japanese credit. For the rest, although nobody wants to obtrude sentiment into a purely practical matter, we venture to suggest to Japanese legislators the patent fact that they are going to work in altogether the wrong way when they endeavor to win the confidence of manufacturing and commercial firms in Europe and America by harsh and unwholesome discrimination against the long-trusted and zealous agents of those firms in Yokohama and Kobe. The impression produced abroad by this law will be of a nature to militate strongly against the very end that its framers have in view.

No. 415.] *Mr. Sherman to Mr. Dunn.*

DEPARTMENT OF STATE,
Washington, June 2, 1897.

SIR: The United States consul-general at Kanagawa sent hither, under dates of April 1 and 3, 1897 (dispatches 277 and 279), information respecting the passage by the Japanese Diet on the last day of its session, March 24, of a law granting a bounty to native subjects or companies directly exporting Japanese raw silk. No report on the subject has been received from the legation, and it is not, in fact, known here whether the act so passed has received the Imperial sanction and become a law. It appears to have still lacked the Imperial sanction on April 8, last, when a communication representing the injurious effects of the measure was addressed to you as "doyen" of the diplomatic corps by a committee of the Yokohama General Chamber of Commerce.

The Department has received a letter from Messrs. Middleton & Smith, of New York and Yokohama, calling attention to the Japanese bill and representing that the effect of the proposed bounty would be to ruin the business of American importers of raw silk. They represent that the United States buys more than half of the Japanese crop of raw silk, amounting in value to nearly $12,000,000, of which only $3,500,000 was shipped by native Japanese, leaving a trade of American firms to the value of $8,000,000 to be threatened with virtual extinction.

Under these circumstances I have deemed it proper to have a conversation on the subject with the Japanese minister at this capital,

and in pursuance of his request for a fuller presentation of my views in writing I have addressed him a note under this date, of which a copy is inclosed for your information.

I desire to impress upon you, also, the importance of making it equally clear to the mind of the Japanese Government that the United States could not but feel keen concern should it prove that the legislation in question was framed for the purpose of rendering illusionary the valuable guaranties of the treaty of commerce and navigation signed between the United States and Japan November 23, 1894. It certainly can not be forgotten that the negotiation of that treaty was an act of conspicuous friendship on our part toward Japan and responded to the urgent invitation of that Government. In entering into that convention the United States believed that they were doing a friendly service to Japan by aiding the Empire to emancipate itself from the commercial restraints heretofore imposed by the old treaties, and in so doing we accepted as in good faith the proffered assurances of just equality and fairness of treatment in all matters of commercial intercourse. Should it now be ascertained, two years in advance of putting that treaty into force, that its assurances are illusionary and that peculiarly injurious action is intended by Japan, destructive of a large and growing trade, the impression created could not but be painful, and its effects might perhaps endanger the treaty itself. Of this, however, it may be premature to speak, for I am hopeful that the threatened misunderstandings may be averted by temperate and friendly treatment on both sides.

Respectfully, yours, JOHN SHERMAN.

Mr. Sherman to Mr. Hoshi.

No. 34.] DEPARTMENT OF STATE,
Washington, June 2, 1897.

SIR: In accordance with my promise made to you some weeks ago, I now address you more fully respecting the recent legislation of Japan granting a bounty to the exportation of silk by natives and the relation of that matter to our pending treaty matters. That I have not done so earlier is due to the circumstance that I was awaiting further information on the subject from Japan.

Toward the end of the recent session of the Imperial Diet a bill was introduced and passed on the last day of the session of March 24, which, as amended, provides by article 1 that Japanese subjects or commercial companies, of which the shareholders are all Japanese subjects engaged in the direct export (choku yushutsu) of raw silk produced in Japan or bearing a duly registered trade-mark, shall receive bounties for the encouragement of such export under the provisions of the said law, and by article 2 it is provided that the amount of the bounty and the classification of the silk shall be determined by Imperial ordinance. Articles 3 and 4 provide penalties to be enforced against any persons or companies fraudulently obtaining the bounty contemplated by the law or attempting to obtain the same. By article 6 it is provided that this law shall go into force from the 1st day of the fourth month of the thirty-first year of the Meiji (April 1, 1898), and shall remain in force for seven years thereafter.

Not only does this provision of law contemplate a discriminatory treatment against American exporters of Japanese silk, as well as

against the exportation of such silk, in the manner usual in the commercial intercourse of the two countries, but it appears to directly contravene the letter and intent of the treaty between the United States of America and the Empire of Japan signed at Washington November 22, 1894, and of which the ratifications were exchanged March 21, 1895. Article VI of that treaty provides that "the citizens or subjects of each of the high contracting parties shall enjoy in the territories of the other exemption from all transit duties and a perfect equality of treatment with native citizens or subjects in all that relates to warehouses, bounties, facilities, and drawbacks."

That treaty does not take effect, according to the provisions of its nineteenth article, until the 17th day of July, 1899, that date having been assigned in order that it might go into operation simultaneously with the similar treaties concluded by Japan with Great Britain and other powers. After that date it is to remain in force for the period of twelve years certain, and thereafter until regular notice of termination shall have been given by either party. While, therefore, this Government may not be in a position to invoke precise treaty rights in the premises between the 1st day of April, 1898, and the 17th day of July, 1899, it is proper to call earnest attention to the fact that in the interim great injury may be inflicted upon a trade which has been gradually built up between the two countries and in which considerable American capital has been invested to the mutual benefit of the United States and Japan.

The act in question is, in my judgment, opposed to the provision of treaty which I have cited. The purpose of the sixth article is evidently to protect foreigners against any unfavorable discrimination in matters of commerce and to insure their being placed on a footing of precise equality with the natives, while the object of the subsidy now proposed is to create a reserved export trade for Japanese subjects or for trading companies of which the shareholders are all Japanese subjects. That this is its purpose is further evidenced by the limitation of the bounty to Japanese subjects or companies engaged in the "direct export" of silk, for the phrase would seem to exclude any export transaction effected through foreign merchants purchasing or shipping silk in Japan. I would be loath to think that this peculiar qualification, by which the bounty is limited to directly exported silk, was framed with the intent of evading the obvious purpose and intent of the sixth article of the treaty, which was accepted by us in good faith as safeguarding all legitimate rights of commerce now existing and developing between the two countries, and I am quite sure that had the possibility of such a condition as would now seem to be contemplated been understood at the time of the negotiations this Government would not have acquiesced in the proposal. A moment's reflection will show that the extension of the proposed scheme to other articles of export would operate to destroy other branches of legitimate foreign trade with Japan and that the professed equality which the sixth article appears to confer upon foreigners as compared with native citizens or subjects might be made illusory as to all the enumerated privileges.

The law in question is, moreover, distinctly antagonistic to the spirit if not the letter of article 2 of the convention between the United States and Japan of November 22, 1894, in that it impairs reciprocal freedom of commerce between the territories of the two parties, and prevents citizens of the United States from enjoying the same treatment in matters of commerce as citizens or subjects of Japan.

The subject, it seems to me, is one of much importance, for if it should

really prove to be the purpose of Japan, by legislation adopted subsequent to the ratification and exchange of the commercial treaty, but prior to its taking effect, to render some or any of its most important provisions nugatory, and to destroy its effect when it shall become operative, this Government may well be constrained to consider whether it will be bound for its part to put that treaty in operation when the prescribed time shall come, or whether it may not then be entirely absolved from its reciprocal obligations by the repudiatory act of the other contracting party. To my mind, not only is there danger of the destruction of a large and growing trade between the two countries, but I can foresee the extremely unfavorable effect such action by Japan would have upon the mind of the Congress of the United States and the possibility of that body feeling constrained to adopt appropriate legislation in view of the contingencies thereby presented.

Fortunately, the long interval before the Japanese silk export bounty law is to take effect affords ample opportunity for the temperate examination and discussion of the matter, and, I hope, for the complete removal of the seriously objectionable features of the law so far as the interests of this country and its pending treaty engagements are concerned.

Accept, etc., JOHN SHERMAN.

Mr. Hoshi to Mr. Sherman.

LEGATION OF JAPAN,
Washington, June 4, 1897.

SIR: I have the honor to acknowledge the receipt of your communication of the 2d instant, in which you acquaint me with your views respecting the recent legislation of Japan granting a bounty to the exportation of silk by Japanese subjects and the relation of that matter to our pending treaty engagements.

In reply, I beg to state that after the conversation upon the subject to which you allude I informed the Imperial Government of what you had said to me, and that I am now in receipt of an answer from His Imperial Majesty's minister for foreign affairs, explaining the object of the law in question and the construction placed upon it by the Imperial Government.

Count Okuma states that there appears to be some misapprehension on your part regarding the nature and object of the law. In the first place, its provisions are only applicable to raw silk exported in quantities of over 500 catties weight. In the next place, the amount of the bounty and the quality of the silk to which it shall be applicable are to be determined by an Imperial ordinance to be hereafter promulgated. Inasmuch as the actual object of the law is to improve the quality of the silk exported from Japan, it necessarily follows that, under the operation of the foregoing provisions, the bounty will be limited to the highest grades, and that, consequently, only a comparatively small part of the amount exported will enjoy its benefits.

Count Okuma directs me to state in the frankest terms that the law was not intended in any sense for discrimination against the subjects and citizens of foreign powers interested in the exportation of raw silk from Japan. Since, however, penalties must necessarily form a part of the law, and since it would be impossible to enforce those penalties against foreigners while consular jurisdiction continues to exist, the only alternative was to limit the application of the law to Japanese subjects. But the Imperial Government have no hesitation in admit-

ting that, with the abolition of consular jurisdiction and the enforcement of the new treaties, that is to say, after the 17th day of July, 1899, this law, if continued in force, will have to be made applicable to the citizens and subjects of the treaty powers equally with Japanese subjects.

Taking note of your statement that during the period between the date when the law goes into effect and the enforcement of the new treaty great injury may be inflicted upon the silk trade, I beg to express the hope that you will find reason in what I have already said concerning the object and scope of the law to change this opinion. As I have had the honor to state, the law is intended to improve the quality of silk exported from Japan by offering a premium upon the best processes of production and manufacture. And as before remarked, it is probable that in actual operation the bounties provided by the law will only apply to the highest grades of silk, and to those in comparatively small quantities. Hence it can hardly be expected that the law will exercise a depressing influence upon the silk trade in general. Nothing, I can assure you in the most positive terms, Mr. Secretary, could be further from the intention of the Imperial Government than that, and nothing more remote from their purpose than a desire to place at a disadvantage American interests in a trade which, as you truly remark, has proved of mutual benefit to Japan and the United States. On the contrary, it is their earnest wish to extend and to improve that trade, and that was the chief reason for the enactment of the law now under consideration. Nothing in that law, I beg to repeat, was intended to be detrimental to American interests, and I feel assured that experience will demonstrate that none of its provisions are thus prejudicial even indirectly.

Accept, etc., TORU HOSHI.

Mr. Sherman to Mr. Dunn.

No. 418.] DEPARTMENT OF STATE,
Washington, June 5, 1897.

SIR: Referring to my No. 415, of the 2d instant, in regard to the bill passed by the Japanese Diet granting a bounty to native subjects or companies directly exporting Japanese raw silk, I inclose for your information a copy of a further letter from Messrs. Middleton & Smith, of New York City, stating that the bill received the imperial assent on the 22d of April, and inclosing a translation of the law.

Respectfully, yours,

JOHN SHERMAN.

Mr. Day to Mr. Hoshi.

No. 41.] DEPARTMENT OF STATE,
Washington, June 10, 1897.

SIR: Reserving consideration of the statements and representations therein contained, I have the honor to acknowledge the receipt of your note of the 4th instant, in reply to that of this Department of the 2d instant, respecting the recent legislation of Japan granting a bounty for the exportation of silk by Japanese subjects.

Accept, etc.,

WILLIAM R. DAY,
Acting Secretary.

Mr. Day to Mr. Buck.

No. 419.] DEPARTMENT OF STATE,
Washington, June 10, 1897.

SIR: Your No. 488 of the 12th ultimo crossed the Department's instruction No. 415 of the 2d instant, in regard to the recently proclaimed Japanese law for the encouragement of the direct export of native silk by payment of a bounty to native exporters.

It is now observed that you had already had the subject under consideration for some weeks, and that as early as April 17 you had, in your capacity as dean of the diplomatic corps, answered the representations made April 8 by the committee of the Yokohama General Chamber of Commerce "that the foreign representatives do not consider that it would be expedient, under existing treaties, for them, as a body, to make any representation whatever to His Imperial Japanese Majesty's Government in the matter."

This negative reply is sufficiently conditioned to leave your legation free to make such representations as the several interests of the United States and the stipulations of our existing (but not yet operative) treaty may require. The Department's No. 315 will have shown you the view here entertained as to the nature and effect of the Japanese act. That view is not essentially modified by the receipt of Mr. Hoshi's reply of June 4, a copy of which is inclosed for your information. It has been acknowledged for the time being, reserving consideration of its statements and representations.

That part of Mr. Hoshi's note which conveys Count Okuma's disclaimer of intention to discriminate against foreigners engaged in the exportation of raw silk is not entirely clear to this Government, especially as to the alleged necessity of limiting the present enjoyment of the bounty to native Japanese because "penalties must necessarily form a part of the law, and since it would be impossible to enforce those penalties against foreigners while consular jurisdiction continues to exist." The penal provisions in question relate to any person fraudulently receiving a bounty or attempting to violate the act. As the bounty is only payable after the prescribed governmental inspection shall have established the origin, weight, and fineness of the silk presented for export, it would seem that the Government exercises abundant control and can effectually prevent the payment of a bounty to which the silk itself may not be lawfully entitled, and if the silk be properly bountiable, the only practicable fraud on the part of the exporter would consist in his not being a native Japanese. Whichever way it be regarded, the penal provision operates as a direct and additional means of preventing the enjoyment of a bounty by a foreigner, so that Article III in fact undertakes to subject a foreigner to a penalty which Mr. Hoshi's note admits can not be enforced. The restriction of the export bounty to natives is not so much a consequence of the necessity for the penal provision of Article III, as that penal provision itself is a necessary expansion of the monoply which Article I seeks to create for native Japanese. Mr. Hoshi's argument simply reverses the logical association of the two propositions. Were the bounty enjoyable by foreigners and natives alike, fraud in obtaining it would be practically impossible, for the governmental regulations and inspection can, as has been said, fully establish the right of the silk to be bountied. As it stands, if it means anything, Article III means, first, that a foreigner, or a Japanese subject standing in the place of a foreign owner, is punishable if the bounty be actually paid; and, sec-

ondly, that a foreigner, or a native in his stead, offering export silk for inspection, is liable to punishment for an attempt to violate this act.

If, as Mr. Hoshi says in Count Okuma's name, the Imperial Government admits that the bounty, if continued after July 17, 1899, must be applicable to the citizens or subjects of the treaty powers equally with Japanese subjects, it must necessarily admit that prior to that date a differential treatment adverse to foreigners will exist. It, in fact, does make this admission by arguing that the discrimination is calculated only to affect the highest grades of silk, and those in comparatively small quantities; and it may be noticed that it is also admitted that the purpose of the act is to stimulate and increase the export trade in those high grades. While it may not be practicable to measure the volume of the monopolistic traffic which the act aims to create, it is obvious that it must reduce the foreign trade, and that, if successful, this act will build up by the 17th day of July, 1899, a special trade which the foreign trade can not easily regain, and which native interests will tend to fortify through fresh and favoring legislation. It is not a question of the greater or less amount of the injury that may be wrought to legitimately established interests of United States citizens in the meantime—it is the contingency of any injury whatever being caused that justifies this Government in making earnest remonstrances against this measure, because it is a blow at the privilege which we have bargained to enjoy at a future date, and because the enforcement of this act will impair Japan's ability to deliver at that time the stipulated measure of equal privilege.

Respectfully, yours, WILLIAM R. DAY,
Acting Secretary.

Mr. Buck to Mr. Sherman.

No. 114.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, April 1, 1898.

SIR: I have the honor to inclose herewith translation copy of an imperial ordinance bringing into operation the law providing for a bounty to be paid to Japanese exporters of raw silk.

I am informed by the foreign office that under the constitution the Government has been obliged against its will to bring this law into operation, though steps will be taken to secure its repeal upon the assembling of the Imperial Diet, on or about the 15th of May next.

I have, etc.,

A. E. BUCK.

[Inclosure in No. 114.]

JAPANESE SILK REGULATIONS.

The Official Gazette of the 29th contains the following notifications:

We hereby give sanction to the provisions regarding the inspection as well as the classification of raw silk, and the amount of encouragement funds to be granted, in accordance with law No. 49, issued in the 30th year of Meiji, embodying the regulations for the encouragement of the direct export of silk, and direct the same to be promulgated.

(Imperial sign manual and great seal.)

March 26, of the 31st year of Meiji.

(Countersigned)

COUNT INOUYE KAORU,
Minister of Finance.

BARON ITO MIYOJI,
Minister of Agriculture and Commerce.

Imperial ordinance No. 51.

ARTICLE I. The inspection of raw silk shall be undertaken at the raw-silk inspection office with reference to the items mentioned below: (1) Original weight, (2) luster, (3) reeeling, (4) fineness, (5) nibs.

ART. II. Silk will be held to have passed examination as to the above particulars when more than 500 catties of raw silk are found to fulfill the following provisions: (*a*) Luster and clearness to be uniform throughout; number of breaks, not more than 3; difference in fineness, 2.5 denier; number of nibs, not more than 50; (*b*) luster and clearness to be uniform; number of breaks, not more than 6; difference in fineness, 4 denier; nibs, not more than 100; (*c*) uniformity of luster and clearness; breaks, not more than 9; difference in fineness, 5 denier; nibs, not more than 150.

ART. III. The amount of encouragement funds shall be calculated or determined according to the following classification, fraction of a catty being excluded from the calculation:

For every 100 catties of raw silk qualified in respect of qualities specified in (*a*), 50 yen.

For every 100 catties of raw silk qualified in accordance with (*b*), 30 yen.

For every 100 catties of silk qualified in conformity with (*c*), 20 yen.

Mr. Toru Hoshi to Mr. Day.

No. 30.] LEGATION OF JAPAN,
Washington, May 23, 1898.

SIR: Referring to the correspondence on the subject of the silk-bounty law which passed between this legation and your Department last year, I have the honor to inform you that I have received a telegram from His Imperial Majesty's minister for foreign affairs acquainting me with the fact that to-day the Imperial Diet passed a bill repealing the act of April 22, 1897, granting a bounty in certain cases to exporters of raw silk. As I have reason to believe that this bill was introduced by the Imperial Government, there is no doubt in my mind that it will receive the sanction of His Majesty the Emperor within a few days.

Accept, etc.,

TORU HOSHI.

Mr. Buck to Mr. Sherman.

No. 145.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, May 26, 1898.

SIR: Referring to the unnumbered instructions of the Department of date July 23 and 27, 1897, and my dispatch No. 35, of date September 23 last, relating to bounty laws making a discrimination in favor of Japanese subjects, especially bounties upon exports of raw silk, I have the honor to state that, immediately upon the opening of the present session of the Diet, a bill repealing the act providing for a bounty on such exports of raw silk by Japanese subjects was introduced; which bill passed the lower house on the 21st instant; that on the 23d instant it passed the House of Peers unanimously, and now only awaits the Imperial sanction to go into effect, which is expected to be given within the next few days.

I am informed by Mr. Kaneko, His Imperial Japanese Majesty's minister for agriculture and commerce, who has had charge of the bill in behalf of the Government, that the Japanese minister in Washington has already been informed by cable of the repeal of the silk-bounty law that he may communicate that information to the Department of State at once, which if not already done he doubtless will speedily do.

I have, etc.,

A. E. BUCK.

Mr. Toru Hoshi to Mr. Day.

No. 31.] LEGATION OF JAPAN,
Washington, May 26, 1898.

SIR: Referring to my note dated the 23d instant, in which I had the pleasure to inform you of the passage by the Imperial Diet of a bill repealing the law granting a bounty on the export of certain classes of raw silk, I have the honor to state that I am in receipt of a telegram from my Government informing me that the act in question has received the Imperial sanction, and was to-day duly promulgated as law, to take effect immediately.

Accept, etc., TORU HOSHI.

Mr. Day to Mr. Toru Hoshi.

No. 89.] DEPARTMENT OF STATE,
Washington, May 26, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, informing me that the Imperial Japanese Diet has passed a bill repealing the act of April 22, 1897, granting a bounty to exporters of raw silk, and adding that you have no doubt that the bill will receive the Emperor's sanction.

Thanking you for the information, I beg to renew, etc.,

WILLIAM R. DAY.

Mr. Buck to Mr. Day.

No. 152.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, June 6, 1898.

SIR: Referring to my dispatch No. 145, of date the 26th ultimo, stating that a bill repealing the law providing a bounty for Japanese subjects directly exporting raw silk had passed both houses of the Diet, I have the honor to inform you that the bill received Imperial sanction on the 25th ultimo, from which date it takes effect. That Imperial sanction had been given was not yet known when my dispatch No. 145 was written.

I have, etc., A. E. BUCK.

Mr. Day to Mr. Toru Hoshi.

No. 95.] DEPARTMENT OF STATE,
Washington, June 21, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 26th ultimo, informing me that the bill repealing the law granting a bounty on raw silk exported from Japan has received the Imperial sanction and was promulgated on that date, to take effect immediately.

Thanking you for this information, I beg to renew, etc.,

WILLIAM R. DAY.

PROTESTS AGAINST THE TREATY WITH JAPAN.

Mr. Buck to Mr. Day.

No. 166.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, July 15, 1898.

SIR: I have the honor to transmit herewith a memorial of American citizens at Kobe, addressed to the President; also a copy of a joint letter to the President from the "chairman of the American Memorial Committee" and the "secretary of the International Memorial Committee of Kobe;" also a copy of a report made to the chairman of the international committee by the director of the International Hospital of Kobe, relative to a visit of inspection made by him to the Hiogo Prefectural Prison; together with a copy of a joint letter to me from the president and secretary of the committees above mentioned, accompanied by a copy of a letter of transmittal from Samuel S. Lyon, esq., United States consul at Kobe.

These papers relate to matters of complaint touching "land tenure" in Japan, the "existence of foreign newspapers" under the revised treaty soon to go into effect, and the conduct of the legal authorities under the code of criminal procedure as to the bail of prisoners, the condition of Japanese prisons, and the hardship and distress that will be incident to foreigners confined in Japanese prisons as now conducted, and asking that influence be brought to bear by our Government through diplomatic intercession to obtain amendments of the treaty to correct the evils existing and those to be apprehended after the revised treaty goes into operation.

Though recognizing as I do the force of the facts set forth in the memorial, and believing that the fears of our citizens at Kobe are to some degree well founded, yet I do not think that at this time it is wise to make any attempt to obtain additional treaty stipulations from the Japanese Government for further concessions of rights and privileges to our citizens.

In respect to some of these complaints, they are concerning matters which the courts under the new codes may determine more to the satisfaction of our people living in Japan than they now anticipate. As regards others, the Government itself may make changes which will be more satisfactory before the time arrives for the operation of the revised treaties.

As to the matter of land tenure and the existence of foreign newspapers, the Government and the courts may so interpret the law as largely to remove any cause of complaint. There has been considerable controversy between the newspapers in respect to what interpretation should be put upon certain provisions of the code touching the rights of parties as to the term of years for which property can be held under a contract for use of the superficies and under an emphyteusis (lease), as well as to the exact rights and privileges the lessee may acquire under the law in the use of property. The duration of a lease, in cases of controversy to be determined by the court, may be for twenty or fifty years, according to its character; and under the treaty and the code, article 2, providing that "foreigners enjoy private rights except as prohibited by law, regulation, or treaty," it would seem that no discrimination could legally be made against foreigners in that respect.

Except then as to actual ownership of land by foreigners not now allowed by law or guaranteed by treaty, the Japanese courts are sup-

posed to mete out justice to foreigners and natives alike. Whatever belief there may be that injustice will be done to foreigners in the administration of the law and treaty in respect to land tenure, time will soon show whether it be well founded. It is believed by many that in the near future the law will be so changed as to permit the actual ownership by foreigners of real estate in Japan.

While there is some apprehension that the Japanese Government may hold that newspapers owned, conducted, and published by foreigners shall not continue to exist, on the ground, perhaps, that such ownership and publication are not wholly within the limits of private rights granted by law and treaty, yet the opinion of many foreigners of long residence here and well informed in respect to the spirit and purpose of the Japanese Government with reference to foreigners, seems to be confident that such newspapers will continue to be published, as they now are, without any attempt to harass or suppress them.

Of late there has been much discussion in the vernacular and foreign newspapers upon the subject of the treatment that foreigners in Japanese prisons may expect, and there is doubt whether foreign prisoners will be kept in such prisons subject to the same accommodations, food, and in other respects as the native prisoners, or whether they will be confined apart from the Japanese prisoners with different accommodations, food, etc.

In a conversation on the subject which I have recently had with the vice-minister for foreign affairs, I learned that the Government is giving attention to the matters of the treatment to be given to foreign prisoners. To the suggestion by me that perhaps it would be well to make use of the jails of the foreign powers in the open ports for the confinement of foreign prisoners, he agreed that it was perhaps the best thing to do, and stated that he thought it could be done.

I learned that some time before my arrival here a council was formed termed "The Revised Treaty Operation Investigation Council," with Prince Konoye, then president of the House of Peers, at its head, to determine upon, among other matters, the question, "Is there any necessity for affording different treatment to foreigners, owing to difference in their customs and manners, in case they are detained in Japanese prisons for criminal offenses after the enforcement of the revised treaties? If such necessity exists, how is it to be dealt with?" and to make such recommendations to the Diet as in its wisdom might be necessary. That council has not yet made its report, but is still in existence, and is expected to report to the next Diet.

The Yokohama General Chamber of Commerce (foreign) has had a committee appointed by that body to investigate Japanese prisons, with a view to ascertain and report upon what changes and improvements, if any, should be suggested for the proper treatment of foreign prisoners, and I have no doubt but that the conclusions of this committee will have some weight with the Japanese Government.

It may be proper for me to add in this connection that it is to be supposed that in adopting the revised treaties all points were taken into consideration by the Governments of both countries, so far as they could be foreseen and considered, touching the rights and privileges of United States citizens in Japan, and that whatever in these respects may be found to require more specific declaration, on the revised treaties being put into operation, can be better known and more properly considered by our Government than now.

I have, etc., A. E. BUCK.

[Inclosure 1 in No. 166.]

Mr. Lyon to Mr. Buck.

CONSULATE OF THE UNITED STATES OF AMERICA,
Hiogo, July 5, 1898.

SIR: I have the honor to inclose herewith a copy of a communication addressed to me by J. S. Happer, esq., an American citizen and chairman of the American Memorial Committee, also honorary secretary of the International Committee, which associations have recently been formed at this port for the purpose of helping to secure certain necessary concessions toward foreigners in anticipation of the operation of the new treaties, in which communication he requests me to transmit to your excellency—

First. A communication from him to yourself, in which he incloses and requests you to transmit an original memorial signed by American citizens, and having in view the end as above stated, to the President of the United States.

Second. A copy of the report made to A. H. Groom, esq., chairman of the International Committee aforesaid, by Thomas C. Thornicraft, M. R. C. S. and L. R. C. P. Ed., medical director of the International Hospital at Kobe, relative to a visit of inspection by him to the Hiogo Prefectural Prison.

Third. A communication by the chairman and secretary aforesaid to the President, transmitting the said original memorial and medical report.

There is also inclosed for your inspection a copy each of the medical director's report on the condition of the Hiogo Prefectural Prison and of the original memorial of resident Americans to the President of the United States.

I have, etc.,

SAMUEL S. LYON, *Consul.*

[Inclosure 2 in No. 166.]

Mr. Happer to Mr. Buck.

KOBE, JAPAN, *July 1, 1898.*

SIR: On behalf of my fellow memorialists, I have the honor to forward to your care, through the United States consul at this port, an appeal to the President of the United States, relating to questions growing out of the new treaty between the United States and Japan.

In sending this memorial to the President, it is our wish to strengthen such action as your excellency may already be taking with regard to several serious defects in the treaty that may shortly come into force, and to impress upon our Government the importance of obtaining definite diplomatic guarantees for the protection of United States citizens.

We hope that your excellency will accompany this memorial with a dispatch giving such further information and making such recommendations as may seem wise to your excellency with a view to supplementing and strengthening our representations.

I also have pleasure in handing your excellency extra copies of the memorial and medical report.

I am, etc.,

J. S. HAPPER,
Chairman American Memorial Committee,
Honorary Secretary International Memorial Committee.

[Inclosure 3 in No. 166.]

KOBE (HIOGO-OSAKA), JAPAN, *July 1, 1898.*

To the PRESIDENT OF THE UNITED STATES OF AMERICA.

MR. PRESIDENT. I have the honor to forward to you a memorial signed with practical unanimity by citizens of the United States residing at or in the vicinity of the treaty port Kobe (Hiogo-Osaka), Japan, asking the Government of the United States to obtain for them certain safeguards which they consider necessary under the new treaty between the United States of America and Japan. Such safeguards they consider especially necessary with regard to questions connected with land tenure, press laws, and prison regulations, for, unless some definite diplomatic guaranties are secured, your memorialists have grave reasons for apprehension that serious injustice will ensue, and possibly their lives and the lives of their families be endangered.

I have further the honor to call your attention to the accompanying medical report on the Japanese prison at this port, which speaks eloquently as to the inadequate preparation so far made for the treatment of Europeans and Americans who will under the present difficulties as to obtaining bail be detained there not only during sentence, but on false accusation or the merest suspicion of guilt, and before trial.

I have, etc.,

J. S. HAPPER,
Chairman American Memorial Committee,
Honorary Secretary International Memorial Committee.

[Inclosure 4 in No. 166.]

To the PRESIDENT OF THE UNITED STATES OF AMERICA.

MR. PRESIDENT: Your memorialists, citizens of the United States resident in Japan, would respectfully direct the attention of their Government to certain matters of urgent public importance in view of the coming into operation on July 16, 1899, of the treaty signed with Japan on November 22, 1894. Before dealing with certain defects and omissions in that treaty which materially affect their interests, both as regards their business and their private life, your memorialists wish it to be distinctly understood that they are not attacking or deprecating the principle of "equity and mutual benefit" upon which the treaty is avowedly based. What they complain of is that in certain important respects the equity is wanting and the benefit extremely one-sided.

These defects are especially conspicuous in the matter of land tenure. In the majority of the States in the Union a Japanese can purchase as much real estate as comes into the market. He is in a similar advantageous position in Great Britain and in European countries, with the exception of Russian Poland. But neither a citizen of the United States nor any other foreigner resident in Japan can purchase and own a single rood of Japanese soil. Your memorialists respectfully submit that this is a serious departure from the principle of "equity and mutual benefit," and that it practically nullifies the advantages nominally extended by the terms of this treaty in exchange for the surrender by the treaty powers of extraterritoriality.

It is provided in the treaty that citizens of the United States "may * * * lease land for residential and commercial purposes." But by the new codes which are shortly to come into operation the period for which land may be leased is limited to twenty years (Section VII,

paragraph 604), and it is absurd to suppose that citizens of the United States will attempt to build workshops for carrying on a manufacturing business on land which at the expiration of that time may pass out of their hands or may be subject to such an increase of rent that business would be rendered impossible. If it is replied that the Japanese owners of the land would not be likely to drive out good tenants by the imposition of a rack rent, your memorialists would point out that in many cases it would be distinctly to the advantage of Japanese landowners to adopt such a policy, as they would thus be enabled to acquire for a very small sum the buildings and machinery for carrying on the business established on such insecure conditions. Unfortunately, too, the very low standard of commercial morality prevailing in this country (vide "A report comparing the foreign trade of Japan, etc.," by Consul J. F. Connelly, dated February 27, 1897) suggests that such methods would be by no means uncommon.

Further, in the event of a foreigner leasing land from a Japanese and afterwards being desirous of assigning his lease to another foreigner for the unexpired portion of the term, the authorities refuse to register such assignment without the written consent of the Japanese landlord, who must attend the ceremony of transfer and must produce the counterpart of the original lease for indorsement and sealing by the proper officer. And this is so although the lease is to a foreigner and his assigns. For instance, say that A, a citizen of the United States, obtains a lease for twenty-five years of a lot of land in the zone of mixed residence and builds a house on it, and ten years later desires to sell it to B, another citizen of the United States, he can not do so without the consent of the Japanese ground landlord, who in many instances has, without giving any reasons, declined to consent. In fact, in some instances where the value of the property has appreciated the landlord has instituted legal proceedings for ejectment of the assignee of the lease on the ground that his consent had not been previously obtained.

Definite diplomatic stipulations form the only safeguard upon which foreigners can rely, and to be effective they must be vigilantly enforced. It is only too certain that the Japanese Government has not hitherto kept strictly to its engagements in the matter of the tenure of land by foreigners. When the port of Hiogo (Kobe) was opened to foreign trade, in 1868, an agreement was concluded between the Imperial Government and the foreign representatives for leasing land and renting or buying houses within what is called zakkyochi, or the mixed-residence zone. This agreement was ultimately published in the form of a letter to the consuls by Mr. Ito Shunske (now Marquis Ito), who was then governor of Hiogo, and it states that "foreigners and Japanese may hereafter make agreements between themselves and at their own convenience for leasing land or houses at this port," within certain limits, all such agreements having to be reported by the respective parties "to the Japanese authorities and to the consul of the nation concerned, in order that the agreement may be sealed and registered as a proof of validity." This agreement had absolutely the character and the value of a diplomatic instrument. Yet sixteen years later, in 1884, without any communication with or notification of the foreign consuls or diplomatic representatives, the Japanese Government secretly issued instructions to the prefectural authorities wherein the duration of leases—which foreigners and Japanese were by diplomatic instrument permitted to make "at their own convenience"—was limited to twenty-five years, and a penalty both of fine and imprisonment imposed on Japanese subjects for any infraction of the regulation.

Your memorialists understand that these facts are already more or less known to the Government of the United States, and they are recited here simply as showing that citizens of the United States have good grounds for fearing that the discrimination which has been exercised against them in the past may be exercised against them in the future unless their rights in the matter of land tenure are clearly defined. It appears that the new codes, which must be in operation for one year before the new treaty comes into force, contain certain provisions relating to superficies by which it is claimed that foreigners, by arrangement with Japanese landowners and by mutual convenience, can acquire what will be practically tenures in fee simple for periods of any duration; but examination of the said provisions shows them to be of such a vague and inconclusive nature that it is extremely doubtful what view a Japanese law court would take of them and whether foreigners would derive any advantage therefrom. Certainly no foreigner would be likely to invest capital on such insecure conditions. It therefore comes to this, that, instead of the new treaty improving the position of foreigners with respect to the tenure of land, it actually, by reason of its indefinite wording, makes their position worse, for while it has hitherto been possible to lease land for terms of twenty-five years, the new code now published definitely limits the term to twenty years. It is presumed that such a result was not for a moment foreseen by the United States plenipotentiary when the treaty was negotiated.

Your memorialists believe that if the Japanese Government were now approached on this matter it would not be averse to mending the treaty in the direction of granting rights of land tenure of a more liberal nature than those in the present instrument. When the United States-Japanese treaty was under negotiation, there was undoubtedly a very strong feeling among Japanese against granting land-owning rights to foreigners. Within the last few months, however, a complete change has come over Japanese opinion on this question. It has become evident to the Japanese that if they wish for the introduction of the foreign capital which is so necessary for the development of their industries and commerce, such can only be secured by allowing foreigners to own land on precisely the same terms as the Japanese themselves. The mercantile and industrial classes are rapidly becoming unanimous in this opinion, and your memorialists therefore believe that if the Japanese Government were now applied to the concession which citizens of the United States consider should be theirs by right of equity will very easily be obtained. Your memorialists urge this, in the words of the treaty, on principles of "equity and mutual benefit." Without this concession the other concessions of the treaty as to rights of manufacture and trade in any part of the Japanese Empire are rendered null and void, and your memorialists will be in the position of seeing the extremely important rights of extraterritoriality abandoned without receiving any compensating advantages.

In the second place, there is the question of the existence of foreign newspapers after the new treaty comes into force. With one exception foreign newspapers published in Japan are owned by aliens, and your memorialists hold that citizens of the United States are, under the terms of the treaty, as much entitled to carry on a newspaper as any other business. But the Japanese press law contains a clause that none but Japanese subjects shall be allowed to own, edit, or publish a newspaper in Japan, and though this law was revised last year, neither the Government nor any member of the Diet proposed that this clause should be dropped in view of the impending operation of the new

treaty. Exactly the same course, in fact, was adopted as in the case of the raw silk export law, which, in direct defiance of the terms of the treaties, proposes to pay to Japanese exporters exclusively bounties on the export of raw silk. It is understood that, in consequence of the attention directed to this question by the foreign press, this law will be repealed before it comes into operation, but nothing has yet been heard of any intention to repeal the obnoxious clause in the press law. A Japanese semiofficial journal has recently claimed that the Japanese Government will possess the right to refuse to foreigners the liberty to publish newspapers if it should see fit, but that the Japanese Government is not likely to use such power. Your memorialists, on the other hand, claim that by the terms of the new treaty foreigners will be able as of right to publish newspapers, of course conforming themselves in all matters of procedure to the regulations imposed on Japanese newspapers by the press law. Under the present liberal-minded ministry, that of Marquis Ito, they do not believe that any attempt will be made to discriminate against foreigners in this matter, but the present ministry may not be in power when the new treaty comes into operation, and your memorialists would respectfully urge that to prevent the matter being left in doubt, His Imperial Majesty's Government should be urged to rescind the objectionable clause in the press law without delay. Your memorialists beg to point out that it is of essential importance to the business carried on by citizens of the United States in Japan that they should have the assistance of newspapers published in their own language, and that no injustice can accrue to the Japanese by a recognition of this right, seeing that all connected with a foreign newspaper will be subject to the very stringent press law of Japan.

But over and above all this, which simply affects their commercial and tradal interests, your memorialists would further direct the attention of the Government of the United States to two matters of the gravest importance, affecting not only their liberties but their lives. They refer to the respective questions of bail in Japan and of the condition of Japanese prisons. In July, 1899, citizens of the United States will lose the privilege of extraterritoriality which has been enjoyed for forty years, ever since Japan was opened to foreigners, and will become subject to Japanese law. By reason of her progress during the last thirty years, Japan may conceive herself entitled to demand this concession, and the Government of the United States may be justified in granting it. Even assuming that this matter has been decided beyond the possibility of recall, your memorialists would respectfully urge that they are entitled to be protected against harmful and perhaps fatal consequences to some of their number due to the difficulty of obtaining bail and to the condition and administration of Japanese prisons and laws.

The Japanese code of criminal procedure contains a whole chapter devoted to the question of bail, and to read this chapter it might be thought as easy to obtain bail in Japan as in the United States. In practice, however, it is not so. It is only in the rarest cases and with the greatest difficulty that bail is ever secured in Japan. The practice is to arrest a man and keep him in prison under repeated private examination, at which his advocate is not allowed to be present, until he is brought up for public trial and either condemned or acquitted. The judge has the power to order an accused person under examination to be subjected to solitary confinement for a period not exceeding ten days, during which his advocate, relatives, and friends are denied all access to him—avowedly in the interests of justice, but practically with the

object of making the prisoner confess. Cases are frequent in which accused persons are kept in prison for thirty, fifty, a hundred days, even for twelve months, denied bail all this time, and then finally acquitted. And their treatment during this period, if they are friendless, is to all intents and purposes that of convicted prisoners. If they have friends, they can be supplied with food and clothing from outside the jail; if not, they must put up with prison fare.

A case which has recently been made public will afford the best illustration of the dangers to which citizens of the United States will be exposed when they come under Japanese law. A respectable Japanese named D——, bearing a good reputation, was arrested upon a charge of being implicated in certain frauds. He was at once taken to the prison and placed in one of the cells for convicted prisoners. This was a room 9 by 12 feet, from which must be deducted the space occupied by a privy and a tub for the purposes of ablution. Upright battens from 1 inch to 2 inches apart formed the end of the cell facing a corridor, which was patrolled by the warders. Along the further side of the corridor were the usual paper shoji, or windows, through which the winter wind blew with keenness. There were no means whatever of warming the cell. Upon the floor was a thin straw matting. In this cell during D——'s imprisonment eight or nine persons were frequently placed, all these persons being unconvicted. So crowded was the cell at times that when night came the prisoners had difficulty in getting room enough to lie down at full length. Coolies with the itch and covered with sores were among the prisoners who were thrust in to share the apartment of the unconvicted prisoners—some of these being men accustomed to a certain amount of luxury, others at least to cleanliness. As already stated, the privy and the lavatory (a simple tub of water) were in the same cell, divided therefrom by a partition 3 feet high, and, together with the crowding of eight or nine persons, some of extremely dirty habits, produced a sickening stench. Such was D——'s experience in winter; it is, as your memorialists have ascertained from others, much worse in summer, when there is added the torment of mosquitoes and of the vermin brought in by the dirtier prisoners.

As soon as D—— was taken to the prison he was told to remove his clothes and put on prison garb, unconvicted though he was. His own clothes were taken away from him to be searched and were not returned until the following day. Meanwhile he had to wear a scanty thin cotton loose garment—scarcely enough to cover even a Japanese frame—which constitutes the prison garb, and he was given a thin futon, or cotton quilt, with which to protect himself at night as he lay on the boards. Food was served three times a day. It consisted on each occasion of imperfectly boiled barley mixed with a little rice and a small piece of daikon (the Japanese radish), also a little miso (bean sauce). With this was provided a little warm water to quench thirst, and this water on several occasions had such an offensive smell that it was impossible to drink it. On the second day D——'s clothes were returned to him, and on the third day his friends were permitted to send in some bedding and also food. So wretched and inadequate was the food supplied that D—— believes he would have died if he had not had friends to supplement it with supplies from outside. D—— was in prison for seven days before he was examined, or had any opportunity of showing that he was innocent of the charge brought against him. After the one examination to which he was subjected he heard nothing whatever until his release. Altogether he was in prison,

under the conditions described, for forty-seven days, every offer of bail by substantial persons being refused. Such is a plain statement of what is possible—what has actually happened and is happening every day—under Japanese law and prison administration.

In relating the circumstances of this man's imprisonment, which they have on the very best authority, your memorialists would point out that such circumstances are by no means exceptional. They did not occur at some small prison in the interior, but at a prison situated at one of the largest and most important of the treaty ports.

Another case which has come to their knowledge was that of a man imprisoned during the summer, who was so terribly bitten by bugs and other vermin investing the prison woodwork that his body swelled up and his face was so disfigured that his friends scarcely recognized him. Only a few weeks ago a man suffering from lung disease was arrested and taken, ill as he was, to the Kobe prison, and refused bail; he lingered a fortnight and then died in the jail. Within the last two or three months a man and his wife, accused of a comparatively trivial offense against local regulations, were arrested and taken to prison, examined by the police on the first day, brought before a judge on the third day, left without any further examination for fifty days, then placed on their trial and acquitted, but detained for two days longer in case the public procurator should enter an appeal. Thus these two persons, for an offense which if proved would have entailed a sentence probably not exceeding a month in duration, were actually detained in prison for two months and then declared innocent. Pages could be covered with similar cases, but these will suffice to show that the apprehensions of foreign residents as to what is likely to occur when they come under Japanese law are not without cause.

Considerable discussion has taken place in the Japanese press during the last few months as to whether special treatment should be accorded foreigners in the prisons, and much difference of opinion has been expressed, some of the journals being strongly opposed to any discrimination being made. Your memorialists respectfully submit to the Government of the United States that this is a matter of very grave and serious moment, likely to lead to vexatious complications as soon as foreigners come under Japanese law, and certain, if left unsettled, to imperil the amicable relations subsisting between the Government of the United States and that of His Imperial Japanese Majesty. They have no hesitation in saying that to imprison citizens of the United States under the conditions prevailing in Japanese jails, the cells of which are absolutely unwarmed in winter, being in many cases barred dens resembling nothing so much as those in which wild animals are kept, the clothing insufficient, and the food such as few if any foreigners can digest, will be for many literally a sentence of death. Only a few weeks ago the vernacular papers reported that 50 Japanese in the Saga prison had been frost-bitten, and if this is possible with Japanese who are accustomed in winter to houses unwarmed by artificial heat, it may readily be imagined that foreigners simply could not survive under such conditions. At Poronai, in the Hokkaido, where the thermometer frequently marks 16 degrees of frost, the prisons are constructed in the same way as in southern Japan, being merely cells with bars quite open to the air.

Besides the practical impossibility of obtaining bail, which would lead to the incarceration of many who are innocent of any crime, it must be remembered that, while crimes of violence are regarded with lenity and punished with nominal sentences, Japanese law provides imprisonment

for many trivial offenses which in the United States would be purged by a small fine. For allowing his house to be used for opium smoking a Chinese was recently sentenced to three years' imprisonment, while two coolies, who caused the death of an American man-of-war's man named Epps in Nagasaki Harbor a few months ago, were merely ordered to pay fines of 100 yen, respectively. Gambling of all descriptions is punishable by heavy penalties, and it may easily happen that a small party of tourists discovered playing a game of cards for money will be removed to jail and sentenced to terms of imprisonment under the conditions described for what in other countries would be regarded as a crime punishable at the utmost by a fine—that is to say, they would be in danger of losing their lives or suffering lifelong ill health for what at most is a self-regarding offense.

Your memorialists hope that they will not be regarded as exceeding their province if they make one or two practical suggestions with a view to the negotiation of a compromise. As the existing prisons are utterly unfitted for the reception of foreigners charged with any offense, they would suggest that at each of the present treaty ports a building should be constructed for the reception of unconvicted foreign prisoners and the incarceration of those who are convicted. Such prisons should be modeled on those of Western countries and the food should be such as foreigners are accustomed to eat and should be prepared under foreign superintendence. (It may be pointed out that the limit of expense for the food of prisoners ranges from about 2½ to 4 cents per day, and it may be easily estimated that with this allowance not much foreign food could be purchased, however willing the prison authorities might be.) While such special prisons could be placed wholly under the control of Japanese, the foreign consuls should be able to enter and inspect them at any time, to receive complaints, and to give directions as to food and treatment without requiring any authorization or permit from the Japanese Government or local authority. A difficulty which will probably be suggested is that when the new treaties come into force and mixed residence is permitted foreigners will to some extent tend to be distributed over the country instead of being collected at the treaty ports; but the difficulty should be by no means insuperable. In the first place, it is extremely improbable that for some years to come the rights as to residence in the interior will be largely availed of, seeing that the channels into which trade has drifted in Japan will not be readily abandoned. In the second place, the Japanese Government might fairly be asked under the circumstances to give an undertaking that all foreigners arrested in the interior should be brought to the nearest treaty port at the earliest possible opportunity, there to be examined and tried, and if convicted committed to serve their sentence in the prison reserved for foreigners.

Your memorialists desire respectfully to point out that such a scheme might be expected to commend itself to the Japanese Government as well as to the treaty powers, for it must be to the interests of the former equally with the latter that everything likely to result in friction when the new treaties come into operation should be avoided. If the Japanese Government refuses to make these concessions, then your memorialists respectfully submit that the Government of the United States would be justified in refusing to receive the year's notice which must be given by the Japanese Government before the new treaty can come into operation. They admit that this would be a step that could only be taken in the last resort, but they respectfully submit that the Government of the United States would be justified in taking such

action in defense of the lives and liberties of its citizens in Japan. Indeed, refusal to grant such a concession as that here suggested could, it seems to them, only be interpreted as indicating that the Japanese Government was deliberately determined to adopt a policy aiming at driving the citizens of the United States and foreigners in general out of the country, causing them to abandon their business and the trade which they have built up under the protection of extraterritoriality, and thus securing to the Japanese the fruits of foreign industry. Your memorialists refuse to believe that such an unjust and iniquitous policy is contemplated by the Japanese Government, and they therefore hold that it only needs that attention should be directed to the question by the Government of the United States in order to secure from the Government of His Imperial Japanese Majesty the concessions which will do much to minimize the friction likely to result when the new treaty comes into operation. In conclusion, your memorialists hope that if they have spoken strongly on this matter the importance of the issues at stake will not be lost sight of. They speak not only for themselves, but for their wives and children, to whom committal to a Japanese prison as at present constituted, on suspicion of offending against the laws, and possibly by the denunciation of some hidden enemy, would veritably prove a sentence of death.

(Fifty names subscribed.)

[Inclosure 5 in No. 166.]

KOBE, JAPAN, *May 9, 1898.*

A. H. GROOM, Esq.,
Chairman International Memorial Committee.

SIR: At your suggestion I have the honor to place before your committee a short account of a visit I paid on Monday, February 28, to the Hiogo Prefectural Prison. I was accompanied by a member of the foreign municipal council and the editor of the Kobe Chronicle.

The prison is situated on the banks of the Minatogawa; it covers a space of 10 acres, the buildings occupying about three-quarters of an acre. At the time of the visit the jail contained 1,024 male and 171 female convicts, while of unconvicted prisoners awaiting their trial there were 219 males and 21 females.

I first visited the cells reserved for unconvicted prisoners. These are contained in a number of detached buildings, there being on the average about twelve cells to each building. The first impression on entering is of a number of cages for wild animals, and the impression is strengthened when it is observed that while the front of the cells is faced with wooden bars, the entrance thereto at the rear is by small doors about 4 feet square. The cells are in reality wooden structures, set in the middle of a room, around which the warders can patrol freely. Those for the unconvicted as well as for the convicted prisoners are exactly 9 feet square, and from this space must be deducted 2 or 3 feet divided off by a partition about 3 feet high for the lavatory, and another similar space not so divided where there is a tub of water for purposes of ablution. In this respect the cells for the unconvicted prisoners are distinctly inferior to those for the convicted, as in the latter case the partition dividing the lavatory off from the open part of the cell goes right up to the low roof, and is therefore a more satisfactory arrangement. It would naturally be thought that any distinction of the sort would be in favor of the unconvicted prisoners, but this is not the case,

which is the more surprising seeing that with the convicted prisoners the cells are used only at night, while the unconvicted prisoners remain in their cells all day and night with the exception of one hour for exercise.

The cells are 12 feet high and raised about 2 feet from the ground. The floor is of wood, over which thin, coarse straw mats are laid, and as we passed through each building the various prisoners, among whom were several Chinese, sat on these mats facing the bars. It was not a very cold day, but the buildings struck a chill as they were entered, there being no method of warming them. The only protection from the outside air consisted of paper windows on the outer side of the corridor. The flooring of the cells is of wood, covered with coarse, thin matting, upon which the unconvicted prisoners were kneeling in Japanese fashion. All the cells appeared to be clean, the woodwork being well polished, but, in answer to a question, it was admitted that vermin, especially bugs brought in among the clothing of the unconvicted prisoners, had got into the woodwork and were very difficult to extirpate.

In one of these cells 9 feet square I counted eight men, while in others there were three, four, and five, and in a number of cases one person only. Passing to the buildings for convicted prisoners, I found that the cells were on exactly the same principle as those for the unconvicted, with the exception above noted, there being no washing arrangements in the cell, and the lavatory being partitioned off. I found that, according to the wooden tickets giving the numbers and names of the prisoners, in some cases as many as eleven persons slept in one cell 9 feet square. In order to allow this number to lie at full length, I was told six lay with their heads one way and five the other. Six, I was told, is properly the limit for each cell, but owing to the number of prisoners who, from the nature of the crime committed, must be segregated, the prison is at present overcrowded. In each cell the bedding of the prisoners was folded up, ready to be laid down at night when in use. In the courtyard in front of the cells was a row of taps, where the prisoners could perform their ablutions in the morning. The prisoners have a bath every five days. For the whole of the thousand or so prisoners there is only one bath tub, the dimensions of which are 6 feet by 10. Fourteen men enter the bath at one time, and each batch is allowed to remain for five minutes only.

The clothing of the prisoners consists of cotton of coarse texture, that for the convicted being of a red color, while that supplied for unconvicted prisoners who enter without decent clothes is blue. There is a cotton undershirt, close-fitting cotton trousers, and a cotton overgarment, wadded in winter. The clothing is changed once a week in winter and every five days in summer. There is besides a working garment, the prisoners, I was told, always changing their clothes before going into the workshop.

Most of the cells were empty, their occupants being in the workshops. In the one or two exceptions the men had been sentenced to solitary confinement for prison offenses or were dangerous criminals, men who had committed murder and such like crimes, and were serving sentences up to ten years. Criminals sentenced to longer terms are sent to the convict prison in the Hokkaido.

Corporal punishment, I was told, was never resorted to in Japanese jails. There were three different classes of punishment for unruly conduct or offenses against the prison regulations. The first was solitary confinement; the second, reduction in the quantity of food, and the third, imprisonment in the dark cell for a period not exceeding five days.

The dark cells were separate buildings 9 feet square, resembling tiny Japanese godowns, with a ventilating apparatus on the roof. When the door is closed, there is complete darkness, with the exception of a tiny ray through the ventilating apparatus in the door.

The prisoners must rise at 6 o'clock in the morning. At 6.30 a. m. bean soup with a mixture of rice and barley is served, at 12 noon there is rice and barley, with occasionally a little fish and vegetables, and at 5 p. m. more rice and barley with pickled turnips. The expense limit in Hiago prefecture as regards food is, I understand, 5 cents (equal to 5 farthings) per diem for each prisoner. The food is served in wooden boxes.

The workshops for the prisoners are large and long, but very cold, there being no method of heating them. Though the temperature was not under freezing point on the day of my visit, some of the prisoners seemed from the bluish color of their faces to feel the cold severely. Among the employments carried on are matchmaking, basket making, straw rope manufacture, matting, and so on. Work ceases at 4 p. m., and there is no work on Sundays.

The prison comprises an infirmary, where prisoners who are afflicted with disease of a noninfectious nature are treated. It consists of a large room with wooden bars like a huge cage, with a corridor running around it. On the outer side of the corridor were the customary sliding paper windows. The floor was of cement, not wood. There were low wooden beds on either side occupied by patients, one or two of whom appeared in the last stage of consumption. The bed clothing, etc., appeared ample, but the room or cell seemed bitterly cold, being, like the rest of the prison, quite unwarmed, and only protected from the outer air by the paper windows aforesaid.

There are a number of children in the prison, some not more than 10 years old.

In the women's quarters the cells for the women were similar to those of the men, 9 feet square, with bare boards over which thin coarse mats were provided for sitting and sleeping purposes. There was no infirmary for the women, but a certain number of ordinary cells were set apart for this purpose.

I am of opinion from my inspection of this prison that it is totally unfitted for Europeans. The sanitary arrangements of the cells are defective. The cold in winter must be extreme, as the cells are open in front and are not warmed in any way. The infirmary is not heated in cold weather, so that the patients must suffer intensely. Both the character of the food and the quantity and quality supplied are quite inadequate and unsuitable. I am confident that lasting injury to health, and even in some cases death, must result to the majority of foreigners of even a brief imprisonment.

THOMAS C. THORNICRAFT,
M. R. C. S. and L. R. C. P. Ed.,
Medical Director International Hospital, Kobe.

Mr. Buck to Mr. Sherman.

No. 180.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, July 28, 1898.

SIR: I have the honor to state that I have information from the foreign office that on the 16th instant the minister for foreign affairs tele-

graphed to the Japanese ministers to each of the treaty powers, except to the minister to the United States, and a few other countries, to inform the respective Governments to which they are accredited that on that date Japan had put in force the revised Civil Code and the Commercial Code, and that on July 17, 1899, one year from that date, all the revised treaties would be in force, which notice, by stipulations in the treaties with those countries, was required to be given by Japan one year in advance of their going into operation.

Notice of the operation of the codes, as well as the notice of the new treaties going into effect one year from the 16th instant, became necessary, because in the treaty with Great Britain it is stipulated that the codes shall be in operation twelve months prior to her treaty with Japan's going into effect.

The United States and some other powers having no stipulations in their treaties with Japan that one year's notice shall be given in advance of their going into effect, for that reason, I am informed, no notice was given by the Japanese Government to them.

Though the new treaty of Japan with Austria has not yet been ratified, because of the disturbed condition of the Austrian Government, yet as that treaty requires only one month's time after ratification to become operative, and the Austrian Government has assented to the fixing of the time for the operation of the new treaties to begin, with the assurance to the Japanese Government that not later than January 1, 1899, ratification of the treaty by that Government will be made, Japan felt justified in making the announcement so as to insure the operation of all the revised treaties from July 17, 1899.

I am further informed that the present treaty with Austria is regarded as of little value to Japan; that it is probable that in event, perchance, Austria should fail to ratify the new treaty in time, Japan would denounce her old treaty with her rather than fail to secure the benefits she would derive from the operation of her revised treaties with the other powers at the time fixed upon for their operation.

I have, etc., A. E. BUCK.

Mr. Day to Mr. Buck.

DEPARTMENT OF STATE,
Washington, August 15, 1898.

SIR: I have to acknowledge the receipt of your dispatch, No. 166, of the 15th ultimo, transmitting a memorial of American citizens at Kobe, addressed to the President; a copy of a joint letter to the President from the chairman of the American Memorial Committee and the secretary of the International Memorial Committee of Kobe; a copy of a report made to the chairman of the International Committee by the medical director of the International Hospital of Kobe relative to a visit of inspection made by him to the Hiogo Prefectural Prison; together with a copy of a joint letter to you from the president and secretary of the committee above named, accompanied by a copy of a letter of transmittal from Samuel S. Lyon, our consul at Kobe.

These papers relate to matters of complaint touching land tenure in Japan; the existence of foreign newspapers under the revised treaty, soon to go into effect; the conduct of the legal authorities under the code of criminal procedure as to the bail of prisoners; and the condition of Japanese prisons and the hardship and distress that will be incident to foreigners confined therein; and ask that influence be brought

to bear by this Government to obtain such changes in the revised treaty as will correct the evils existing and those to be apprehended after the treaty goes into operation.

The papers transmitted have been carefully read, as also your observations thereon, which the Department approves, and which form a complete reply to the memorialists. The last paragraph of your dispatch covers the matter pretty thoroughly, which may be summed up in the words "Give the treaty a trial."

Respectfully, yours, WILLIAM R. DAY.

COUNTERFEITING OF TRADE-MARK LABELS.

Mr. Day to Mr. Buck.

No. 146.] DEPARTMENT OF STATE,
Washington, August 25, 1898.

SIR: I inclose copy of a letter addressed to me by Mr. Francis Forbes, of New York, representing the New York Condensed Milk Company, which, it is alleged, has suffered for a number of years past through the persistent counterfeiting of its labels in Japan, and which has been unable to obtain a remedy through the registration of its legitimate trade-mark on the ground that it was already in use by others than the applicant.

Mr. Dun's No. 478 of April 23, 1897, transmitted hither copies of the regulations respecting patents, trade-marks, and designs of Japan, as translated by the British legation in Tokyo. The provision on which the Japanese refusal to register the trade-mark of the New York Condensed Milk Company appears to rest would seem to be found in the second article of the trade-marks regulations, reading thus:

ART. II. The following can not be registered as trade-marks: * * *

3. Such as are identical with or similar to trade-marks already registered or trade-marks used by others before the application for registration was made, and which are intended to be applied to identical goods.

To construe this provision literally with respect to the application of the legitimate proprietors of a well-known trade-mark, designating an article in world-wide use for many years, in such manner as to favor those who have notoriously counterfeited that mark before the real owners made application to secure their rights, would hardly seem to accord with the purpose of the provision quoted. Its object would seem to be to assure to the bona fide possessors and users of a trade-mark already in use, although not registered in Japan, freedom to use the same against the attempt of any subsequent party to appropriate that mark, and so deprive the original owners of their equitable right thereto. Recognition of the moral right of the original inventor and user of the trade-mark is the essential thing aimed at, not deprivation of his moral rights through the virtual recognition of a subsequent counterfeit.

Even were the particular product now in question an article of Japanese manufacture, yielding a direct profit to the natives of the country, it is hardly to be conjectured that the Japanese Government would regard it as a moral obligation to protect the native spurious production at the expense of the genuine imported article. But when, as in the present instance, the counterfeit is of foreign origin, the cans being, it is alleged, of German make, and the contents the unsalable and inferior production of German and Swiss factories, not only does any consideration of pecuniary profit to Japanese industries become illusory and

indefensible, but, on the other hand, considerations of public health may suggest the unwisdom of permitting a virtually privileged trade in an unwholesome food product under the color and reputation of an old and honorably established name.

The matter is commended to you for careful consideration and for conference with the proper Japanese authorities, with a view to ascertaining whether it may not be practicable to construe and apply this article in accordance with its obvious intent, and not, as would appear to be the case in the present instance, to the prejudice of the original and bona fide owners of a long-established trade-mark.

The Department will await your report on the subject with interest.

Respectfully, yours,

WILLIAM R. DAY.

[Inclosure in No. 146.]

Mr. Forbes to Mr. Day.

MUTUAL LIFE BUILDING, 34 NASSAU STREET,
New York, August 20, 1898.

DEAR SIR: The following facts seem to be sufficient to authorize me in bringing them to your attention:

The New York Condensed Milk Company, one of the oldest and largest of the manufacturers of condensed milk in the United States, shipped condensed milk to Japan for many years prior to any other manufacturer of condensed milk. Such exportations to Japan were made in almost the same form as at present.

For the past eight or nine years their labels have been persistently counterfeited, but until the treaty with the United States it was impossible to either register their marks or prosecute infringers.

After the treaty an attempt was made by the company to register their mark in Japan. The application was refused on the ground that the trade-mark was already in use by others than the applicants. The use by others was simply the use of lithographs of the Eagle Brand, and therefore an illegal use, and the use which it was desired to stop. The ruling is substantially that, if the marks of a citizen of the United States are counterfeited before registration, such fraudulent use is such a use under the Japanese law as to prevent registration.

Such a ruling places all foreign marks in the power of Japanese infringers.

The New York Condensed Milk Company do not understand that they have any further right of appeal from this decision; and they further feel themselves justified, because of the grave character of the position taken by the Japanese patent office, viz, in calling an infringing use of a trade-mark such as will prevent registration under the law, in making the request that you present this matter to the Japanese Government for a ruling thereon, which ruling will affect not only this particular case of the New York Condensed Milk Company, but also all other cases of applications by citizens of the United States.

The letter of an attorney employed in Japan to make the registration is inclosed. This letter was forwarded to me while at Brussels in December, 1897. I personally called the attention of the Japanese delegates who were attending the Convention for the Protection of Industrial Property to the matter. They gave me no hope that the registration would be allowed by the Japanese patent office.

Prior to the conclusion of the trade-mark treaty with Japan your Department called the attention of the company to the Japanese infringement complained of. For your convenience I inclose a copy of the letter of Mr. W. W. Rockhill, Third Assistant Secretary, dated August 8, 1894, and a copy of the letter of Mr. N. W. McIvor, consul-general, Kanagawa, Japan, dated July 9, 1894, inclosed in the letter of Mr. Rockhill, and a copy of the reply of the New York Condensed Milk Company, dated August 13, 1894. A later letter has been received by the company from Edward Bedloe, United States consul at Canton, China, a copy of which is also inclosed.

Is it not proper for me to ask you to send such instructions to the representatives of the United States as shall cause the Japanese patent office to make the desired registration, and also shall bring about the protection of the mark in China, where there is as yet no trade-mark law?

A copy of the genuine label is inclosed.

Yours, respectfully,

FRANCIS FORBES.

[Subinclosure No. 1.]

DEPARTMENT OF STATE,
Washington, August 8, 1894.

NEW YORK CONDENSED MILK COMPANY,
71 Hudson Street, New York.

GENTLEMEN: I inclose herewith for your information a copy of a dispatch from the consul-general of the United States at Kanagawa reporting the manufacture and sale in Japan of an imitation of the "Gail Borden Brand" of condensed milk prepared by your company.

He incloses a sample of the label used and two cans with their labels. These inclosures are transmitted to you herewith, the cans being sent under separate cover.

I am, etc.,

W. W. ROCKHILL,
Third Assistant Secretary.

[Subinclosure No. 2.]

Mr. McIvor to Mr. Uhl.

No. 41.] CONSULATE-GENERAL OF THE UNITED STATES,
Kanagawa, Japan, July 9, 1894.

SIR: I have honor to report to the Department the manufacture and sale in Japan of what seems to be an imitation of the "Gail Borden Eagle Brand" condensed milk, prepared by the New York Condensed Milk Company, 71 Hudson street, New York.

In conversation with two or three gentlemen the matter was referred to and I secured a can, supposed to be spurious, which I inclose herewith, marked "Inclosure 1." I then secured a can, which I am assured was purchased direct and is genuine, marked "Inclosure 2." I submitted the labels to a practical printer, who reports to me that the label on inclosure 2 is printed, while that on inclosure 1 is lithographed or engraved. I have also secured from Tokyo a third label, marked "Inclosure 3," which seems to be an engraved imitation. I have not had an analysis made of the contents of the spurious can.

Owing to the scarcity of natural milk in Japan the trade in canned or condensed milk is quite heavy, and the Eagle Brand has probably the best reputation, which fact has caused this brand to be imitated more than any other.

I am informed by a former agent of Messrs S. A. Barnes & Co., publishers, of New York, that while foreign copyrights and patents are not protected under the laws of Japan, a general order has been made that in the case of an imitation the brand may be used, but the name can not be reproduced, in support of which statement an original communication from the Japanese home office is presented, a copy of which I inclose, marked "Inclosure 4."

Basing my judgment on the communication of the State Department to Messrs. S. A. Barnes & Co., in October, 1888, and on various letters submitted, I concluded that the order prohibiting the use of the name was not an order of general application, but was made in the particular case on the ground that the reprint of Messrs.

Barnes & Co's. books were issued from a Government printing office, and had no application beyond the correction of the infringement complained of; but Mr. F. Schroeder, the agent above referred to, informs me that the order has been given general application.

I make this report because I understand that the New York Condensed Milk Company has no agent here to represent it, and thinking that the Department, if it has been decided that it has the right to call the attention of the Japanese Government to the use of the name of one of our manufacturers, might wish to inform the New York Condensed Milk Company of the fraudulent use of its name, that the company may cause such an investigation to be made by its agents as will point out the offenders.

I have, etc.,

N. W. McIvor, *Consul-General.*

[Subinclosure No. 3.]

New York, *August 13, 1894.*

Hon. W. W. Rockhill,
Third Assistant Secretary of State, Washington, D. C.

Dear Sir: We are in receipt of your favor of the 8th instant, with documents inclosed as stated, and the package referred to is also at hand. Permit us to thank you and the Department for so kindly supplying us with the information above acknowledged. Regarding the inclosures, would state that the inferences drawn by the honorable consul-general at Kanagawa are correct.

Inclosure No. 1 is a very clever lithographic reprint of our regular label registered in the United States Patent Office, and that not only that, but the can itself is a very careful reproduction of our can, and we believe emanates from Germany or England. The contents of the can, however, consist of a very poor and dangerous quality of condensed milk, being rancid and unfit for use and apparently made from skimmed milk.

Inclosure No. 2 represents original and genuine can and label, containing the usual quality of condensed milk put up by us, same being in a perfect state of preservation.

Inclosure No. 3 represents an entirely different counterfeit label than the one indicated as No. 1, and we think is the work of natives, and is evidently printed from type.

Bearing on this subject, we would state that we have experienced a great deal of trouble from the counterfeiting of our labels both in China and Japan, but since the proclamation issued by the magistrates of Canton in 1888, through the efforts of the Hon. Charles A. Seymour, we have been less troubled in the former country. On the other hand, greater activity seems to be now displayed in Japan, and while we think it might prove somewhat advantageous to take steps there toward inducing the Government to prohibit the reproduction of the names on our labels it would not eradicate the practice of putting up dangerous and inferior goods. This question of quality is one that vitally affects the people of Japan. Thousands of infants in that country are annually raised on our product, and even the imperial household, we are reliably informed by a native merchant of Yokohama, is dependent upon this substitute for mother's milk. If the proper authorities of Japan could be convinced that the lives of their people were menaced by a toleration of spurious imitations of our goods, they might see fit to take up the matter upon a different standpoint than one of mere commercial justice.

We hand you herewith a translation of proclamation referred to in the early part of this letter as issued in Canton. We might add, however, with reference to this latter city, that since the new magistrates have been in power we have not been successful in obtaining a further publication of this proclamation. Considering the foregoing, we think that the matter of our protection with the people of Japan rests upon a somewhat different footing than it would if the subject involved an article that did not vitally concern the health and happiness of the people themselves. We take pleasure in inclosing you a duplicate copy of this letter and also of the proclamation, thinking that possibly you might prefer to take this matter up direct with the consul-general at Kanagawa. If, however, such is not the case, we shall be glad to do so ourselves if you will kindly advise us of your preference.

In closing this letter allow us again to thank you, and the consul-general also, for so kindly advising us on this matter.

Very truly, yours,

New York Condensed Milk Company.

In all cases presented for an examination we have found that the goods labeled with the counterfeits are always the unsalable product of unknown European manufacturers and the contents of cans of doubtful constituents, rancid, and dangerous to use.

[Subinclosure No. 4.]

CONSULATE OF THE UNITED STATES AT CANTON,
China, March 15, 1898.

The NEW YORK CONDENSED MILK COMPANY,
71 Murray street, New York, N. Y., U. S. A.

GENTLEMEN: This district is cursed with thousands of cans of condensed milk made in Germany and Japan, purporting to be genuine "Gail Borden, Eagle Brand."

I have obtained by personal purchase from dealers several cans of this spurious milk and shall send samples of it on to you by the next steamer, *Rio*, leaving Hongkong March 23, instant.

I have also counterfeit labels, a specimen of one of which I inclose herewith.

I have, etc.,

EDWARD BEDLOE,
United States Consul.

[Subinclosure No. 5.]

TOKYO, JAPAN, *November 2, 1898.*

Messrs. J. CURNOW & Co.,
Yokohama, Japan.

GENTLEMEN: The trade-mark on the design of an eagle spreading its wings, catching a twig under its feet, and keeping in its bill the three ribbons on which the words "Eagle Brand" and "Gail Borden" are written, was sent on application for registration of Japanese Government through my hand on the 29th April of this year, the number of application being 12092, and this application was first rejected for grant on June 25 by the examiner at the patent bureau with the following explanation: Such trade-mark as the specification and sample of the ticket of this application affirm and has been long since commonly used as a trade-mark not registered for condensed milk by the merchants in this country. Although in the letters of the words on ribbons or in some other minute point a few differences may be detected, the essential point and the common name of the chop must be necessarily the same; that is to say, "the eagle ticket" would be right and common calling of either. Such being the fact according to the No. 3, article second of Imperial Japanese trade-mark regulations, this application is to be refused to register. Now, the No. 3, article second of the trade-mark regulations, is this article.

II. The following can not be registered as trade-mark:

1. * * * .
2. * * * .
3. Such as are identical with or similar to trade-mark already registered as such have been used by others before the application was made, and which are intended to be applied to similar goods. After this I tried three times to deny the evidence that the eagle is in common use in Japan as the trade-mark of condensed milk, but these efforts proved in vain because the examiner at the patent office afforded as many evidences which cost prima fair, and the case settled unsuccessfully on the 23d of September. (Translated and copied from office note.)

I remain, yours, faithfully,

S. NUKIYAMA.

[Subinclosure No. 6.]

NOVEMBER 3, 1897.

NEW YORK CONDENSED MILK COMPANY,
New York.

DEAR SIRS: In answer to yours of October 4, we now have to regret to inform you that your trade-mark can not be registered in Japan, although we think an appeal should be made against such a foolish decision. In a long interview the writer (our Mr. Maurice Russell) had with Mr. Nukiyama, he said nothing could be done, it being proved that for many years a brand of milk known as the Eagle was manufactured and sold in Japan, and that applications had been made to register the (false) label, but all applications like the one shown for years had been refused. You will see that we have lost no time in either applying or definitely forwarding you the reply, and can only again offer our services on your behalf.

Yours,

J. CURNOW & Co.,
Yokohama.

Mr. Buck to Mr. Hay.

No. 228.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, December 9, 1898.

SIR: Referring to the Department's instruction No. 146, dated August 25, 1898, upon the subject of the refusal of the Japanese Government to register the "Eagle Brand" mark of the New York Condensed Milk Company, I have the honor to inform you that, acting upon my instruction, Mr. Herod, the secretary of legation, at an interview with the private secretary of the minister of foreign affairs, brought to that gentleman's attention the subject of complaint of the condensed milk company, and as requested and at a later date, November 7, forwarded to the foreign office a copy of the instruction under reply asking whether or not it was the intention of the Japanese Government to modify the trade-mark regulations so as to allow the registration of trade-marks which had been imitated prior to the application for registration.

As elicited by the correspondence between Mr. Herod and the minister of foreign affairs, as well as by interviews between the former and the director of the patent bureau (see inclosures 1, 2, 3, and 4), the fact is that the New York Condensed Milk Company has neither directly nor by any authorized attorney applied for the registration of the "Eagle Brand" mark. An examination of the archives of the patent bureau shows that on May 4, 1897, one Maurice Russell, a British subject, applied through his attorney for registration in his own name as owner of the trade-mark in question. Mr. Russell held no power of attorney from the New York company; does not set out that he is their agent; but, as a British subject resident in Japan, applied for the registration of a mark which had been notoriously used by others for many years. A preliminary notice that the application would be rejected unless further evidence of conclusive ownership was forthcoming was sent to Mr. Russell's attorney on June 25, 1897. No such evidence was produced. In fact, contrary to the statements made by Mr. Russell's attorney, S. Nukiyama, no further steps were taken to secure the registration; the case, according to the records of the patent bureau, was allowed to go by default, and on August 25, 1897, the application was finally rejected.

From the above record of the case it will be seen that the New York Condensed Milk Company is not now in a position to call into question the Japanese Government's interpretation of paragraph 3 of Article II of the regulations governing trade-marks, inasmuch as no application for registration has been made by the company itself or by a duly qualified agent thereof.

However, as a second and proper application for the registration of the "Eagle Brand" mark may disclose the existence of imitations on the market in Japan, and so place that company in the position which they have anticipated, it will be well to lay before the Department the reasons which govern the Japanese patent bureau's interpretation of Article II of the trade-mark regulations, which interpretation, as stated by Mr. Mitsuhashi, is to the effect that "they can not but refuse the registration of such marks as are identical with or similar to those already in use by others in Japan before the application for registration was made; if such case should happen, no matter whether the applicant may be a Japanese or a foreigner." In other words, the trade-mark must be novel for the purpose for which it is to be used.

The Japanese laws regarding trade-marks, patents, and designs, the benefits of which Americans now enjoy in virtue of the convention of

1897, have not been altered since promulgation in 1888. Prior to the ratification of the late treaty between Germany and Japan and the negotiations of patent and trade-mark conventions between Japan and other powers, the laws concern themselves with the applications for the registration of trade-marks of Japanese subjects alone. In the contemplation of the law the rights of foreigners were in no way involved. A foreigner could not secure the registration of his trade-marks, nor could he prevent their imitation. Foreign trade-marks had no existence except for one purpose, i. e., that of proving that the Japanese applicant for registration for the trade-mark was not the owner of a novel mark. It will be readily seen then that there was no means by which the imitations of foreign marks could be suppressed, and naturally where profit offered the Japanese did not hesitate to manufacture and put on sale imitations of many of the well-known articles of trade imported from foreign countries, with the result that some of the imitating manufacturers here have become established in a paying business. It can not be contended, I believe, that the patent and trade-mark convention was intended to be retroactive in effect; that the Japanese imitator who has acquired a paying business while not infringing the rights of others—for no rights in industrial property except those of the Japanese were recognized by the Government—could be deprived of his property upon the conclusion of an agreement between Japan and a foreign power, that from and after a certain date the contracting countries would mutually extend to the citizens or subjects of the other all rights enjoyed by their own subjects in regard to trade-marks.

The rights of Americans to secure protection for their trade-marks commenced on the date of the exchange of ratifications of the patent and trade-mark convention. From that date they enjoyed all rights belonging to Japanese subjects. If a mark is novel and its ownership bona fide it is entitled to registration. If it has been used by others in Japan prior to the date of the application it is no longer novel and is not entitled to registration. If the patent bureau has been consistent in its rulings these have been all the rights enjoyed by Japanese subjects hitherto and prior to 1897. To sustain its position the patent bureau claims that it has invariably refused the registration of the application of a Japanese when it has learned that the mark is not novel and that the ownership is not bona fide. A case in point is that mentioned by Messrs. J. Curnow & Co., of Yokohama, in their letter to the New York Condensed Milk Company—inclosed with the Department's instructions—from which I quote: "For many years a brand of milk known as 'Eagle' was manufactured and sold in Japan, and applications had been made to register falsely, but all applications like the one shown for years had been refused."

If the New York Condensed Milk Company finds that its "Eagle Brand" is being counterfeited, and this fact is known to the patent bureau, I doubt if an application for registration would be successful. It would, I fear, meet the same fate as have many others made by foreigners for marks that have been imitated prior to the trade-mark conventions between Japan and other countries.

It may be, however, that another application properly made will result in a registration of the mark, and consequently I should not feel authorized to attempt to secure a suppression of the imitated article on account of sanitary reasons until I shall have learned definitely that there is no other means of protecting the American article.

I have, etc.,

A. E. BUCK.

[Inclosure 1 in No. 228.]

Mr. Mitsuhashi to Mr. Herod.

FOREIGN OFFICE, *December 8, 1898.*

DEAR MR. HEROD: In reply to your note of the 7th ultimo, on the subject of the refusal on the part of the patent bureau to register the trade-mark of the New York Condensed Milk Company, I beg to inform you that I have now received an answer from the proper authorities to whom the matter was referred, to the effect that the patent bureau has received no application for registration of trade-marks from the said company except one for that of the "Gold Seal Brand," which was duly registered; and having no other application for registration from the said company, there has naturally been no refusal at aid on the part of that bureau. But, they add, in view of the provision mentioned in paragraph 3 of the second article of the trade-mark regulations, they can not but refuse the registration of such trade-marks as are identical with or similar to those already used by others in Japan before the application for registration was made, if such case should happen, no matter whether the applicant may be a Japanese or a foreigner.

Yours, very truly,

N. MITSUHASHI.

[Inclosure 2 in No. 228.]

Mr. Herod to Mr. Mitsuhashi.

UNITED STATES LEGATION,
Tokyo, November 7, 1898.

DEAR MR. MITSUHASHI: Referring to the conversation I had with you a few days ago upon the subject of the refusal of the patent bureau to register the trade-mark of the New York Condensed Milk Company, I beg to inclose herewith for the consideration of the department of foreign affairs a copy of an instruction upon the subject received by the minister from the Department of State, and to request that I may be informed as to the intentions of the Imperial Government in regard to proposing to the Diet additional legislation to relieve the hardships which the present rulings of the patent bureau entail upon the bona fide owners of foreign trade-marks which their goods carry to all parts of the world.

Particular attention should be given to that side of the present case that touches upon the health of the users of condensed milk. Were the imitations of the established brands good milks, there would be no necessity to force their sale under false pretenses; they would sell on their merits.

Very truly, yours, JOSEPH R. HEROD.

[Inclosure 3 in No. 228.]

Mr. Herod to the Director of the Patent Bureau.

UNITED STATES LEGATION,
Tokyo, November 28, 1898.

DEAR MR. YANAGIYA: With reference to the conversation I had with you on Saturday regarding the trade-mark of the New York Condensed Milk Company, I send you herewith one of the papers in the

case setting out that the application for registration is numbered 12092, and was presented to your department by one S. Nukiyama.

Kindly return the paper when you have finished.

Sincerely, yours,

JOSEPH R. HEROD.

[Inclosure 4 in No. 228.]

NOTES OF DIRECTOR OF THE PATENT BUREAU.

Nukiyama, agent for Maurice Russell, a British subject.

Trade-mark, "Eagle Brand."

Application dated May 4, 1898.

Preliminary rejection of application, June 25, 1898.

No further steps were taken by parties interested, so that the rejection was made final on August 26, 1898.

The "Swiss Milk" trade-mark is registered in the name of Maurice Russell as his own property, as proved by documents in my office.

KOREA.

JAPANESE-RUSSIAN CONVENTION CONCERNING KOREA.

Mr. Allen to Mr. Day.

No. 109. Diplomatic.] LEGATION OF THE UNITED STATES,
Seoul, Korea, May 26, 1898.

SIR: I have the honor to transmit herewith an extract from the Seoul Independent of yesterday's date, giving a translation of the new convention concluded between Japan and Russia on April 25, 1898.

I have, etc.,

HORACE N. ALLEN.

[Inclosure 1 with Mr. Allen's No. 109.]

[The Independent, Tuesday, May 24, 1898.]

THE NEW RUSSO-JAPANESE CONVENTION.

Published in the Official Gazette of the 10th of May, as follows:

Convention.

In accordance with Article IV, of the convention signed at Moscow on June 9, 1895, Baron Nishi, minister of state for foreign affairs of His Majesty the Emperor of Japan, and Baron Rosen, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of Russia, have each been empowered and enter into the following agreement:

1. The Governments of Japan and Russia both recognize the national rights and complete independence of Korea, and agree to make no direct interference in the internal affairs of that country by either of the two Governments.

2. In order to avoid misunderstanding in the future both Governments agree that in case Korea asks either Japan or Russia for advice and assistance, the two Governments will take no steps whatever by way of appointing military instructors or financial advisers, unless negotiations to that effect have been opened and settled beforehand.

3. The Russian Government recognizes that undertakings pertaining to the commerce and industry of Japan are greatly developed in Korea, and that there are a large number of Japanese residents in that country, and therefore it will in no way obstruct the commercial and industrial interests existing between Japan and Korea.

Two copies of the above done at Tokyo on 25th of April, 1898.

NISHI.
ROSEN.

RULES FOR COUNCIL OF STATE.

Mr. Allen to Mr. Day.

No. 118. Diplomatic.] LEGATION OF THE UNITED STATES,
Seoul, Korea, June 28, 1898.

SIR: I have the honor to hand you inclosed an extract from the Seoul Independent of the 25th instant, giving a translation of a new set of rules for the council of state of Korea.

This council of state is assuming more and more importance as the body to whom all important questions must be submitted for final decision. This argues well for Korea, as it relieved His Majesty of the

arduous task of deciding all questions himself, and brings into each case the knowledge and wisdom of a number of the most prominent men in the country.

I have, etc., HORACE N. ALLEN.

[Inclosure 1 in No. 118.]

REGULATIONS FOR THE COUNCIL OF STATE.

Edict No. 18 publishes a new set of regulations for the council of state. We append a literal translation of the same, as follows:

His Majesty the Emperor, who controls and directs all things, has established the council of state.

I. The members of the council shall be a president (premier), a vice-president, the ministers of departments, five councillors, and a secretary.

1. The president must be a chik-im of first honorary rank. The councillors must be a chik-im, while the ministers of departments are ex officio councillors. The secretary must also be a chik-im above the third honorary rank.

2. In the absence of the premier the vice-president shall preside over the council; but when both are absent one of the councillors shall act, under imperial sanction, as the president.

3. When a member neglects his duties the council shall report the case to His Majesty.

II. Meetings:

1. His Majesty, if so pleased, may attend the meetings in person, or command the Crown Prince to act as proxy.

2. The members alone of the council shall have the right to vote.

3. The premier shall open and close the meetings.

4. The council shall take into consideration the framing of new laws and regulations; the abolition or amendment or interpretation of the existing laws, etc.; the declaration of war or peace and negotiation of treaties with foreign powers; the restoration of order in case of domestic trouble; the construction and extension of telegraphs and railroads and the establishment of mining industries; the estimates and balance sheets of annual revenue and expenditure; the ways and means for extraordinary expenses; the imposition and abolition of various taxes; the amendment of the existing schedule of salaries; the payment of indemnity for private lands and forests appropriated by the Government for public enterprises; the discussion of a subject laid before the council by order of His Majesty; the promulgation of all laws and regulations approved by His Majesty. All these measures require the imperial sanction for validity. Nothing shall be done in the Government without first being submitted to His Majesty for approval.

5. If a councillor has an important matter he must either hand the resolution to the secretary or send it directly to the council.

6. The premier shall distribute among the members the copies of a resolution to be considered at least a week before the meeting. If necessary, meetings shall be held three times a week.

7. Two-thirds of the members shall form a quorum.

8. In the absence of the ministers of departments they may be represented by their respective vice-ministers, who shall, however, have no power to vote. When the secretary is absent one of the youngest councillors shall discharge his functions pro tem.

9. The minister of a department must be present when matters affecting his particular department are under discussion. If need be, the vice-minister or a chief of a bureau in the department may attend the meeting and express his views on the subject.

10. When a minister is unable to be present at the consideration of a topic affecting his department he shall inform the premier of the fact in due time, so that the topic may be postponed to next meeting. However, in case the minister is compelled to be absent in the next meeting, the council may debate on the question without further delay.

11. Nobody shall be admitted to the meetings who has no business therein.

12. The premier himself shall rise and read aloud the resolutions which have received imperial sanction and the questions which have been referred to the council by His Majesty.

13. The secretary shall rise and read aloud the proposals introduced by councillors. While reading no objections or debates shall be allowed.

14. After a bill has been read the mover of the bill shall state his reasons for its introduction.

15. Any member may demand, for information, the second reading and explanation of a paper.

16. The premier shall ask the members to express their views on a proposal. All questions, answers, debates, etc., shall be addressed to the premier.

17. Any one who desires to speak shall first obtain the permission of the premier, and stand while speaking.

18. Ordinary questions require one reading only, and votes shall be taken after a mature discussion.

19. When a debate becomes tedious and prolonged the premier may postpone it to the next meeting.

20. After a bill or its amendment has been thoroughly discussed the premier or the secretary shall count the votes, and announce the result at once.

21. Slips of paper, with the names of members printed on them, shall be distributed among the councillors. They shall write a few words under their respective names, signifying their agreement or disagreement.

22. When a dissenting member wants to present a special report concerning a subject under discussion he must at once state the outline of what he intends to say in the report.

23. Such a report shall be drawn up within a week after the meeting and be sent to the secretary. The report shall be read in the next session, opening the original question to debates. Votes shall be taken according to article 20.

24. After each meeting the premier or secretary shall announce the date and the subject for the next meeting.

25. The members present at the discussion of a subject shall sign their names under the record of votes, and the secretary shall put the seal of the council thereon.

26. Order of business:

(1) The reading of bills already approved by His Majesty and the announcement of such matters as have been sent down to the council by the Emperor.

(2) The reading and signing of minutes.

(3) The reading of reports.

(4) The second reading of a bill discussed once in the previous meeting.

(5) The signing of the resolutions carried.

(6) Unfinished debates.

(7) New business.

(8) Necessary explanations on any subject that may be before the council.

III. Memorials:

1. Within one week after the council has taken votes on a subject the secretary shall prepare a memorial which the premier, or, in his absence, the vice-president, shall present to His Majesty.

2. The memorial shall contain the date on which the subject was discussed; the names of the members present and of the absentees; the purpose and scope of the bill; the summary of the debate; the number of negative and affirmative votes; the report of a dissenting member; the relation between the bill and existing laws; the signatures of the premier and the secretary.

3. The premier shall be prepared to answer the questions of His Majesty concerning a bill. In case the bill is accompanied by explanatory documents their duplicates shall be kept in the palace, if it is so desired by His Majesty.

4. When His Majesty is pleased to approve a bill which has been discussed in the council, he has power to do so, irrespective of the number of votes for or against it. On the other hand, if the debates on a bill do not please His Majesty, he may order its reconsideration.

5. When a bill has been signed and stamped with the imperial signet, it shall be sent back to the council to be published in the Gazette.

6. The Gazette shall—

(1) State what the new law or regulations approved by His Majesty deal with.

(2) Note that the enactment has been duly signed by the premier and the secretary.

(3) Give the full text of the bill just passed.

(4) Note the abrogation or alteration of certain laws, etc., on account of the new enactment.

(5) State that the new statute has received the Imperial signet.

FOREIGN SETTLEMENTS.

Mr. Allen to Mr. Sherman.

No. 8. Diplomatic.] LEGATION OF THE UNITED STATES,
Seoul, Korea, October 1, 1897.

SIR: I have the honor to inform you that some time ago I learned that the Russian Government had applied for, and were about to obtain, a coaling station on Deer Island, in the harbor of Fusan.

The Japanese have a coaling station on the same island, as well as at Chemulpo and Gensan, and it seemed not unnatural that Russia should ask for and obtain the same advantage.

Later I learned that the secretary of the Russian legation had gone to Fusan, and, in conjunction with Russian naval officers, had selected 20 acres of land on the low-lying western end of this large and rocky island, at a point just opposite and nearest to the large and ancient Japanese settlement and right in the heart of the plot selected by the Korean Government, at the suggestion of my predecessors, Messrs. Heard and Sill, as well as other foreign representatives, for a site for the general foreign settlement of Fusan.

This is positively the only available site for this settlement, which is granted and provided for in the treaty between Great Britain and Korea, Article IV, section 1.

I send inclosed a rough sketch of Fusan Harbor, showing that from the mountainous condition of the mainland and most of the island this low-lying tract, near deep water and adjoining the Japanese town of some 10,000 inhabitants, which has existed there for over two hundred years, is the only suitable place for the general foreign settlement.

It was so generally assumed that the settlement would be laid out on this spot that in 1894, at the request of the American, Russian, and British representatives, the Korean Government dispatched its chief commissioner of customs to Fusan to lay out the limits of a settlement on this place.

This was done and boundary stones were erected, inclosing an area of about 50 acres for a settlement proper, with ample ground around it for future use. The sudden taking off of the Queen and the consequent disorder prevented a formal opening of this tract to settlement purposes.

This delay has been very annoying to this legation, for we have several families living at Fusan in houses they have erected on ground for which they could not get proper title deeds, and we want this matter settled for their sakes. Also, two American firms of importance have for some years been very anxious to open up business at Fusan, but could not do so until this settlement matter was arranged.

When therefore I learned that we were likely to lose altogether the only available site, through this proposal of the Russian Government, I went to the foreign office on the 14th of September (the day after assuming charge of the legation) and had a long talk with the minister for foreign affairs. I told him that I had nothing to say as to the right or propriety of his Government's granting coaling stations to any power, but that I had learned with regret that he was thinking of granting to one country a large part of the site selected for a foreign settlement at Fusan for all the treaty powers; that a settlement at Fusan was granted foreigners by treaty, and that the Korean Government had been repeatedly urged to carry out the treaty stipulations in this particular instance; that Americans and American interests had been really injured by this long delay, and that I could not see the only available site for settlement purposes otherwise disposed of without speaking; that I thought he should first fulfill the treaty obligations and lay out this settlement, after which I would probably have nothing to say as to his disposal of the part of the large island still remaining.

He saw the point I was endeavoring to make, and assured me finally that he would do nothing in the matter without first consulting the foreign representatives, which was all I could ask.

I understand that the British, Japanese, and German representatives secured a similar assurance, though my action was entirely individual and had only to do with our own interests.

On the 22d of September the secretary of the Russian legation had a long interview with the vice-minister for foreign affairs, as a result of which he signed a "protocol" giving up all claim to this particular site and agreeing to take another.

I may add that a few days later this very excellent vice-minister was transferred to the obscure educational department and his former place given to a man said to be greatly his inferior in strength of character and general ability.

I have, etc., HORACE N. ALLEN.

Mr. Allen to Mr. Sherman.

No. 16.] LEGATION OF THE UNITED STATES,
Seoul, Korea, October 8, 1897.

SIR: Referring to my No. 8, October 1, handing you a copy of a protocol said to have been signed by the Korean foreign office and the Russian legation in regard to a coaling station at Fusan, I now have the honor to inform you that Mr. de Speyer has informed the German consul, Mr. Krien, that this paper was not signed, that it was simply the view of the Korean vice-minister for foreign affairs, and that while the secretary of the Russian legation brought it to him he paid no attention to it. He said, also, that the matter of the coaling station was settled at Fusan between his secretary and the local officer; that the owners of the land agreed to sell for a total of 18,000 yen; that he had referred the matter to the navy department at St. Petersburg, and if they considered the sum a reasonable one the station would be located on the ground in question; that as far as he was concerned the case was closed; that no one else had any claim to the land, since no settlement had been actually laid out there, nor had the Korean Government notified the representatives that they had selected this site, and even if they had his Government could buy the land just as any individual could buy it.

I have, etc.,

HORACE N. ALLEN.

Mr. Allen to Mr. Sherman.

No. 35.] LEGATION OF THE UNITED STATES,
Seoul, Korea, November 13, 1897.

SIR: I have the honor to hand you inclosed a copy of the regulations for the foreign settlements of Chinnampo and Mokpo, the new Korean ports opened to settlement on October 1 last.

The foreign representatives had a number of meetings to consider the draft of these regulations, which was prepared by Mr. Brown, the chief commissioner of customs. We most carefully considered every article and made some important changes, which were accepted.

From my long experience with the foreign settlement at Chemulpo, I feel sure that these new regulations will be found to be very satisfactory.

I trust the Department will approve of my action in signing the same. I might explain that my reason for adding my consular title to this signature was that it seemed proper to me because of the fact that a court is provided for in the regulations.

I have, etc.,

HORACE N. ALLEN.

REGULATIONS FOR THE FOREIGN SETTLEMENTS AT CHINNAMPO AND MOKPO.

1. The situation, limits, and measurements of the ground marked off for the foreign settlement at Chinnampo / Mokpo are shown in the annexed plan.

The boundary line on land is marked by boundary stones on which Chinnampo / Mokpo foreign settlement have been cut, and of which one is placed at high-water mark at either end and others at the points between where the line makes an angle.

A sea wall and jetty will, when and where the requirements of the port call for them, be constructed by and maintained in repair at the expense of the Korean Government. Such sea wall and jetty and portion of uninclosed ground attached to the latter for landing and working cargo on, shall be under the control of the Korean Government for customs purposes only, and be free from taxation of any kind, but shall be lighted and policed by the municipal council.

2. The settlement consists of three classes of lots, namely:

A. Village, rice field, or low-lying lots not requiring further filling in to raise them above high-water mark.

B. Hill lots.

C. Foreshore lots requiring further filling in.

3. The Korean Government will, in conjunction with the municipal council, lay down the boundary line between the A and B lots, and mark out the boundaries of the lots by erecting stones or otherwise, and will also remeasure the area of the lots before they are disposed of to intending purchasers.

The maximum and minimum size of lots shall be as follows: A and C lots not more than 1,000 square meters; not less than 500 square meters. B lots not more than 5,000 square meters; not less than 1,000 square meters.

4. Except as hereinafter provided, lots in the foreign settlement shall be disposed of at public auction to the highest bidder. Such auction shall be conducted and held by an official authorized thereto by the Korean Government. Such official (hereinafter called the "Korean official") shall, after the receipt of an application from an intending purchaser, give at least thirty days' notice of the sale, in writing, to the foreign representatives, local consuls, and the municipal council, as well as by a notice posted in some public and conspicuous place within the settlement.

Immediately after the auction of a lot, the purchaser shall pay to the Korean official who held the auction one-fifth of the selling price as earnest money. Within ten days thereafter the balance of the purchase money shall be paid to the said official, who shall thereupon, free of charge, cause to be executed and delivered, on behalf of the Korean Government, a title deed in triplicate for the lot sold in the form hereto annexed.

If such balance be not paid to the said official within ten days from the date of sale, the earnest money shall be forfeited to the Korean Government and the sale shall be null and void.

5. The upset price of A lots shall be 6 silver dollars per 100 square meters, of B lots 3 silver dollars per 100 square meters, and of C lots 5 silver dollars per 100 square meters. The municipal council shall have the power to decide at the first annual meeting what silver coin shall be taken as the standard for the current year.

The whole of the upset price shall belong to the Korean Government, which shall defray the cost of the auction, and the balance of the sum realized by the sale shall be held to the credit of the municipal council, to which, when formed, it shall be at once paid over.

6. A rental at the rate of $6 per 100 square meters per annum on A and C lots, and of $2 per 100 square meters per annum on B lots, shall be paid by the lot holders to the municipal council, who for the purpose of collecting and receiving such rents are empowered to act as the agents of the Korean Government, and whose receipt for any rent shall be a valid acquittance.

Rent shall be payable from the date of sale, and the first payment pro rata for the remainder of the year shall be made before the delivery of the title deeds, and all subsequent payments shall be made on or before the 10th day of January in each year in advance for such year.

7. Until the rent due on any lot for any year shall have been paid, the lot holder concerned shall not be entitled to vote at any election for municipal councilor held in that year, or to be a candidate for the office of municipal councilor, or to exercise any of the other rights conferred upon him by these regulations.

If the rent, as aforesaid, is not paid before the 1st day of February in any year, interest at the rate of 12 per cent per annum will be levied as from the 1st of January preceding. If the rent and interest are not both paid by the following 31st day of December, the municipal council is hereby empowered to and shall bring suit against the defaulter before his competent authorities, and in default of payment within

the time prescribed by the court the municipal council shall move the said competent authorities to declare the land forfeit, and when judgment to that effect has been pronounced the Korean official shall within two months from the date of such judgment, by giving thirty days' notice in the manner detailed in article 4 of these regulations, dispose of the same by public auction. After deducting the amount of rent and interest due to date, the costs of the auction, and all fines or other sums owing from the late lot holder to the municipal council, the Korean official shall hand over the balance, if any, to the said late lot holder or to those legally authorized to receive the same on his behalf, or on behalf of his estate.

8. The municipal council shall within one week after the receipt of the rent due on any lot or lots pay over to the Korean authority appointed to receive the same a sum equivalent to 30 dollar cents per 100 square meters of the area rented, the remainder of the rent to be retained by the council and to form part of the municipal fund. In the case of overdue rent the proportional share of the interest recovered shall be paid over to the Korean authority at the same time with the Government rent.

9. The Korean Government shall permit no more Korean houses to be erected within the limits of the foreign settlement, or Korean interments to take place therein. Within one month after the sale of any lot, or after notice given by the municipal council of its intention to construct any road, the Korean Government shall cause all Korean houses and graves to be removed from such lot or such line of road. But all Korean huts and graves shall be removed from inside the limits of the foreign settlement within two years from the date of these regulations.

From and after the date of these regulations no trees shall be felled on any unsold lot or line of road without the consent of the municipal council.

10. The Korean Government may reserve ground within the settlement limits on which to erect customs offices and godowns, and residences for foreigners employed in the custom-house; but such ground shall be subject to the same obligations, as regards payment of rent, taxes, and the like, as other ground of the same class.

Subject to these regulations Korean Government steamship companies may acquire and hold lots within the settlement limits on which to erect offices and godowns.

The Government of any treaty power may acquire a suitable lot or lots for a consulate on paying the upset price only; but such lot or lots shall be subject to the same obligations as regards payment of rent, taxes, and the like as are other lots of the same class.

11. None but the governments, subjects, or citizens of the States whose representatives have signified their acceptance of these regulations shall be allowed to purchase or hold land in the foreign settlement or be granted title deeds for lots within the said limits.

12. Title deeds in form as hereinafter set out shall be issued in triplicate by the Korean official acting on behalf of the Korean Government, and the purchaser shall sign on the said triplicate title deed the "declaration" hereinafter mentioned. One of the triplicate deeds shall be retained by the Korean Government, another shall be delivered to the purchaser through his consular authority, and the third shall be archived and registered in the office of the municipal council.

If a lot holder desires to sell or transfer his lot, he shall surrender the old title deed to the Korean official to be canceled, whereupon a new title deed in the prescribed form and in triplicate shall be executed and issued, and the buyer or transferee shall sign and accept the new title deed on the same conditions that applied to the original deed; but no new title deeds shall be issued for any lot or part of a lot for which rent is at the time due. The new title deeds in triplicate shall be distributed and archived as in the case of the original deeds. A fee of $5 for the new deeds shall be paid by the transferee to the Korean official.

Any lot holder desiring to divide his lot into two or more parts for purposes of sale or otherwise shall be at liberty to do so, and on surrendering his title deed for the whole lot shall receive in exchange new and separate title deeds for each subdivision as desired; provided always that no subdivided part shall be less in area than the minimum laid down in article 3 above, except that a lot holder may sell to an adjacent lot holder a portion of his lot, however small, with the understanding that if the part retained by him is less than 500 square meters he will not be entitled to vote for a member of the municipal council; and provided also that all title deeds for subdivided lots shall be executed and delivered, signed, and accepted subject to the same conditions that apply to the title deeds for whole and original lots. A fee of $5 shall be paid to the Korean official for each new title deed in triplicate issued for parts of lots.

All the parts of a subdivided lot shall retain the number of the original lot as plotted on the official plan, but the parts shall be distinguished by letters; thus the parts of Lot X shall be numbered X^a, X^b, X^c, etc.

The holder of a title deed for a subdivided part of a lot shall be registered as a lot holder, and shall have and enjoy the same rights and privileges as the registered holder of any undivided lot.

13. Within the space of two years from the date of the title deeds of any whole or subdivided lot the purchaser must have erected buildings or made other improvements on the said lot to the value of not less than $250, and all buildings so erected must be covered with tile, iron, felt, or other noninflammable roofs. No thatched, wooden, or otherwise inflammable roof will be permitted.

In case no building shall have been erected or improvement made within the term specified and of the value stipulated above, the municipal council may proceed against the defaulter as provided in article 7.

Provided always that lots reserved by the Korean Government or acquired by the Government of any treaty power shall not be subject to the present stipulation.

14. The municipal council shall consist—

(1) Of the kamni or a Korean local official of suitable rank.

(2) Of the local consuls.

(3) Of not more than three members elected by the registered lot holders.

No two of the elective members shall be of the same nationality. Only registered lot holders shall be eligible for election, but no lot holder whose rents, rates, and taxes are not fully paid can be put in nomination. The election shall be held in the month of December in each year according to rules to be agreed upon by the foreign representatives. Each lot holder, whatever may be the number of lots held by him, shall have one vote only. Proxy voting shall not be allowed, and where a lot is held in the name of a Government, corporation, or firm the authorized representative of such Government, corporation, or firm shall, for all purposes of this article, be considered as the registered holder of the said lot.

15. The municipal council, composed as provided in article 14 above, is hereby constituted and declared to be a corporation with power to use a common seal and to contract and to sue and be sued under its corporate name of the "Municipal Council of the Foreign Settlement of Chinnampo," Mokpo," and all suits and proceedings against it shall be commenced and prosecuted in a court composed of the Korean minister for foreign affairs and the foreign representatives in Seoul, and the decision of a majority of the said court on a matter submitted to them shall be final.

The said court shall have power to issue all writs and processes which may be necessary in the premises, and to appoint officers to carry out and execute the same, and the property and funds of the council shall be subject to any judgment that may be rendered by the said court.

16. The municipal council shall have power—

First. To choose its own officers and to regulate its own proceedings.

Second. To select and appoint its own employees and servants, and to regulate their duties, and to dismiss them.

Third. To make roads, and to construct such drains, bridges, embankments, and other public works, within the limits of the settlement, as shall not be specially exempted, and to keep the same in repair, provided always that the cost of erecting retaining walls shall be borne by the lot holder concerned where the established grade of any road shall be altered by the council at the request of the lot holder.

Fourth. In conjunction with the Korean official, and after two months' notice publicly given, to change the course, or to add to or diminish the number, width, or grade of any of the roads in the settlement, whether marked, or not marked on the official plan referred to in article 1; provided that no road shall be less than 8 meters in breadth, and that any lot holder affected shall have the right within the said period of two months to appeal to the court as constituted in article 15.

Fifth. To appoint and maintain an efficient police force.

Sixth. To arrest and detain all persons acting in a disorderly manner within the settlement limits and to take steps for their punishment by their own authorities.

Seventh. To adopt measures for the proper lighting and cleaning of all thoroughfares and the prevention of obstructions therein.

Eighth. To provide for public wells and waterworks.

Ninth. To make regulations for, and where necessary to issue licenses, with or without fees, to houses of entertainment of whatever description within the settlement, and to all owners of wheeled vehicles plying for hire, as well as to peddlers or chair bearers carrying on their trade within the settlement or resorting regularly thereto.

Tenth. To take measures for the preservation of public health and decency, to suppress gambling houses and houses of ill fame, and to prevent and abate all nuisances, including such as may arise from the pursuit of offensive trades, within the settlement limits, and shall in no case permit the establishment of opium dens.

Eleventh. To prevent the erection or occupation of unsafe, inflammable, or unhealthy buildings, and to provide and maintain a fire department.

Twelfth. To erect and keep in repair such municipal buildings as may be found necessary.

Thirteenth. In case of need, to borrow money on the credit of the foreign settlement with the consent of the foreign representatives, in consultation with the Korean minister of foreign affairs.

Fourteenth. To call special meetings on fourteen days' notice of the registered lot holders for the transaction of special business specified on the notice of call.

Fifteenth. To act as the agent of the Korean Government in collecting the settlement rents and to give valid receipts for the same.

The municipal council may adopt general rules and by-laws for enforcing and carrying out the powers herein granted to it, and may fix penalties not exceeding $25 for every breach thereof. All such penalties shall be enforced by the authorities of the offenders, Koreans or foreigners, and shall be paid over to the municipal fund.

The cost of all work done and expenditure incurred by the municipal council shall be met and paid out of the municipal funds. If such funds prove insufficient, the municipal council may impose and collect from time to time a tax on all lots and houses in the foreign settlement in proportion to their then assessed value, provided that not more than one tax shall be assessed in each calendar year.

17. The form of title deed and the "declaration" attached thereto shall be as follows:

TITLE DEED.

In consideration of the sum of ——— dollars silver, the receipt of which is hereby acknowledged, the undersigned, acting on behalf of the Korean Government, hereby grants in perpetuity to ———, his heirs and assigns, the lot of land in the foreign settlement at $\frac{\text{Chinnampo}}{\text{Mokpo}}$ and described in the official plan of the said settlement as No. —— of the ——— class, and containing ——— square meters, on the following conditions, that is to say:

Firstly. That the said ———, his heirs and assigns, shall, on or before the 10th day of January in each year, pay, as rent in advance for the year commenced, the sum of ——— dollars silver to the municipal council as the agent authorized by the Korean Government to collect the same.

Secondly. That the said ———, his heirs and assigns, shall pay to the municipal council of the foreign settlement at $\frac{\text{Chinnampo}}{\text{Mokpo}}$ such further sums as it may be found necessary to collect as a tax for municipal purposes.

Thirdly. That no transfer of the said lot shall be made to any person other than a subject, citizen, or protégé of a State whose representative has signified his acceptance of the regulations respecting the foreign settlement at $\frac{\text{Chinnampo.}}{\text{Mokpo.}}$

Fourthly. That the said ———, his heirs and assigns, shall within two years from the date of the title deed of this lot, have erected buildings or made improvements on the said lot to the value of not less than $250 silver, and in default thereof shall be liable to surrender the said lot to the Korean Government in accordance with the provisions made in articles 7 and 13 of the above-named settlement regulations.

Fifthly. That in case the rent stipulated for above remains unpaid after the last day of the year for which it is due as provided above, then the Korean Government may reenter into possession of the said lot in accordance with the provisions made for this purpose in articles 7 of the above-named settlement regulations.

Done in triplicate at $\frac{\text{Chinnampo}}{\text{Mokpo}}$, one copy being retained by the Korean local official granting the deed, one copy being given to the purchaser, and the third copy being archived and registered in the office of the municipal council, this —— day of ———

(Seal and signature of the Korean official.)

DECLARATION.

In consideration of the grant of the above-mentioned piece of ground, I, the said ——— hereby agree to fulfill all the conditions attached to this title deed, and I further acknowledge myself bound to observe the municipal rules and regulations of the foreign settlement at $\frac{\text{Chinnampo}}{\text{Mokpo}}$ now or hereafter made, under the penalties prescribed in such rules or regulations.

Done this —— day of ———.

(Signature of grantee or transferee.)

Before me

(Signature of consul of grantee's or transferee's nationality.)

18. These regulations may be revised or amended by the Korean authorities and the competent foreign authorities, by common consent, and in such manner as experience shall prove to be necessary.

Signed this 16th day of October, 1897 (first year of Kwang-Mu), at the foreign office at Seoul.

(Signed) MIN CHONG-MUK,
Minister of Foreign Affairs.

(Signed) M. KATO,
H. I. J. M's. Ministre Résident.

(Signed) HORACE N. ALLEN,
Minister Resident and Consul-General of the United States of America to Korea.

(Signed) A. DE SPEYER,
Chargé d'Affaires de Russie en Corée.

(Signed) V. COLLIN DE PLANCY,
Chargé d'Affaires de France en Corée.

(Signed) J. N. JORDAN,
H. B. M. Consul-General for Korea, in charge of Chinese interests.

(Signed) F. KRIEN,
Kaiserlich Deutscher Konsul.

Mr. Allen to Mr. Day.

No. 111.] LEGATION OF THE UNITED STATES,
Seoul, Korea, June 3, 1898.

SIR: Referring to my No. 8, October 1, and my No. 16, October 8, in regard to the matter of the proposed Russian coaling station on Deer Island in the harbor of Fusan, Korea, I now have the honor to inform you that this question has been settled by the allotment of 900,000 square meters of land on this island, including the proposed site of the Russian coaling station, for a general foreign settlement.

This action was the result of a conference held by all the representatives except the former Russian chargé d'affaires, Mr. de Speyer, who, though he did not attend the meeting, ratified, or sanctioned, the proposals there made, to ask for the whole low-lying end of this island for the settlement allowed by treaty.

This arrangement seems to be a satisfactory one, as it finally defines the settlement area at Fusan, and the limits are ample to allow of the coaling station, and yet furnish ample room for all probable comers.

The proposition to take this whole end of the island for settlement purposes was my own, and I secured the approval of the Russian representative, Mr. de Speyer, to the proposition. As all ground within these limits will be subject to municipal regulations, it seemed to offer the best solution of a vexed question.

I have, etc., HORACE N. ALLEN.

Mr. Day to Mr. Allen.

No. 84.] DEPARTMENT OF STATE,
Washington, July 14, 1898.

SIR: I have to acknowledge the receipt of your dispatch No. 111, of the 3d ultimo, reporting that the Korean Government has allotted 900,000 square meters on Deer Island, in Fusan Harbor, for a general foreign settlement.

The Department would be pleased to know what portion, if any, of the allotment has been reserved for Americans.

Respectfully, yours,

WILLIAM R. DAY.

Mr. Allen to Mr. Day.

No. 140.] LEGATION OF THE UNITED STATES,
Seoul, Korea, August 26, 1898.

SIR: Replying to your No. 84, July 14, in which you ask to be informed what portion, if any, of the allotment of 900,000 square meters for a general foreign settlement on Deer Island at Fusan has been reserved for Americans, I have the honor to inform you that the setting aside of ground for separate settlements for treaty powers at Korean ports is not the custom here now. In the case of the settlement at Chemulpo, both China and Japan did receive special tracts for their citizens, prior to its foundation, but such a course has been discouraged since that time. Both Japanese and Chinese, moreover, are eligible to, and have, become owners of land in the general foreign settlement at Chemulpo, their own tracts having become too small for their use.

By reference to the regulations for the foreign settlements at Chinnampo and Mokpo, copies of which I forwarded to you in my No. 35, diplomatic, November 13, 1897, and in my No. 3, consular, it will be seen that by article 10, "The Government of any treaty power may acquire a suitable lot or lots for a consulate on paying the upset price only; but such lot or lots shall be subject to the same regulations as regards payment of rent, taxes, and the like, as are other lots of the same class." The advantage in this is that the ground may be selected and acquired without being put up at auction, as is the case with other lots. It was by virtue of this clause that the former Russian representative, Mr. de Speyer, bought up about one-half of the available land at each of these new ports. His Government did not sustain him in this, however, and the Russian holding within the treaty limits of Mokpo and Chinnampo has been reduced to about 10,000 square meters, which is considered to be entirely reasonable. I did not suggest to the Department the purchase of consular sites at either of these two places, as we voluntarily surrendered the fine site reserved for us at Chemulpo, where we need a consul much more than at any of the new ports.

Article II of the above-named regulations stipulates that: "None but the Governments, subjects, or citizens of the States whose representatives have signified their acceptance of these regulations shall be allowed to purchase or hold land in the foreign settlement, or be granted title deeds for lots within the said limits." By this provision Americans can acquire land freely at any of the new ports.

The settlement on Deer Island at Fusan has not yet been surveyed and laid out, but when this is done, these same regulations will probably be accepted for it.

The regulations allow of the purchase of land within 3¼ miles of the limits of the settlement, and in accordance with this provision, some Americans have purchased land so situated at Fusan, while the Russian Government has made extensive purchases of such outside land at Mokpo and Chinnampo. They were not allowed, however, to acquire an island in the harbor of Mokpo under this provision.

I have, etc.,

HORACE N. ALLEN.

TITLE OF EMPEROR ASSUMED BY THE KING.

Mr. Allen to Mr. Sherman.

No. 14.] LEGATION OF THE UNITED STATES,
Seoul, Korea, October 5, 1897.

SIR: Referring to my No. 3, September 17, page 6, in which I mentioned the agitation of the subject of conferring the title of Emperor upon the King of Korea, I now have the honor to inform you that this has gone on until, as announced formally in the Official Gazette of to-day, the King decided to take this new title and named the 12th day of October as the day for the ceremony connected therewith.

I have, etc.,

HORACE N. ALLEN.

Mr. Allen to Mr. Sherman.

No. 18.] LEGATION OF THE UNITED STATES,
Seoul, Korea, October 14, 1897.

SIR: In my No. 3, September 17, I alluded to the fact that His Majesty was being urged by his officials to assume the title of Emperor, and in my No. 14, October 5, I informed you that this step had been decided upon and the 12th instant named as the day for the ceremony of coronation.

I now have the honor to inform you that the ceremony took place on the above-named date, and I inclose an extract from the Seoul Independent, of to-day's date, descriptive of the affair.

On the 10th instant the foreign representatives each received individual invitations to be present at an audience at 5 p. m. on the 13th, in full uniform, with their suites. I was asked to bring with me any naval officers I might have visiting me, and as Captain Wildes of the U. S. S. *Boston* had returned to his ship from a visit at the legation (see my No. 15, October 7), he allowed five of his officers to come up with their uniforms and they accompanied me to the audience, making a very creditable display for the United States.

We were received separately. The Japanese minister resident, as dean of the diplomatic corps, went in first with his secretaries, consul, and naval and military attachés. After he came out I went in with our officers, and the Russian chargé d'affaires came next with a large staff of secretaries and attachés.

At a diplomatic meeting held on the 9th instant to discuss this question, most of the representatives seemed inclined to decline the expected invitation to attend this "Imperial audience," as they did not know how their Governments would regard it and they could not, therefore, offer congratulations. I stated that I did not think the matter was of so great importance to my Government as it seemed to be to theirs; that in one of the papers exchanged in connection with our treaty with Korea, the King was mentioned in the Chinese text as "the chief ruler of the country," and as such I do not think it made much difference to us what he might choose to call himself; that, therefore, I did not feel inclined to decline any such invitation to audience.

The Russian representative was very anxious that all should agree to attend the audience only on condition that there should be nothing said in the invitation as to its being for the purpose of recognizing or

congratulating the "Emperor." As all my colleagues assented to this, and as I felt sure there would be no such mention, I also agreed to it. The invitation came the next day. They all attended and the affair passed off pleasantly.

When His Majesty formally announced to me that he had been induced to assume the title of Emperor by the insistence of his officials, but that he felt unworthy of the high title, I assured him that I would at once communicate the intelligence to my Government, and while I could not say just how it would be regarded by them, I could assure him that he had the best wishes of my Government for his happiness and for the prosperity of his country; that, being a republic, we did not look upon this matter of titles just as did some other powers.

He said to me that from my intimate knowledge of Korean matters I could better understand this question than others, and he hoped I would so explain it to my Government that they would not get the idea that he had taken the step from a desire for personal aggrandizement, but that there were good reasons for heeding the advice of his officials, referring, I presume, to the fact that his neighbors, China and Japan, being ruled by Emperors caused him to be "talked down to."

I inclose also the official announcement of the assumption of the title of Emperor by the ruler of Korea.

I may add that this ceremony of assuming the title of Emperor has cost the country $100,000 silver.

I have, etc., HORACE N. ALLEN.

Mr. Sherman to Mr. Allen.

No. 25.] DEPARTMENT OF STATE,
Washington, November 30, 1897.

SIR: I have to acknowledge the receipt of your No. 18, diplomatic series, of the 14th ultimo, in relation to the ceremony attending the assumption by the King of Korea of the title of Emperor.

The Department commends your prudence in dealing with His Majesty's assumption of the imperial title, and understands, as you do, that it is not a change of Government, but merely a change of style on the part of "The chief ruler of the country," and as such needs no formal entrance upon new relations, as in the case of a revolutionary government assuming power, or a dynastic or constitutional change in the organization and function of a State.

Should any other governments take official cognizance of the change in His Majesty's title, and reaccredit their envoys accordingly, you will at once report the fact to the Department and await further instructions.

Respectfully, yours,

JOHN SHERMAN.

Mr. Allen to Mr. Sherman.

No. 50.] LEGATION OF THE UNITED STATES,
Seoul, Korea, December 23, 1897.

SIR: The Imperial party in Korea is greatly elated over the fact that the Emperor of Russia has apparently recognized His Korean Majesty's title as Emperor.

On the 18th instant, being the name-day of the Czar, His Majesty

sent the former a personal telegram of congratulation, and received a prompt reply, addressed to "His Majesty, the Emperor of Korea."

His Majesty sent me word of this, and I was able to obtain a copy of this somewhat interesting telegram, which I now have the honor to hand you inclosed.

I have, etc., HORACE N. ALLEN.

[Inclosure.]

HIS MAJESTY THE EMPEROR KOREA, *Seoul:*

I express my deep thanks and sincere wishes that the cordial relations between Russia and Korea be ever tighter and stronger.

NICOLAI.

Mr. Allen to Mr. Sherman.

[Telegram.]

SEOUL, KOREA, *January 1, 1898.*

The Government of Japan and the Government of Russia formally acknowledged Imperial title of ruler of Korea.

ALLEN.

Mr. Allen to Mr. Sherman.

No. 54. Diplomatic.] LEGATION OF THE UNITED STATES,
Seoul, Korea, January 2, 1898.

SIR: I have the honor to acknowledge the receipt, on yesterday, of your dispatch, No. 25, of November 30, and to append confirmation of my telegram of last evening in reply to the last-named dispatch, regarding the matter of the Imperial title assumed by His Majesty.

In addition to the telegram from the Czar to "His Majesty the Emperor of Korea," mentioned in my No. 50, December 23, the Russian chargé d'affaires, formally communicated to this Government, on the 31st ultimo, the fact that his Government had recognized the Imperial title of the ruler of Korea. I had previously informed you in my No. 34, November 13, that the Japanese Government had made this recognition, and as you close your dispatch No. 25, with the instruction for me to "at once report" to the Department the fact of such recognition by any other Government, I thought best to telegraph you, especially so, as, if the Government of the United States intend to take favorable action on this subject, you may not care to be the last to do so.

I have, etc.,

HORACE N. ALLEN.

Mr. Allen to Mr. Sherman.

No. 72. Diplomatic.] LEGATION OF THE UNITED STATES,
Seoul, Korea, February 12, 1898.

SIR: I have the honor to acknowledge the receipt of your No. 38, of January 5, last.

While calling upon the new Korean minister for foreign affairs, yesterday, I was asked as to the action of my Government in regard to the matter of the Imperial title assumed by His Majesty.

I had just received your No. 38, of January 5, last, confirming my telegram of the 1st of January, relative to the action of the Governments of Russia and Japan in regard to this matter, and I had received the Department's approval in your No. 25, November 30, of my action on the occasion of the audience granted to the foreign representatives at the time of the assumption of the title of Emperor; which approval seemed to indicate that you had no objection to the recognition of this title, but that you wished to be informed as to the action of other powers in the matter. The last paragraph of the above cited No. 25, is as follows: "Should any other Government take official cognizance of the change in His Majesty's title, and reaccredit their envoys accordingly, you will at once report the fact to the Department and await further instructions."

No Government has reaccredited its envoy; the only notice taken so far has been that the representatives of Russia and Japan were instructed to congratulate His Majesty upon his new rank. I therefore took it for granted that your approval of my course meant that you had no objection to the title, and I replied to the minister that my Government had approved of my course at the time of the audience and left me to infer that they were perfectly willing to recognize His Majesty's title of Emperor, and had not thought it necessary to add anything to the remarks I made at the time, but that, when they had learned that other Governments had formally congratulated His Majesty, I might be given instructions in the same sense. That in the meantime I would content myself with this verbal communication of my Government's willingness to recognize His Majesty as Emperor of Tai Han.

I have, etc., HORACE N. ALLEN.

Mr. Allen to Mr. Sherman.

No. 78.] LEGATION OF THE UNITED STATES,
Seoul, Korea, February 27, 1898.

SIR: I have the honor to acknowledge the receipt on the evening of the 25th instant of your cable reply to my telegram, "Emperor's father died to-day," as follows, "President sincerely laments His Imperial Majesty's heavy bereavement."

I communicated this to His Majesty the next morning through the foreign office, and received a prompt reply expressive of His Majesty's deep gratitude for this act of sympathy and regard, as well as of the marked courtesy indicated in the use of his new title "His Imperial Majesty."

It is needless to say that this wording of your message gives me great satisfaction, and relieves me greatly in regard to the matter of the Imperial title.

I hand inclosed extract from yesterday's Seoul Independent relating to the deceased Tai Won Kun.

I have, etc., HORACE N. ALLEN.

[Inclosure.]

[The Independent, Saturday, February 26, 1898.]

BRIEF SKETCH OF PRINCE TAI WON'S LIFE.

Prince Ye Haeung Taiwon Kun was born in Seoul on January 22, 1811, and was 88 years and 1 month old when he died. He was the fourth son of a prince who died

at the close of the last century. The family belongs to the royal clan, the members being the direct descendent of King Yunjong.

The Korean royal relations are treated differently than those of other countries. They are practically excluded from holding any important office in the Government and their emolmuent is very poor. Therefore many of them decline the title of prince and enter the civil or military services like any other person, as the old Korean law prohibits any prince from holding important offices in the Government.

Taiwon Kun's family was very poor and had no influence in the court so he and his three brothers accepted the title of prince when they were young, and lived quietly and frugally in their humble homes. The fourth prince was the brightest and most energetic in the family, and was very desirous of having his sons become officials in the Government. He had two sons and two daughters legitimately, and one son and a daughter from his concubine. Through his diplomacy he secured a civil office for his oldest son, Ye Chaimon, and he would have done the same for his second had he not allowed the son (His Majesty, the present Emperor) to be adopted by Queen Dowager Cho as the heir to the throne of King Ikjong.

After the death of the last king, Chuljong, in 1863, Taiwon Kun exerted his energy and tact and secured the throne for his second son and made himself regent. From 1863 to 1872 Taiwon was the practical ruler of the country, during which period Korea underwent many notable internal changes and many foreign complications occurred.

Some of the leading features of internal administration were the rebuilding of the Kyongbok palace at a tremendous cost; construction of the Government buildings in the front of the same palace, now used by the various departments; widening of the streets in the city; repairing of the city gates and walls; establishment of arsenals in five different localities; organization of war junks in Kangwha and Tongyung districts; minting high-denominationed cash and manufacturing the old-fashioned cannons for the army. Besides these improvements, he also inaugurated some of the most corruptible practices among the officials and cruelest punishments for the people. He commenced the practice of selling offices, especially the provincial offices, to the highest bidders, and instituted the custom of borrowing money from the well-to-do classes without the least intention of paying it back. One of his most cruel acts was the wholesale massacre and persecution of the native Christians. It is said that he had some 10,000 innocent men, women, and children killed because they were supposed to be believers in Christianity. In this connection we might mention that many brave souls suffered martyrs' deaths with Christian fortitude and unswerving faith. This massacre may be an indelible stain upon the character of the Prince, but the heroic deaths of so many faithful followers of the Cross will go down in the history of the Korean Church as a glorious demonstration of the firmness of faith which the native Christians possessed. We must not criticise the Prince too severely for the cruelty he practiced because he thought such was his duty. In recent years he realized his mistake, and, to some extent, he confessed his barbarity.

The unfortunate and unnecessary bloodshed at Kangwha between the crew of an American war ship and the soldiers in the Korean forts took place two years after the beginning of the Taiwon Kun's régime. This unpleasant affair could have been avoided if each side had understood the motives of the other.

For nearly ten years the Prince was known among the people as a tiger. His name was reverenced in all parts of the country and his orders were obeyed from the highest to the lowest. However, he was more feared than loved by the masses. In 1872 his power was curtailed, and he had no longer any voice in the Government. In 1882 he regained his power for a few weeks, after the breaking out of mutiny among the Korean soldiers. But he was soon carried away by a Chinese war ship to Tientsin through the deceptive plot of a Chinese general. He spent three lonely years in China as a captive, but he was permitted to return after the Tientsin convention between Marquis Ito and Earl Li Hung-chang in 1885.

After his return from China he was watched and guarded by his political enemies, and his position was not unlike a prisoner in his own castle. For nearly ten years his name was scarcely mentioned anywhere, and his former followers had been either killed or banished. But after the commencement of the Japan-China war he became again active in politics and recovered much of his former influence in the Government. In the spring of 1895 he was for the third time compelled to retire to his Uhen home, and spent the summer days in enforced idleness. After the death of the late empress he emerged from his compulsory retirement once more and took up his abode in the palace, but was not allowed to interfere freely with Government affairs.

From February 11, 1896, he was compelled to take up his residence in his own palatial home in Kiodong, and since then he has led the life of a hermit even to his last hour. His last appearance outside of his compound was some time during last summer, when he made a sudden visit to the police department for the purpose of rescuing one or two of his followers who had been imprisoned there for a long time.

On this occasion he scolded the chief commissioner of police for the unjust imprisonment of these men, and demanded an immediate trial of their charges by the court. On his way home he paid a short visit to the palace, and it turned out to be the last meeting between his Imperial son and himself.

We do not pretend to be biographers, therefore we simply chronicle a few simple facts of His Imperial Highness's life and leave the privilege of commenting upon them to future historians. However, we might say that he was a strong character, and has been one of the most prominent actors in the Korean political drama of recent years.

Mr. Allen to Mr. Sherman.

No. 81. Diplomatic.] LEGATION OF THE UNITED STATES,
Seoul, Korea, March 7, 1898.

SIR: I have the honor to acquaint you with matters relating to the new settlements at Mokpo and Chinnampo.

The entire area of land reserved for the general foreign settlement at Chinnampo is about 975,000 m.² Of this, only 460,000 m.² is dry land, the remainder being composed of mud flats which are covered with water at high tide, the filling in of which will be very costly. Of this dry land, the Russian Government has reserved 280,000 m.² under Article X of the regulations for the foreign settlements at Mokpo and Chinnampo, copy of which I forwarded to you in my No. 35, November 13. This article states that "The Government of any treaty power may acquire a suitable lot or lots for a consulate on paying the upset price only." Mr. de Speyer stated that he needed this large tract, equal to about 280 lots, for a consulate, a hospital, a coaling station, and other governmental purposes not arranged for in the regulations. He has staked off an even larger tract at Mokpo.

Mindful of the instructions you favored me with in your No. 23, November 19, I declined on several occasions to join the representatives of England, Japan, and Germany in a protest, preferring to take individual action at the proper time.

In the course of a friendly conversation at my house on February 24, referred to in my No. 77, February 26, I informed Mr. de Speyer that, while from action taken in regard to a consular site at Chemulpo, I felt sure that my Government would make no reservation at either of these new ports, I felt that Americans wishing to locate there would be much inconvenienced by the fact that such a large tract of the best land had been reserved by a government. He admitted the justice of my position in theory, but thought there would be no such inconvenience in fact, as his successor would see that the foreshore was filled in, and there would be ample area for all. He told me that he was acting on his own responsibility; that his Government had appropriated 25,000 roubles, 10,000 for land at Mokpo and 15,000 for Chinnampo; that he had purchased all he could for that amount, and that while he would deeply regret any inconvenience he might cause to Americans, he was compelled to adhere to his demands.

Mr. Kato, His Imperial Japanese minister, came to see me about this time to discuss the case, which interests his Government far more than any other. I repeated what I had said to Mr. Speyer as to our own interests in the case and stated that I did not care to make further protest and that the matter could probably be settled only in St. Petersburg. Later, Mr. de Speyer told me that Mr. Kato had brought him a message from

Baron Nishi, Japanese minister for foreign affairs, asking him as a personal favor to decrease his demand for land at the settlements, and that he had telegraphed the request to his Government, advising them to comply. Day before yesterday, I was informed by Mr. Kato that Mr. de Speyer had informed him of the receipt of instructions from his Government to accede to the Japanese request for limiting their proposed holdings at these ports. So this matter is satisfactorily settled.

I should add that at Chinnampo the Russian Government has bought up an additional tract of land just outside of and adjoining the settlement, somewhat greater in area than the settlement itself, while at Mokpo they have purchased, or are about to purchase, a whole island in the harbor. There can be no objection to these purchases outside of the settlements and within 10 li (3⅓ miles) of the settlement lines, but intending purchasers will be greatly inconvenienced thereby.

It is the general impression that no consular site reserved by a foreign government at any one of these ports would exceed 40,000 m. in area. The Japanese had reserved about 80,000 m.² at both Mokpo and Chinnampo, but I understand that they intend now to reduce their demand to 40,000 m.²

I learn that the French representative has been furnished 1,500 francs for the purchase of a French reservation. This will give them about 100 m.² at each of the two ports.

I have, etc.,

HORACE N. ALLEN.

Mr. Sherman to Mr. Allen.

No. 63.] DEPARTMENT OF STATE,
Washington, March 29, 1898.

SIR: I have to acknowledge the receipt of your dispatch No. 72, of the 12th ultimo, stating that, in answer to the inquiry of the new Korean minister for foreign affairs as to what this Government intends to do in the matter of the assumption of the Imperial title by the King of Korea, you replied that your Government has expressed its willingness to recognize the new title, but had not as yet instructed you to congratulate His Majesty thereon officially.

In reply I have now to instruct you to convey to His Majesty this Government's congratulations on the assumption of his new title.

Respectfully, yours,

JOHN SHERMAN.

Mr. Allen to Mr. Day.

No. 106. Diplomatic.] LEGATION OF THE UNITED STATES,
Seoul, Korea, May 14, 1898.

SIR: I have the honor to inform you that, in accordance with the Department's instructions contained in your dispatch No. 63, of March 29 last, I have conveyed to His Majesty the Emperor of Korea my Government's congratulations on the assumption of his new title.

I have, etc.,

HORACE N. ALLEN.

MEXICO.

EXTRADITION OF INEZ RUIZ.

Señor Romero to Mr. Gresham.

LEGATION OF MEXICO,
Washington, May 22, 1894.

MR. SECRETARY: I have the honor to inform you that I have received instructions by telegraph from the Government of Mexico to insist upon the demand for the extradition of Inez Ruiz and Jesus Guerra, who were guilty of the crimes committed in the attack on San Ignacio, in the State of Tamaulipas, Mexico, December 10, 1892.

Application was made to the Department of State for the extradition of these men, in pursuance of instructions from the Mexican Government, by the note of this legation of July 17, 1893, but the request could not be granted at that time for the reason that the accused persons were awaiting trial before the Federal court in Texas for violation of the neutrality laws of the United States.

On the 19th instant Judge Maxey dismissed the charge pending against twenty-eight persons, of infraction of the neutrality laws, Inez Ruiz and Jesus Guerra being among the number of said persons; consequently, the Government of Mexico thinks that the reason which prevented their surrender to the Mexican authorities no longer exists.

Be pleased to accept, etc.

M. ROMERO.

Mr. Uhl to Señor Romero.

DEPARTMENT OF STATE,
Washington, May 24, 1894.

SIR: I have the honor to acknowledge receipt of your note of the 22d instant, in which you renew your request of July 17, 1893, for the extradition of Inez Ruiz and Jesus Guerra, implicated in the attack on San Ignacio in December, 1892. The charges against whom, for violation of our neutrality laws, have, you state, recently been dismissed by the United States Federal court.

In reply I have the honor to say that, so far as this Department is aware, no proceedings were taken by your Government for the extradition of these men beyond the request above referred to. As soon as the usual requirements of law shall have been complied with and the cases brought before the Department, your request will be given due consideration.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
Washington, July 7, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 3d instant,[1] transmitting evidence of the Mexican citizenship of Inez Ruiz and Jesus Guerra, who have been committed for extradition by the United States commissioner at San Antonio, Tex.

Accept, sir,

W. Q. GRESHAM.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
Washington, July 9, 1894.

SIR: I have the honor to state with reference to the demand of your Government for the extradition of Inez Ruiz and Jesus Guerra, that the Department is advised that they have applied for writs of habeas corpus from the United States court in Texas, and therefore feels obliged to delay action on your request for their extradition until the court has passed upon their application.

Accept, etc.,

W. Q. GRESHAM.

Señor Romero to Mr. Gresham.

[Translation.]

MEXICAN LEGATION,
Washington, July 10, 1894.

MR. SECRETARY: I have the honor to acknowledge your note of yesterday in which you inform me that your Department will suspend its decision in regard to the extradition of Inez Ruiz and Jesus Guerra, asked for by the Government of Mexico, until the Federal court of Texas, to which the accused have applied, decided the question of granting a writ of habeas corpus for which application has been made by them. I have the honor to inform you that the Mexican consul in San Antonio notified me in a letter of the 5th instant that the counsel of Ruiz and Guerra was endeavoring to procure a certificate of their having declared intention to acquire United States citizenship; but this not being true, such evidence will necessarily be fraudulent, and its fraudulent character can be easily demonstrated.

Accept, etc., M. ROMERO.

Mr. Gresham to Señor Romero.

DEPARTMENT OF STATE,
Washington, July 26, 1894.

SIR: In connection with previous correspondence upon the subject, I have the honor to inclose herewith copy of a letter of the 24th instant from the Attorney-General, and of its accompaniments, in relation to the extradition cases of Inez Ruiz and Jesus Guerra.

Accept, etc.,

W. Q. GRESHAM.

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[1] Not printed.

[Inclosure.]

Mr. Olney to Mr. Gresham.

DEPARTMENT OF JUSTICE,
Washington, D. C., July 24, 1894.

SIR: I have the honor to submit herewith for your information a copy of a telegram of the 21st instant from Mr. R. U. Culberson, United States attorney for the western district of Texas, stating that Ruiz and Guerra have filed applications for writs of habeas corpus, and asking instructions relative to action to be taken by him in the premises. This telegram [1] followed a letter from Mr. Culberson of the 19th instant upon the same subject, which did not arrive here until the 23d instant, a copy of which also I have the honor to send you herewith,[1] as more fully explanatory of the status of the case. To Mr. Culberson's dispatch I replied by telegraph, as follows:

Appear for Government and defend against Ruiz and Guerra habeas corpus applications. Consult Mexican consul San Antonio. Get as long postponement of hearing as possible.

These instructions were designed to obtain opportunity for proper defense, and time in which the Mexican consul might advise with Mr. Culberson, and the Mexican minister have opportunity to convey to his consul, or to Mr. Culberson, any further information or suggestions that he may desire. As there may remain but little time in which to act, prior to the hearing upon these applications, I beg to suggest, in order to expedite preparation by the Government, that the Mexican minister may be invited to communicate freely by telegraph directly with Mr. Culberson, whose address is San Antonio, Tex., anything that he may believe will prove of service. Information of any steps that the minister may know, or has reason to believe, have been taken, or contemplated, by Ruiz or Guerra to make a false showing as to declaration of intention to obtain citizenship in the United States, and any facts relative to the past history, character, or mode of life of these men that may have any weight or bearing at the hearing—in short, anything that the Mexican minister may see fit to communicate—will be received with pleasure, and used to such advantage as may be possible, by Mr. Culberson.

This communication would have been sent to you earlier, had it not been for the sudden illness of the person in immediate charge of the correspondence in the case.

Respectfully,

RICHARD OLNEY,
Attorney-General.

Señor Romero to Mr. Olney.

[Translation.]

MEXICAN LEGATION,
Washington, November 14, 1895.

MR. SECRETARY: This legation has duly acquainted your Department with the several incursions into Mexican territory which from time to time have been carried out by men organized and armed in the United States having no other object in view than plunder and

[1] Not printed.

assassination, although they disguised their true intent with political pretexts. Unfortunately the Mexican Government has not been able to obtain the extradition of those criminals who, after having perpetrated their crimes in Mexico, took refuge in the United States, because many were citizens of this country and this Government does not feel authorized to extradite them, and others have been protected by the Federal courts, by reason of the alleged political character of their crimes, notwithstanding the fact that the Department of State has declared that, as in the case of Francisco Benavides, their crimes were not of a political character, and notwithstanding the fact that the treaty of extradition between the two countries only excepts from extradition those charged with a crime of a purely political character, which seems to mean that when they are mixed with others of a common character, they can not be considered as political offenders to deny their extradition.

The Government of Mexico desiring to obtain an authorized construction of the laws of this country, by means of a decision of the Supreme Court, has appealed from sentence of the United States district judge for the western district of Texas, granting the habeas corpus in the cases of Inez Ruiz, Jesus Guerra, and Juan Duque, whose extradition had been ordered by the United States Government.

The Mexican consul at San Antonio, Tex., appealed in his name from the decree of Judge Maxey, but, fearing that he could not be admitted as a party respondent in the court, and that the Supreme Court might be, therefore, prevented from giving a final decision in this matter, it was recommended, after hearing the opinions of able lawyers in this city, that the appeal would be made by Richard C. Ware, United States marshal for the western district of Texas, under whose custody were the appellees when the decree setting them at liberty was passed by Judge Maxey.

The Mexican consul informs me, in a telegram dated yesterday, that the United States marshal, Ware, refuses to sign the necessary motion in this case, because the sentence in question, being passed by a magistrate who is his superior, he does not think that he can properly appeal from the case unless the Attorney-General directs him to do so.

As it is desirable that this case may be decided in the Supreme Court of the United States, and being necessary for that purpose that the appeal be made by Marshal Ware, I will be obliged to you if you please call the attention of the Attorney-General of the United States to that matter, requesting him to send telegraphic instructions to Marshal Ware for that purpose.

Accept, Mr. Secretary, etc., M. ROMERO.

No. 62.] *Mr. Olney to Señor Romero.*

DEPARTMENT OF STATE,
Washington, November 14, 1895.

SIR: I have the honor to acknowledge yours of this date, and to say that I have communicated with the honorable Attorney-General and requested him to take such official action as will enable the suit referred to in your note to be at once appealed to the Supreme Court, and heard there without delay.

Accept, etc., RICHARD OLNEY.

No. 66.] *Mr. Olney to Señor Romero.*

DEPARTMENT OF STATE,
Washington, December 4, 1895.

SIR: Referring to the habeas corpus cases in the western district of Texas, which you desired might be appealed and brought before the Supreme Court of the United States at an early date, I regret to say that the Attorney-General notified me by note, copy of which I inclose, that the time within which an appeal can be taken has expired, and that consequently an appeal can not be directed.

Accept, etc., RICHARD OLNEY.

[Inclosure.]

Mr. Harmon to Mr. Olney.

DEPARTMENT OF JUSTICE,
Washington, D. C., December 2, 1895.

SIR: Further answering your communication of November 14, concerning the habeas corpus cases in the western district of Texas, I have the honor to say that these cases having been decided December 27, 1894, the time to appeal has already expired under the provisions of the act of March 3, 1893, chapter 226. For this reason an appeal can not be directed. I am informed by the district attorney that the marshal was not requested to join in the appeal.

Very respectfully,

JUDSON HARMON,
Attorney-General.

Señor Romero to Mr. Olney.

[Translation.]

MEXICAN LEGATION,
Washington, December 5, 1895.

MR. SECRETARY: I had to-day the honor to receive your note, No. 66, dated yesterday, with which you inclose to me copy of a communication from the Attorney-General of the United States, of the 2d instant, in which he states that the appeal of habeas corpus having been decided in the western district of Texas in the cases of Inez Ruiz, Jesus Guerra, and Juan Duque, on the 27th of December, 1894, the time within which an appeal can be taken has expired according to the law of March 3d, 1893, and that consequently an appeal can not possibly be directed.

The communication of the Attorney-General ends by saying that the district attorney informed him that the marshal was not invited to join in the appeal.

On this account I have the honor to state to you that by advice of Lawyers McLary and Stayton, of San Antonio, Tex., who represented before the Federal courts the Mexican consul at that city, the said consul appealed from the sentence of Judge Maxey, who granted the application for a writ of habeas corpus in the extradition cases which the consul had requested, and on their application to Lawyers Phillips and McKenney, of this city, to solicit the Supreme Court to give precedence to this matter, they thought that the appeal ought to have

been made by Marshal Ware and not by the Mexican consul, whose appearance in the case seemed questionable to them, and in accordance with their opinion the marshal was requested in October last to make the appeal, he having refused to do so for the reasons I communicated to you in my note of the 14th of November last.

If he was not solicited to appeal when Judge Maxey pronounced his decree it was for the reasons already indicated, that the lawyers thought that the Mexican consul should bring the appeal; but when that opinion was opposed, the marshal was requested to make the appeal.

Accept, etc.,

M. ROMERO.

Señor Romero to Mr. Olney.

[Translation.]

WASHINGTON, *March 18, 1896.*

MR. SECRETARY: By its notes of July 17, 1893, May 22 and July 24, 1894, this legation made application to the Department of State for theextradition of Inez Ruiz, Jesus Guerra, and Juan Duque, who were charged with the crimes of murder, robbery, arson, and kidnaping, committed in the town of San Ignacio, in the State of Tamaulipas, Mexico, on the 10th of December, 1892.

The proper judicial proceedings having been instituted before the circuit court of the United States for the western district of Texas, Commissioner L. F. Price decided that the evidence presented against Ruiz, Guerra, and Duque furnished ground to consider them, according to law, as guilty of those crimes, and he decided that they should be held as prisoners pending the issuance of an order by the President of the United States.

The Department of State replied by its note of July 9, 1894, that, as Inez Ruiz and Jesus Guerra had applied to a United States court in Texas for a writ of habeas corpus, it considered itself obliged to postpone its decision with regard to the extradition of those persons until the court should have decided concerning their application.

Judge Maxey, of the district court of the United States for the western district of Texas, granted a writ of habeas corpus to Inez Ruiz and Jesus Guerra, and also to Juan Duque, who had likewise made application therefor; but the consul of Mexico at San Antonio, Tex., appealed from that decision to the Supreme Court of the United States, and the latter court, in an opinion delivered by the Chief Justice on the 16th instant, a copy of which I herewith inclose, reversed the decision of Judge Maxey on the ground that, as Commissioner Price had had jurisdiction of the case, there was no ground for an application for habeas corpus.

For this reason, and all the legal requirements having been fulfilled before Commissioner Price in the application for the extradition of Inez Ruiz, Jesus Guerra, and Juan Duque, those persons may be legally surrendered to the Mexican authorities, according to the extradition treaty between the two countries, and I therefore beg you to procure and send the necessary orders to the proper United States officers.

Accept, etc., M. ROMERO.

Señor Romero to Mr. Olney.

[Translation.]

LEGATION OF MEXICO,
Washington, March 26, 1896.

MR. SECRETARY: Since I sent you my note of the 18th instant, relative to the extradition of Inez Ruiz, Jesus Guerra, and Juan Duque, I have learned that the decisions of the Supreme Court of Justice of the United States do not take effect until thirty days from the date of their promulgation have elapsed, and I therefore consider that it will not be possible to effect the extradition of those persons, in virtue of the decision of the Supreme Court of the 16th instant, until the said period has expired.

I consequently postpone until that time the request contained in my aforesaid note.

Accept, etc., M. ROMERO.

Mr. Olney to Señor Romero.

No. 105.] DEPARTMENT OF STATE,
Washington, April 24, 1896.

SIR: Adverting to your two notes of the 18th and 26th ultimo, respectively, in relation to the extradition case of Inez Ruiz, Jesus Guerra, and Juan Duque, I have the honor to inform you that I am advised that the order of the Supreme Court remanding the case to the district court in Texas has not been officially communicated to the district court and will not be so communicated until counsel request it. The rule is that a mandate is not issued in the absence of a special order made on motion in open court until thirty days after the decision of the superior court has been rendered, and that it will not be sent down after the thirty days have expired except at the instance of counsel.

The defendants in this case are, according to the Department's information, still at large on bail. They can not be rearrested under the ruling of the Supreme Court until that ruling has been officially communicated to the lower court and has become a part of its record. This Department can not consider an application for the surrender of fugitives from justice unless they are in custody awaiting its decision.

Accept, etc.,

RICHARD OLNEY.

Señor Covarrubias to Mr. Olney.

[Translation.]

LEGATION OF MEXICO,
Washington, July 2, 1896.

MR. SECRETARY: I have the honor to inform you that the consul of Mexico at San Antonio, Tex., notifies me, by a telegram which I have just received, of the arrest in that city of Inez Ruiz, another of the persons whose extradition, like that of Juan Duque, which is now awaiting the decision of your Department, could not take place after

it had been granted by Commissioner Price, of the circuit court for the western district of Texas, for the reason that writs of habeas corpus had been granted to the accused parties by a decision of Judge Maxey, which decision was reversed by the Supreme Court of the United States on the 16th of March last. In order that the extradition of these persons may now take place, a new warrant of extradition is consequently required, which I beg you to be pleased to send me, if there are no objections.

Accept, etc., M. COVARRUBIAS

Mr. Olney to Señor Romero.

No. 138.] DEPARTMENT OF STATE,
Washington, July 9, 1896.

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant, and to inclose herewith, pursuant to existing treaty stipulations between the United States and Mexico, a warrant of surrender of Inez Ruiz, charged with the crimes of murder, arson, robbery, and kidnaping in Mexico, and held for extradition by L. F. Price, United States commissioner for the western district of Texas.

Accept, etc.,

RICHARD OLNEY.

Señor Romero to Mr. Sherman.

[Translation.]

LEGATION OF MEXICO,
Washington, September 28, 1897.

MR. SECRETARY: This legation, in its notes of July 17, 1893, and May 22, 1894, requested of your Department the extradition of Inez Ruiz, Jesus Guerra, and Juan Duque, guilty of the crimes of murder, robbery, arson, and plagio (?) committed in the town of San Ignacio, State of Tamaulipas, Mexico, on December 10, 1892. The appropriate judicial proceedings being held in the United States circuit court for the western district of Texas, Commissioner L. F. Price adjudged the evidence against Ruiz, Guerra, and Duque, legally sufficient and valid, and that being guilty of those crimes, they should be held as prisoners to await the determination of the President of the United States.

In its note of July 9, 1894, your Department informed this legation that Inez Ruiz and Jesus Guerra, having appealed to a court of the United States for a writ of habeas corpus, it considered itself compelled to postpone its decision regarding the request for the extradition of these persons until the court should decide upon this appeal. Judge Maxey, of the United States district court for the western district of Texas, granted the appeal for habeas corpus for Jesus Guerra as well as for Inez Ruiz and Juan Duque, but this decision having been appealed from to the Supreme Court of the United States, the latter tribunal, by its decision of March 16, 1896, reversed that of Judge Maxey on the ground that, Commissioner Price having had jurisdiction, there was no room for an appeal for habeas corpus, for which cause your Department on the 9th of July, 1896, ordered the surrender of Inez Ruiz and Juan Duque.

Having received this day notice that Sheriff Shely, of Starr County, Tex., has apprehended Jesus Guerra and handed him over to the United States marshal, and the legal requirements relating to the extradition of this person and his surrender to the Mexican authorities, according to the treaty of extradition between the two countries, having been all fulfilled before Commissioner Price, I beg you to be pleased to obtain and transmit the necessary warrant for the surrender by the respective functionaries of this country of Jesus Guerra.

Accept, etc.,

M. ROMERO.

Mr. Sherman to Señor Romero.

No. 295.] DEPARTMENT OF STATE,
Washington, November 13, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 28th September, requesting the issuance of a warrant for the surrender to Mexico of Jesus Guerra, charged with the commission of certain crimes growing out of an attack by an armed expedition upon San Ignacio, Mexico.

After mature and careful consideration of the evidence adduced in the case before the extradition commissioner at San Antonio I have the honor to inform you that this Department can find no sufficient ground on which to grant the extradition.

From an attentive reading of that evidence it appears that Guerra was a member of the expedition making the attack, but it does not appear that he is implicated, either as an abettor or participant, in the commission of any offenses against private parties. Therefore he is not deemed culpable for those offenses committed without his privity, and as the evidence shows the expedition to have been revolutionary in its origin and purpose the offense of being a member thereof was of a purely political character, outside of the purview of the extradition treaty between the United States and Mexico.

Accept, etc.,

JOHN SHERMAN.

Señor Romero to Mr. Sherman.

[Translation.]

MEXICAN LEGATION,
Washington, November 15, 1897.

MR. SECRETARY: I have had the honor to-day of receiving your communication No. 295 of the 13th instant, in which you tell me, in answer to the one I sent you the 28th of September, asking for the extradition of Jesus Guerra, accused of crimes committed in the assault at San Ignacio, Mexico, that according to the evidence presented in this case before the extradition commission at San Antonio, the Department has not found reason for granting the extradition; that said evidence shows that Guerra was a member of the expedition that perpetrated the assault at San Ignacio, but that it does not appear that Guerra took part as an author or accomplice in the commission

of offenses against individuals, and consequently should not be considered responsible for offenses against individuals, and consequently should not be considered responsible for offenses in which it is not proven that he directly participated; and that since the said evidence shows that the assault was revolutionary in its origin and object, crimes committed by a member of the expedition are of a purely political nature, and in consequence exempted from extradition in conformity with the treaty between Mexico and the United States.

I can not refrain from expressing, Mr. Secretary, my regret at seeing that you have reversed the decisions given by your two predecessors in the high post that you occupy. Permit me to recall to you that the Hon. Walter Q. Gresham, Secretary of State of the United States, decided in a communication addressed to this legation on April 6, 1893, following the opinion of the then solicitor of the Department of State, that the assault at San Ignacio committed December 10, 1892, by a party of bandits organized in Texas to commit depredations against persons and property in Mexico was of a political character; but in view of the observations made to him in a communication of this legation dated April 7, 1893, and in a conference between us in the presence of the solicitor of the Department, he became convinced that the said assault was not of a character purely political, of a nature to warrant its exemption from extradition by the treaty of December 11, 1861, and revoked his decision in a letter of May 13, 1893. I think it proper to subjoin in the account given by the said Secretary of State in this letter, of the assault at San Ignacio, and of the reasons on which he relied in deciding that this assault was not of a purely political character:

Benavides was in charge of a party of bandits, numbering some one hundred and fifty, who, on December 10 last, passed over the Rio Grande from Texas into Mexico and assaulted a Mexican garrison of about forty men, stationed at San Ignacio, a ranch immediately on the Mexican border of the river. A number of the garrison were killed, a number wounded, and all the survivors made prisoners by the bandits. Benavides himself proposed that the prisoners be shot, but his purpose was frustrated, or at least not executed, and the members of the garrison who had been taken prisoners were released on the Mexican side of the river.

Several private citizens, noncombatants, were violently assaulted, but none were killed. All the horses of the garrison were taken by the bandits, and at least two belonging to private citizens. Several small sums of money were taken from women. The supplies and equipments of the garrison were also taken.

It further appears that the bandits in the course of the assault upon the garrison fired the barracks and also burned some buildings belonging to private parties.

The idea that these acts were perpetrated with bona fide political or revolutionary designs is negatived by the fact that immediately after their occurrence, though no superior armed force of the Mexican Government was in the vicinity to hinder their advance into the country, the bandits withdrew with their booty across the river into Texas.

In view of this decision the Mexican consul at San Antonio, Tex., began proceedings for extradition, among other bandits who composed the company of Benavides, of Inez Ruiz, Jesus Guerra, and Juan Duque, and the commissioner, L. F. Price, decided that the evidence presented against these three prisoners was enough, according to the law, to consider them guilty of the said offenses, and declared that they should be retained in confinement awaiting the decision of the President of the United States. The accused then had recourse to habeas corpus before the Federal court of the western district of Texas, which granted it, giving as reason that the assault at San Ignacio was an offense of a political character. The Mexican

consul at San Antonio, considering this decision unfounded, appealed to the Supreme Court of the United States from the decision of Judge Maxey, and that high tribunal, in a decision of March 16, 1896, revoked the decision of Judge Maxey, asserting that since Commissioner Price had had jurisdiction, recourse to habeas corpus could not be had, and that the offenses of which Inez Ruiz, Jesus Guerra, and Juan Duque were of a common order, and not of a purely political character. I think it proper to quote the following extracts from the decision of the Supreme Court:

> The district judge entertained different views from those of the Secretary, and arrived at a different result from that reached by the commissioner on the evidence on which the latter proceeded, and so was induced to substitute his judgment for that of the commissioner, in whom was reposed the authority of decision unless jurisdiction was lacking.
>
> Can it be said that the commissioner had no choice on the evidence but to hold, in view of the character of the foray, the mode of the attack, the persons killed or captured, and the kind of property taken or destroyed, that this was a movement in aid of a political revolt, an insurrection, or a civil war, and that acts which contained all the characteristics of crimes under the ordinary law were exempt from extradition because of the political intentions of those who committed them? In our opinion this inquiry must be answered in the negative.

The sentence of Judge Maxey having thus been revoked, the Mexican Government again asked, through a letter from this legation sent to the Department on the 18th of March, 1896, the extradition of Inez Ruiz, Jesus Guerra, and Juan Duque, and on receiving advices of the arrest of Ruiz and Duque the legation asked for their delivery in letters dated May 21 and July 2, 1896, respectively. The Hon. Richard Olney, Secretary of State of the United States, successor of Mr. Gresham, granted that of Inez Ruiz and Juan Duque, sending to this legation the orders for their delivery, with letters Nos. 137 and 138, of July 9, 1896. The delivery of Jesus Guerra was not insisted upon, because he had fled; but on receiving notice of his arrest I sent you the letter of September 28.

It appears from the above that your two predecessors as Secretary of State, and the Supreme Court of the United States, decided that the assault at San Ignacio was not an offense of purely political character. You now inform me that the evidence shows that the assault was revolutionary in its origin and purpose, and that consequently its character was purely political; and this decision, which is contrary to that expressed by your two predecessors and by the Supreme Court, reverses the decisions granted by them after mature consideration.

If the assault on San Ignacio was not of a purely political nature, as has been recognized by your predecessors and by the Supreme Court, the persons who took part in the same are responsible for the crimes committed, even if they did not personally commit them, inasmuch as the crimes were committed by the organization created by the assailant, and in virtue of the direct cooperation of all, although they may not personally have committed them. I therefore think it unnecessary to discuss the point of the direct participation which Guerra may have had in the commission of the crimes, since you have thought it best to revoke the decision of the Department in regard to the true character of the offenses.

Before closing I should recall to you that, as I have informed the Department, armed expeditions were organized for three years in Texas to attack the defenseless people of Mexico, with the object of assassinating and robbing individuals and of exercising personal vengeance, the chief incitement of such expeditions being the immunity

which the said bandits enjoy in the United States, and that from the time that the authors were delivered to the Mexican Government to be tried for actions committed in Mexican territory the expeditions ceased.

It is also a fact that the persons delivered to Mexico by the United States Government have been tried with all impartiality by Mexican tribunals, and that in no case has the most severe punishment been decreed.

I beg, etc., M. ROMERO.

Mr. Sherman to Señor Romero.

No. 302.] DEPARTMENT OF STATE,
Washington, December 17, 1897.

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant in reply to the refusal of this Government to grant the extradition of Jesus Guerra.

While it is not the usage of this Department to enter at large into the reasons of its decisions in such cases, yet the ordinary usage is departed from in this instance, as well as from the sense of respect and deference for your excellency's wishes and opinions, as to exhibit more fully to your excellency's consideration the reasons on which the decision was reached.

While unable perhaps to concur in the correctness of the conclusion reached, nevertheless your excellency will appreciate that the decision was arrived at after a most careful consideration of the premises and was actuated by a spirit of comity and absolute equity.

In the communication to your excellency of the ground of the refusal to grant the extradition, the language which was used appears not to have been felicitously chosen, since in your excellency's communication that reason is stated as follows:

> Since the said evidence shows that the assault was revolutionary in its movement and object, crimes committed by a member of the expedition are of a purely political nature, and in consequence exempted from extradition in conformity with the treaty, etc.

With your excellency's permission, I quote the precise language used in the note of the 13th instant, to which the reply was addressed:

> From an attentive reading of that evidence it appears that Guerra was a member of the expedition making the attack, but it does not appear that he was implicated either as an abettor or participant in the commission of any offenses against private parties. Therefore he is not deemed culpable for these offenses committed without his privity; and as the evidence shows the expedition to have been revolutionary in its origin and purpose, the offense of being a member thereof was of a purely political character, outside of the purview of the extradition treaty between the United States and Mexico.

The discrimination between the decision actually rendered and as indicated in your excellency's communication more clearly appears by reference to the petition filed before the magistrate for extradition, which charges Guerra with murder, to wit, shooting certain-named Mexican officers and soldiers; with arson, to wit, the burning of the barracks; with robbery, to wit, the taking of the cavalry horses, etc.; with kidnaping, to wit, the taking of Mexican soldiers as prisoners. This is the gravamen of the charge, for while the complaint makes a vague general charge of robbery it is so vague as not to warrant the detention or extradition of any man.

The decision was necessarily based on the complaint made and the evidence adduced in support of it secundum allegata et probata. The ground of the decision, and what actually was decided, was that the evidence shows that the assault was revolutionary in its origin and object, and that the aforesaid acts, which were in aid thereof, being incidents of regular military warfare, can not be characterized as common crimes; that they were shown to be committed, not from motives of revenge or pecuniary gain, but for the political one of revolution. The evidence fails to show the presence of a merely criminal motive of the actors except in so far as it may be inferred from the nature of the acts. But to argue that the acts themselves were intrinsically wicked, and therefore demonstrate the presence of the intent characteristic of common crimes, would have the effect in all cases of unsuccessful revolutionary movements, conducted by force and bloodshed, to destroy the right of asylum to political offenders and refugees. It was therefore by no means intended to be decided that since the assault was revolutionary "crimes committed by a member of the expedition are of a purely political character." The decision was that as the movement was revolutionary, acts done in aid thereof, are not common crimes; and as Guerra was not implicated, either as principal or accessory, in the commission of offenses against private persons, the guilt of such crimes could not be imputed to him, no more than if, during a lawful political assemblage, some one of those present should commit a lawless act, could the commission of that offense be imputed to the entire assembly.

Your excellency observes that—

> If the assault on San Ignacio was not of a purely political nature * * * the persons who took part in the same are responsible for the crimes committed, even if they did not personally commit them, inasmuch as the crimes were committed by the organization created by the assailants, and in virtue of the direct cooperation of all, although they may not personally have committed them.

Without assenting to or dissenting from this position, in the absence of a distinct understanding of what is meant by the assault being "not of a purely political nature," it may be observed that if what is meant is, that when the movement is revolutionary in its origin and object it ceases to be of a purely political character, because lawless acts, not germane to the object of the movement, may be committed by individuals without authority or privity of their leaders or associates, the contention, if interpreted in that sense, could not be acceded to, since it would be an unwarranted extension of the doctrine of principal and accessory, so as to implicate all political offenders engaged in the same revolutionary movement in the guilt of such acts and render them all common criminals. If it is meant that the expedition had a dual object, to wit, the overthrow of the Mexican Government and the plunder of the Mexican people, the two objects would seem inconsistent, except so far as the overthrow of organized resistance was incidentally necessary to the pursuit of plunder. The evidence wholly fails to show that object; the course pursued by the expedition seems utterly inconsistent with that object, for after the Mexican soldiery had been captured or disabled in battle, and all resistance overcome, and San Ignacio and the surrounding country lay at the mercy of Benavides and his followers, and pillage was at length within their easy grasp, the evidence fails to show any attempt to pursue and accomplish the very thing which your excellency deems to have been the main or sole object of the assault.

The point on which the decision turns is the question of fact whether

the expedition was organized and conducted for the accomplishment of a political object. This question your excellency passed over, and conceded that it was partly political by the contention that it was not purely political, and Guerra's extradition was sought on the assumption of fact that the expedition was either not political, or at least was only partly so, and on that assumption guilt was constructively imputed to Guerra for all isolated acts of lawlessness committed by any other individual or group of individuals without his participation, cognizance, or privity. This would seem a dangerous extension of the doctrine of principal and accessory, unsupported by any authority, and in the absence of which, or of evidence of his participation in such lawless acts, the ordinary presumption of innocence should prevail. Such is the humanity of the law.

The solution of the question in this case is complicated by the want of a definition of the phrase "crime or offense of a political character," and by the further question of the significance and force of the term "purely" political. "What constitutes an offense of a political character has not yet been determined by judicial authority." (In re Ezeta, 62 Fed. Rep., 997.) In the Castioni Case (1 Q. B., 149) Lord Denman said:

I do not think it is necessary or desirable that we should attempt to put into language in the shape of an exhaustive definition exactly the whole state of things, or every state of things, which might bring a particular case within the description of an offense of a political character. * * * The question really is whether, upon the facts, it is clear that the man was acting as one of a number of persons engaged in acts of violence of a political character, with a political object and as part of the political movement and rising in which he was taking part.

Judge Hawkins said:

I can not help thinking that everybody knows that there are many acts of a political character done without reason, done against all reason; but at the same time one can not look too hardly and weigh in golden scales the acts of men hot in their political excitement. We know that in heat, and in heated blood, men often do things which are against and contrary to reason; but none the less an act of this description may be done for the purpose of furthering and in furtherance of a political rising, even though it is an act which may be deplored and lamented, as even cruel and against all reason, by those who calmly reflect upon it after the battle is over. (62 Fed. Rep., 999.)

Calvo, speaking of the exemption from extradition of persons charged with political offenses, says:

The exemption even extends to acts connected with political crimes or offenses, and it is enough, as says Mr. Faustin Helio, that a common crime be connected with a political act, that it be the outcome of or be in the execution of such, to be covered by the privilege which protects the latter.

In the International American Conference in Washington, Mr. Silva, of Colombia, discriminating between an offense of a political character and a common crime, said:

In the revolutions as we conduct them in our countries the common offenses are necessarily mixed up with the political in many cases. A revolutionist has no resources. My distinguished colleague, General Gaumano (of Ecuador), knows how we carry on wars. A revolutionist needs horses for moving beef to feed his troops, etc., and since he does not go into the public markets to purchase those horses and that beef, nor the arms and saddles to mount and equip his forces, he takes them from the first pasture or shop he finds at hand. This is called robbery everywhere and it is a common offense in time of peace, but in time of war it is a circumstance closely allied to the manner of waging it. (62 Fed. Rep., 1000.)

Calvo says:

All treaties except that concluded between Belgium and the United States, April 30, 1874, article 3, declare the general rule that extradition shall not be accorded for an act connected with a political delict without discriminating whether the

separation of the delicts can be made. The connected delict is considered as an incident of the principal delict and is excluded from extradition.

We consider as delicts of common law those which are connected with political events only in a very indirect manner; those which have been committed in favor of the insurrecton without being otherwise related to it; that is to say, those which a private vengeance or personal hatred has inspired, as for example, the murder of an adversary, the burning of his house.

We regard as criminals at common law the perpetrators of acts connected with the insurrection, but which the law of nations disavows; for example, those who assassinate hostages, prisoners.

The practice is more favorable to the authors of such acts. None of the members of the commune, refugees in foreign lands in 1871, has been surrendered to France by the various powers. (Calvo (Paris, 1896), Droit International, section 1036.)

The treaty with Belgium, referred to by Calvo, by a special exception makes certain "connected" crimes extraditable. In his opinion in all our other treaties "connected" crimes are not extraditable.

Rivier advocates the extension of extradition treaties so as to include the more heinous offenses, regardless of the political motives or objects of their authors, yet he says:

The political offense for which extradition should never be granted, is the act considered as punishable solely and exclusively because of its political character. These are absolute political offenses. The qualification, according to which the offense should be characterized as such and punishable by similar or analogous penalties in the two States will suffice in the majority of cases to exclude extradition. If offenses which do not constitute common crimes, exhibiting the gravity just now characterized, have been committed with a political object, this object can, in the view of the impartial and disinterested State, impart to them a special character, different from that which they would have if they had been committed for the purpose of gain or of political or private revenge. These are offenses connected with political offenses, which may thus be called relative political, that is not absolute. They have a political character by reason of their object, and this political character may suffice to exclude extradition. We are considering now the political object which the accused has wished to attain. We are not considering of a political motive; a political motive does not suffice to give to an offense the political character, relieving the requested State from the duty of extradition. It follows moreover, from the very tenor of the most of the extradition treaties that when they exclude political offenses, it is precisely connected, complex or relative political offenses which are meant; the nonextradition for absolute political offenses being considered as implied. (Rivier. Principles du Droit des Gens, p. 353.)

Had it not been for the use of the word "purely" in the treaty Guerra was clearly not extraditable, since the evidence adduced by him stood uncontradicted that the object of the expedition was political. Does the term "purely" extend the scope of the right to extradition? According to Rivier it is tacitly implied in all extradition treaties that when they exclude political offenses connected or complex crimes are not included, since crimes of an absolutely or purely political character are excluded by implication, and the use of the word "purely," therefore, according to Rivier, would seem not to give any extension to the right of extradition. If, however, it does give any such extension, it must be by construction, since the meaning of the term is not defined by treaty; but the right to personal liberty may not be taken away by mere judicial construction, especially where, in cases of doubt, the obligation of extradition is interpreted in a limitative manner and in favor of the right of asylum.

But it not being necessary to decide the question whether or not the word purely should be constructed to extend the right of extradition between the two Governments, it may be suggested that should it receive in this case the construction contended for by Your Excellency, namely, that a private offense committed by one or a few

members of a revolutionary body should be imputed to all the rest of that body, although the rest may not have been in anywise privy to it, it would, in effect, make all political offenses extraditable, since there perhaps never was a political revolution without some of the elements of lawlessness attending it, even against the will of its leaders. Such construction would also put the ban of the treaty on all political revolutions conducted by force and violence, and subject all engaged in them to extradition for acts done causing bloodshed and the capture of prisoners and their equipments.

In your excellency's note it is stated that—

> Your two predecessors, as Secretary of State, and the Supreme Court of the United States, decided, that the assault at San Ignacio was not an offense of a purely political character. You now inform me that the evidence shows that the assault was revolutionary in its origin and purpose, and that consequently its character was purely political. This decision which is contrary to that expressed by your two predecessors and by the Supreme Court, reverses the decisions granted by them after mature consideration.

Being unable to assent to the above conclusion as a whole I beg leave to suggest to your excellency that, as shown by your excellency's communication, Secretary Gresham decided the same question twice, and in opposite ways; the then solicitor of this Department concurring with his first decision, that the offense was of a purely political character, while Secretary Olney does not appear to have rendered any opinion at all; and if there appear any aberration of decision on this question, it does not appear in the decision now under consideration, since, with the single exception mentioned by your excellency, this decision is in harmony with all former decisions of this Department on analogous states of facts, having the same essential legal character.

In support of this statement, I would respectfully call your excellency's attention to the decision by Secretary Bayard on February 17, 1887, in the Cazo case, and other decisions cited in Moore on Extradition, section 217 and notes. (Wharton's Digest International Law. section 272.)

Being unable to concur in the conclusion expressed by your excellency, that the Supreme Court decided "that the offense of which Inez Ruiz, Jesus Guerra and Juan Duque (were accused) were of a common order and not of a purely political character," it is due to the distinguished consideration entertained for your excellency's opinions, that the grounds of this dissent be stated. In deciding cases it not unfrequently happens that the courts use, arquendo, expressions which are not intended to be taken in all their literal amplitude of meaning, but their meaning is restricted to and construed in connection with what is actually decided. The judgment itself determines what is decided. And what the Supreme Court decided in this case is expressed in the concluding paragraph of its opinion:

> We are of opinion that it can not be held that there was substantially no evidence calling for the judgment of the commissioner as to whether he would or would not certify and commit under the statute, and that therefore, as matter of law, he had no jurisdiction over the subject-matter; and, this being so, his action was not open to review on habeas corpus. (Ornelas *v.* Ruiz, 161 U. S., p. 512.)

From which it does not seem that the Supreme Court decided "that the assault at San Ignacio was not an offense of a purely political character." What it did decide was that there was no evidence calling for the decision of the commissioner one way or the other, and that on the state of the case the federal court could not review his decision. The Supreme Court did not pass upon the weight or probative force

of the evidence, nor any portion of it, since, according to its own decision, it had no authority to do so. I am therefore unable to share the regret expressed by your excellency that the decision of the Supreme Court has been reversed, and whatever regret may be felt at not apparently following the last decision rendered by Secretary Gresham, it is greatly lessened by the consideration that it is in harmony with the first decision rendered by that distinguished Secretary, and with the decisions rendered on analogous states of fact by Secretary Bayard in 1887, and by Acting Secretary Hunton in 1880, and, in short, with every decision rendered by this Department since the negotiation of the treaty with Mexico in 1862, and in harmony with the traditionary policy of this Government.

Referring to the point made in conclusion in your excellency's reply, that "armed expeditions were organized for three years in Texas to attack the defenseless people of Mexico," it may be observed that said consideration would have its appropriate, and, doubtless, great weight with the treaty-making power, as such, in the formation of a treaty; but in the execution of the treaty the parties to it are bound by its terms and can not arbitrarily wrest it from its true intent for the accomplishment of political objects foreign thereto, however laudable those objects might be; and that in the absence of a treaty provision for the extradition of political offenders, the neutrality laws afford a remedy for hostile incursions of a political character across the border of the two countries.

In reaching this conclusion, the Department wishes to state that this is a very close case, and the decision announced has resolved the doubts in favor of liberty.

It is placed upon the distinct ground, that as far as Guerra is concerned, whatever others may have done, it does not appear from the testimony that he committed any extraditable offense, and for that reason could not be delivered. The Department is not prepared to say that others may not, in the same expedition, have committed offenses of a character which would warrant their extradition under the terms of the treaty. Should such cases arise or furthur consideration of this matter be asked, the Department is at all times ready to hear any representation your excellency may wish to make, and, when consistent with its sense of duty, to accede to the same. The Department feels that no less than this is due to friendly relations with the Government which your excellency represents with so much ability and fidelity at this capital.

Accept, etc., JOHN SHERMAN.

Señor Romero to Mr. Sherman.

[Translation.]

LEGATION OF MEXICO,
Washington, December 18, 1897.

MR. SECRETARY: I have had the honor to receive your note, No. 302, bearing date of yesterday, in reply to mine of the 15th ultimo, in which I made certain observations in relation to your note, No. 295, of the 13th ultimo, in which you declined to grant the extradition of Jesus Guerra, for which the Mexican Government had applied.

In the state which this case has now reached, there is nothing for me to do but to send a copy of your note to my Government, in order that, in view thereof, it may reach such decision as it thinks proper.

I do not think, nevertheless, that I should allow this occasion to pass without stating that, in my opinion, it can not be doubted that when the Hon. Richard Olney, your immediate predecessor, granted, by his notes to this legation, Nos. 137 and 138, of July 9, 1896, the extradition of Inez Ruiz and Juan Duque, who were guilty of the same crimes with which Jesus Guerra is charged, he admitted that the attack on San Ignacio was not a crime of a merely political character, and that consequently those who took part in it were not exempted from extradition by the treaty of December 11, 1861. As his predecessor, the Hon. Walter Q. Gresham, had decided this point in his note of May 13, 1893, in the sense that that attack was not of a merely political character, Mr. Olney did not need to examine the same question, and would have needed to do so only in case he had thought it necessary to revoke the decision of his predecessor, and for that reason he did not enter into special considerations with respect to the attack, but confined himself to issuing a warrant for the surrender of the accused persons, whereby he undoubtedly admitted that the crime with which they were charged was not of a purely political charater.

I understand that the Department of State observes the wise system of maintaining the decisions reached by the Secretaries who have been at its head, and of not revoking them unless new incidents arise or fresh evidence is obtained of a nature so clear and conclusive that if they had been considered by the Secretary who reached the decision concerned, they would have led him to form a decision at variance with that which he did form. In view of this circumstance the Government of Mexico hoped that the decision reached by Mr. Gresham, and upheld by Mr. Olney, would be considered valid in the case of Jesus Guerra, since no evidence or incidents have arisen of such a nature as to change the character of the attack on San Ignacio, which has been considered by your predecessors as not having been a purely political offense.

Referring to the decision of the Supreme Court of the United States, pronounced March 14, 1896, in the habeas corpus case of Ines Ruiz, Jesus Guerra, and Juan Duque, I must say that I clearly understand that the point which was submitted to it on appeal was to decide concerning the validity or invalidity of the decision which granted a writ of habeas corpus to the accused persons, and which revoked the decision granting their surrender, which had been pronounced by the United States commissioner at San Antonio, and that it was not to determine whether the crime with which they were charged was or was not of a purely political character; nevertheless the statement contained in the extract from that decision which I inserted in my note of November 15, last, in which it is positively stated that the attack on San Ignacio was not of a purely political character, is, in my opinion, not without force, and is entitled to high respect. I frequently see quoted, in decisions pronounced by the courts of this country, declarations made in the "whereases," and not in the resolutory part of the decisions of the Supreme Court of the United States.

It is a generally recognized principle that those who are guilty of political crimes are not subject to extradition, and the citations contained in your note on this point refer to really political crimes, even though, in case of crimes of this nature, common crimes are incidentally committed; but when, in order to conceal common crimes, political pretexts are invoked, the case is different, and for the very purpose of authorizing the extradition of persons charged with these latter crimes, the provision was inserted in the extradition treaty

signed in the City of Mexico December 11, 1861, between Mexico and the United States, that persons guilty of purely political crimes were not subject to extradition, which, in the opinion of the Government of Mexico, means that when a crime is of a common character, and, in order to conceal it, the attempt is made to make it appear to be a political crime, as in the present case, it is considered as a crime which renders its perpetrator subject to extradition. The treaty signed between the United States and France, November 9, 1843, is the only one containing a clause similar to that of the treaty with Mexico, and the one signed with Belgium April 30, 1874, authorizes the extradition of persons guilty of certain common crimes connected with others of a purely political character. The circumstances that Mexico and the United States are neighbors renders special stipulations necessary with regard to extradition, still more ample than those contained in the treaty with Belgium.

Accept, etc., M. ROMERO.

Mr. Sherman to Señor Romero.

No. 306.] DEPARTMENT OF STATE,
Washington, January 6, 1898.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 18th ultimo, touching the extradition of Jesus Guerra, and again invoking the doctrine of atare decisis, in support of your excellency's contention. I concur entirely in your excellency's opinion of the wisdom of a uniform rule of decision in all cases when the facts are of the same essential legal character. And from this standpoint the refusal was in keeping with the uniform rule of decision in all such cases, except in the single case on which your excellency relied for the reversal of all other previous decisions.

I observe with pleasure, and it does great credit to your excellency's character for candor and sincerity, the abandonment in your excellency's note of the former contention that the Supreme Court decided that "the assault at San Ignacio was not an offense of a purely political character," and the admission that the question for its decision "was not to determine whether the crime with which they were charged was or was not of a purely political character." But the contention now made, is that an isolated dictum of the Supreme Court is "not without force, and is entitled to high respect." In this opinion I fully concur, and as the Court studiously refrained from deciding a question over which it virtually held that it had no jurisdiction, I should have felt wanting in respect to its great character had I imputed to it any intention to decide, indirectly and with great impropriety, what it could not do directly, and therefore abstained from doing.

I concur entirely in your excellency's view that "when political pretexts are invoked to conceal common crimes," such pretexts or any others can not be allowed to shield the guilty. But in the Guerra case there is much evidence to show the revolutionary character of the expedition and no evidence to contradict it.

In the absence of any reference to historical evidence in support of it I can neither assent to nor dissent from your excellency's opinion of the object of the insertion of the word "purely" in the extradition treaty. The word is sometimes used interchangeably with the word

"absolutely," and if it is used in this sense, then, as shown in my last note, nonextradition for absolute political offenses is always implied in treaties without making any express exception. When they exclude political offenses, it is precisely connected or complex offenses which are meant.

It being unnecessary in this case to construe the treaty, no opinion is expressed as to the construction placed on it by your excellency. But it may be doubted whether it was the intendment of the treaty to include connected or complex offenses in the category of extraditable offenses. For, on the one hand, the exclusion of absolutely or purely political offenses is implied, without express exception, while the express exception of political offenses excludes mixed or connected offenses; and on the other hand, if so wide a departure from the traditional policy of this Government had been intended, it is reasonable to suppose that the inclusion of such offenses would have been clearly and specifically indicated, as was done in the treaty with Belgium. And if the intent in the insertion of the word had been such as your excellency supposes, it is remarkable that no allusion appears to have been made to it heretofore, either in the Cuzo case or even in the case of the eight Mexican revolutionists, when extradition was refused for the same reasons as in this case.

Over thirty years have elapsed since the adoption of the treaty, and so far as I am informed the construction of the treaty now made by your excellency is made for the first time, and if it had been made and accepted in the two cases above mentioned extradition should have been granted instead of being refused.

Accept, etc., JOHN SHERMAN.

Señor Romero to Mr. Sherman.

[Translation.]

MEXICAN LEGATION,
Washington, January 24, 1898.

MR. SECRETARY: I have the honor to inform you that I have received instructions from my Government to denounce the treaty of extradition between Mexico and the United States which was signed in the City of Mexico December 11, 1861.

The reasons which my Government has for denouncing that treaty have been on several occasions pointed out by it when proposing its revision. To those reasons is added the conviction that the treaty lacks sufficient precision to prevent the confusion of purely political offenses with those of the common order perpetrated under some political pretext, as is demonstrated by what has recently occurred in the case of Jesus Guerra. The decision which the Department of State recently pronounced in that case corroborates in the conception of the Government of Mexico the necessity of concluding a new convention in such precise terms as shall not admit of conflicting decisions in analogous cases, and which shall, moreover, embrace other rules of action, the addition of which is suggested by experience.

Accept, etc.,

M. ROMERO.

Mr. Sherman to Señor Romero.

No. 311.] DEPARTMENT OF STATE,
Washington, January 28, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant, giving notice of the denouncement by your Government of the treaty of extradition between the United States and Mexico, signed December 11, 1861.

In view of the expression contained in your note of the conception of the Government of Mexico of the necessity of concluding a new convention, I take pleasure in expressing the willingness and readiness of this Government to enter into negotiations to that end.

Inasmuch as the present treaty will, by its terms, continue in force during the period of twelve months ensuing the notice of its denunciation, it is desirable that if a new treaty, mutually satisfactory, shall be agreed upon, it may be formed and ratified during the life of the present treaty.

Accept, etc., JOHN SHERMAN.

Señor Romero to Mr. Sherman.

[Translation.]

LEGATION OF MEXICO,
Washington, January 29, 1898.

MR. SECRETARY: I have the honor to acknowledge the receipt of your note, No. 311, of yesterday, in which, owing to the fact that the Mexican Government has expressed its desire to abrogate the extradition treaty of December 11, 1861, with the United States, you express a desire that a new treaty shall be negotiated and signed before the expiration of the term of one year, during which the treaty to abrogate which the Mexican Government has expressed its desire is still to be in force.

I understand that it is the purpose of the Mexican Government, stated in the note which I addressed to you on the 24th instant, and I consequently do not doubt that it will be glad to see the readiness of the United States Government to negotiate a new treaty, as announced in your note to which I am now replying, and which I transmit to it this day.

Accept, etc., M. ROMERO.

THE NETHERLANDS.

INAUGURATION OF HER MAJESTY QUEEN WILHELMINA.

Mr. Newel to Mr. Day.

No. 151.] LEGATION OF THE UNITED STATES,
The Hague, August 30, 1898.

SIR: I have the honor to inclose herewith in duplicate, together with a translation of the same, a proclamation this day issued by Her Majesty the Queen Regent resigning the Regency of the Kingdom.

I have, etc.,

STANFORD NEWEL.

[Inclosure.—Translation.]

PROCLAMATION OF HER MAJESTY THE QUEEN DOWAGER REGENT OF THE KINGDOM.

In the name of Her Majesty, Wilhelmina, by the Grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc. We, Emma, Queen Dowager, Regent of the Kingdom.

FELLOW-CITIZENS: The task which was intrusted to me in 1890 will soon be ended. To me falls the inestimable privilege of seeing my much loved daughter attain the age at which she, in accordance with the provisions of the constitution is called upon to govern. In days of grief and bereavement I entered upon the Regency of the Kingdom, now the whole nation is gathered rejoicing around the throne of its youthful Queen. God has been my preserver throughout these years, my fondest wish is realized.

To all who by word and deed have assisted me and by their love and attachment have supported me, I tender my thanks.

May our country and its possessions prosper under the reign of Queen Wilhelmina.

I resign the high position which I have held in the State with the sincere wish that God's blessing may rest on a Queen and people united by the closest bonds.

Issued at the Hague, this 30th day of August, 1898.

EMMA.

W. H. DE BEAUFORT,
The Minister of Foreign Affairs.

CORT v. d. LINDEN,
The Minister of Justice.

H. GOSMAN BORGESIUS,
The Minister of the Interior.

ROELL,
The Minister of Marine.

PIERSON,
The Minister of Finance.

ELAND,
The Minister of War.

C. LELY,
The Minister of Waterstaat, Trade, etc.

CREMER,
The Minister of Colonies.

Mr. de Weckherlin to Mr. Day.

LEGATION OF THE NETHERLANDS,
New York, September 12, 1898.

MR. SECRETARY OF STATE: I have the honor herewith to transmit to you, with a translation, the letter whereby Her Majesty, the Queen, my august sovereign, announces to the President that, having attained her majority, she has taken the reins of government in hand.

Begging you to be pleased to forward said letter to its high destination, I avail myself, etc.,

G. DE WECKHERLIN.

[Inclosure.]

Wilhelmina, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc.

To Mr. WILLIAM MCKINLEY,
President of the United States of America.

VERY GREAT AND GOOD FRIEND: Having attained my majority, I have just assumed the royal power, which, during my minority, has been exercised, in my name, by Queen Emma, my well-beloved mother, with such wisdom and devotion that they will ever be indelibly engraved in my heart and in the hearts of my faithful subjects. I desire to inform you that I have taken the reins of government in hand, and I beg you to believe that, on my part, nothing shall be neglected in order to maintain and draw closer the amicable relations existing between the Netherlands and the United States of America. I flatter myself that I may rely upon your highly valued cooperation for the attainment of this object. The welfare of the nations whose destinies are confided to us will certainly be promoted thereby. With my best wishes for the prosperity of the United States of America and for your own happiness, I beg you to accept the assurances of my high consideration.

Done at The Hague, this 31st day of August, 1898.

Your good friend,

WILHELMINA.

W. H. DE BEAUFORT,
The Minister of Foreign Affairs.

Mr. Newel to Mr. Day.

No. 156.] LEGATION OF THE UNITED STATES,
The Hague, September 13, 1898.

SIR: I have the honor to state that the inauguration of Her Majesty Queen Wilhelmina took place in Amsterdam on the 6th of September, 1898.

On the 5th of September, Her Majesty the Queen, accompanied by the Queen-Mother, and attended by four Dutch Indian princes, a full court suite, a guard of honor composed of representatives from all the elite families of the city of Amsterdam and the province of N. Holland, and further by detachments of troops selected from all branches of the army and navy, made her public entry into Amsterdam.

The town was en fete, the streets being gaily decorated, and throngs of people enthusiastically greeted Her Majesty en route from the railway station to the palace.

The inauguration ceremony, which took place at 11 o'clock a. m., in the Nieuwe Kerk, an imposing edifice adjacent to the palace, was of very impressive character. The United First and Second Chambers of the States-General had been summoned to a special and extraordinary session in the church, and all were present except the three socialist members. In addition thereto there were present the immediate royal relatives of the sovereign, the whole of the diplomatic corps, the cabinet ministers, the chief officials from the Government departments, the judges, the principal army and navy officers, all those who had in any way assisted in the education of Her Majesty, a very large representation of the elite of the country, and a very numerous body of representatives of the press. The building was crowded with a splendidly dressed audience, space being left for only 50 of the public, who, in order to secure admission, took their stand before 6 o'clock a. m.

The Queen, attended by her court in full state, proceeded on foot from the palace to the church, and, just in front of the Queen-Mother, who stood awaiting her, took up her position on a throne specially placed for this occasion on a dais, around which were gathered the royalty, the diplomatic corps, and the Government representatives.

In a clear, distinct, and most touching manner the young Queen pronounced the speech from the throne—a copy of which is herewith transmitted in duplicate, together with translation—and then raising her right hand pronounced the oath prescribed by the constitution.

The speech was heard with rapt attention, and at its close the heralds proclaimed Her Majesty Queen, and there followed hearty cheering from all parts of the building, the acclamation being taken up immediately after by the crowd outside the building.

Subsequently each member of the States-General in turn took the oath of allegiance, which done, Her Majesty left the church in the same manner that she had come, amidst renewed cheering, the ringing of bells, and firing of cannon.

In Amsterdam, from the 6th till the 9th, there was a rapid succession of festivities, at most of which Her Majesty with a full suite attended, engrossing the general attention.

On the 9th instant the Queen made her public entry into The Hague, and between that date and to-day, the 13th instant, there has been a repetition of the festivities of last week in Amsterdam, The Hague vying with the capital in doing their Queen honor.

On the 15th instant there will be a grand naval review at the mouth of the river Maas; the ordinary session—1898–99—of the States-General will be opened on the 20th instant; and on the 22d a review of the troops and a military display will take place on the eastern side of the country, and at all these events Her Majesty will appear.

I have, etc.,

STANFORD NEWEL.

[Inclosure in No. 156—Translation.]

GENTLEMEN, MEMBERS OF THE STATES-GENERAL: In early life, by reason of the decease of my never-to-be-forgotten father, God called me to the throne, which I ascended under the wise and beneficent regency of my dearly loved mother.

On the completion of my eighteenth year I assumed the sovereignty, as my proclamation has announced to my loved people.

The hour has now arrived at which I, in the midst of my loyal States-General, invoking God's holy name, bind myself to the Dutch nation to maintain its precious rights and liberty.

I therefore confirm this day the firm bond existing between myself and my people, and the ancient tie between the Netherlands and the House of Orange is sealed anew.

My calling is a high one, the task a grand one which God has laid upon my shoulders. I am happy and thankful that it is my lot to govern the people of the Netherlands—a people small in numbers, but great in virtue, mighty both by nature and character.

I deem it a great privilege that it is my life's task and duty to dedicate all my powers to the welfare and prosperity of my loved fatherland. I adopt the words of my loved father as my own:

"The House of Orange can never, never do enough for the Netherlands."

In the accomplishment of my task I shall need your help and cooperation, gentlemen, members of the House of Representatives. I am convinced that you will accord it me in full measure.

Let us work together for the happiness and prosperity of the Netherlands people. Let that be the main object in life of us all.

May God bless your work and mine, that it may tend to the good of our fatherland.

I swear to the Netherlands people that I will ever "guard and maintain the constitution. I swear that I will defend and preserve the independence and territory of the Kingdom with all my power; that I will protect the general and private liberty and rights of my subjects, and will adopt all lawful means at my disposal to the preservation and promotion of the welfare of the general public and the private individual, as becomes a good sovereign.

"So help me God Almighty."

No. 157.] *Mr. Newel to Mr. Day.*

LEGATION OF THE UNITED STATES,
The Hague, September 21, 1898.

SIR: I have the honor to state that the 1898–99 session of the States-General was opened on the 20th of September, 1898, by Her Majesty the Queen, the two houses of Parliament being assembled for this purpose in the hall of the second chamber of the States-General.

The Queen, accompanied by the Queen Mother, and attended by a full suite and military escort, left the Palace at 1 o'clock for the chambers. The route thence was thronged with an eager yet respectful crowd assembled to witness the procession and do all honor to the sovereign.

The second chamber was occupied by the representatives of both chambers under the presidency of the chairman of the first chamber, the cabinet ministers, and the members of the councils of state. The galleries, affording accommodation for the diplomatic corps, the officials of the ministerial departments, the press, and the public, were all well filled.

Received at the entrance to the building by a committee selected from the assembled chambers, their majesties proceeded to the throne, erected on a dais immediately opposite to the president's bench, whence from amidst her royal retinue Her Majesty the Queen pronounced the opening speech.

I inclose a duplicate copy of the speech in French text, together with a translation of the same.

Gratefully referring to the evidences of loyalty so lately shown on the occasion of Her Majesty's inauguration, to the generally satisfactory condition of the country and the people, and to the very friendly relations existing with the foreign powers, Her Majesty expresses her

especial appreciation of the proposals emanating from the Czar of Russia concerning the limiting of military equipments.

Further, the hope is confidently uttered that the result of operations in Atcheen indicates a permanent settlement of the troubles in that part of the dominions.

In the course of work planned for the session mention is made of the insurance of employees against accident; improvements in the educational laws; the protection of the young; improvement of dwellings; the prevention of overwork in factory and yards; a revision of the law affecting the sale of drinks; light railways; the removal of tolls from roads and waterways; the improvement of affairs in the colonies; and, finally, it is stated that the revision of the customs tariff is approaching its completion.

Her Majesty concludes by appealing to the chambers for their zeal and devotion, that their deliberations may prove of service to the fatherland, and invokes God's blessing on their labors.

Hereupon their majesties left the chamber to return to the palace in the same manner they had come. In the chamber and en route thence and back Her Majesty's subjects evinced every mark of their heartfelt and sincere devotion to their youthful Queen.

Immediately after the withdrawal of their majesties the chambers adjourned, to meet again in their respective chambers after a brief interval.

I have, etc.. STANFORD NEWEL.

[Inclosure in No. 157—Translation.]

SPEECH FROM THE THRONE.

GENTLEMEN: But a few days have passed since the grand moment at which, subsequent to my assumption of the sovereignty in your midst, I took the oath and received your homage. The proofs of patriotism and attachment to my house were very numerous. The recollection thereof is indelibly impressed upon my mind.

The commencement of the session now calls you to the renewal of your ordinary labors. May they, under God's blessing, tend to the welfare of the Kingdom.

The condition of the country and the people is in many respects satisfactory.

Our relations with the foreign powers remain very friendly. It is with especial pleasure that I received from His Majesty the Czar of Russia his proposition respecting a conference in which the delegates of all the powers shall treat of the limiting of military equipments.

In Atjeh the results obtained are such as to justify the hope that a permanent improvement of affairs in that country has been brought about. All honor is due to the Dutch Indian army and fleet for the management, perseverance, and heroism displayed.

The task that awaits you is once more an important and comprehensive one. On all sides questions of great social significance come to the fore, the solution of which devolves upon the legislature.

Proposals affecting the assurance of the workman against pecuniary results of accidents, and regarding education and the protection of the young, have already been introduced. During this session the line of action adopted will be proceeded with. I anticipate that measures relating to the improvement of dwellings, the prevention of excessive labor of able-bodied men in factories and work yards, and the revision of the law relating to strong drinks, will be laid before you.

Proposals will be submitted concerning light railways and the removal of tolls from public and country roads and waterways, the strengthening of the resources, and the improvement of the government in Netherland's India, as also the revision of Government regulations of Surinam and Curaçao.

The revision of the import tariff is approaching its completion.

Still other important bills are in preparation.

I trust that your deliberations may prove beneficial, and that by your zeal and devotion much may be accomplished to the interest of the fatherland and its possessions beyond the sea.

I declare the ordinary session of the States-General to be opened.

Mr. Hay to Mr. Newel.

No. 156.] DEPARTMENT OF STATE,
Washington, October 5, 1898.

SIR: I inclose herewith a letter from the President in reply to one from Her Majesty, the Queen of the Netherlands, announcing her assumption of the royal power on the attainment of her majority.

I also inclose an office copy of the President's letter.

You will transmit the copy to the foreign office and present the original in the manner most agreeable to Her Majesty.

I am, etc.,

JOHN HAY.

[Inclosure.]

William McKinley, President of the United States, to Her Majesty, Wilhelmina, Queen of the Netherlands, Princess of Orange Nassau, etc.

GREAT AND GOOD FRIEND: I congratulate Your Majesty on your assumption of the royal power of which you notified me by your letter of the 31st of August, last.

The satisfaction which this announcement gives me is enhanced by the expressions of Your Majesty's intention to neglect no opportunity to maintain and draw closer the amicable relations subsisting between the United States and the Netherlands. For the attainment of this object, you may well rely upon my cooperation. That honor, peace, and prosperity may bless your country, is my earnest wish.

Trusting that your reign may be long and happy, and prove strong in the affections of your people, I pray God to have Your Majesty in His wise keeping.

Your good friend,

WILLIAM MCKINLEY.

By the President:
JOHN HAY,
Secretary of State.

WASHINGTON, *September 30, 1898.*

PERSIA.

ARREST AND RELEASE OF REV. M. BAGDASARIAN.

No. 21.] *Mr. Tyler to Mr. Sherman.*

LEGATION OF THE UNITED STATES,
Teheran, Persia, April 21, 1898.

SIR: I have the honor to transmit for your information some correspondence relating to the imprisonment of the Rev. M. Bagdasarian, a naturalized citizen of the United States, now, as his permanent abode, residing at the village of Kalasar, district of Salmas, in the government of Azerbaijan, as a missionary of an American denomination called the "Disciples of Christ."

Mehran Bagdasarian was originally a Turkish subject, having been born in Constantinople and lived for many years in Van. He went to the United States, I am informed, about nine years ago, remained the statutory period, took out his papers of naturalization, and, it appears, obtained funds and started out almost immediately as a missionary to the Nestorians and Armenians of Persia.

This is not the first time that Bagdasarian has been in conflict with the Persian authorities, as the inclosed copy of a letter will show. On this occasion I had a personal interview with the foreign minister and induced him to intervene and stop what was apparently an attempted extortion and persecution. Bagdasarian, it appears, at this time employed a refugee as a teacher in his orphanage (an institution supported by funds sent from Germany) who was accused of being a revolutionary, and subsequently arrested and sent to the district prison at Khoi. To employ this man was, no doubt, a mistake, even though, as Bagdasarian states, he was innocent, and it was probably on this ground that a pretext was found for his own apprehension and his being sent to Tabriz. It is, on the other hand, possible, to agree with the acting British consul, that the real object was to extort money, of which Bagdasarian seems to have a considerable supply, and probably makes an indiscreet display of.

Bagdasarian must have known that the Turkish authorities were using every possible means and vigilance to detect and report the existence of even apparent revolutionaries, and their movements on the frontier, and should have kept himself free from persons who were likely to create suspicion and cause trouble and annoyance to the Government.

I venture to remark that when it can be proved, as is the case with some of these men, that their only object in going to the United States and staying just long enough to become entitled to citizenship, without fulfilling any of the duties appertaining thereto, is simply to obtain protection in a foreign state, some different treatment should be extended to them. They never have been and never will be citizens in the true sense of the term. I am afraid, too, that this privilege is

sometimes made the excuse and the occasion for acts of very serious indiscretion which native citizens would consider it prudent to abstain from. Perhaps it might be advisable to administer a caution to these people when they come into the country, that protection depends upon good behavior. The Persian Government will not recognize as foreign subjects those who have left the country and remained in some other just sufficent time to allow of their change of nationality.

It will be seen from the last English telegram that Bagdasarian has been delivered up to the acting English consul, so there is no doubt he will have a fair trial, but any further action which I shall deem it necessary to take will depend upon the issues raised and the decision arrived at by the tribunal. I have not thought it necessary to telegraph for instructions in dealing with this matter, as I have no doubt that it will eventually be amicably and satisfactorily settled.

I may be permitted to explain that in my letter to the foreign minister of the 11th instant, I mention the name of Mirza Hussein Khan. This person was for a short time last year the sarperast, or administrator, for the Christians in Oroomiah, and earned the esteem and respect of all the foreigners residing in those regions. In my interview with his Excellency he promised to have him reappointed and I think he will return to his post, which in the present disturbed state of those parts is one of considerable responsibility. Hussein Khan is a man of some experience, and if he can carry out the policy and plans he has foreshadowed to me he may do much to ameliorate the condition of the people.

I have, etc., JOHN TYLER.

[Inclosure 1 in No. 21—*Telegrams.*]

Acting British consul-general to United States minister.

No. 1.] TABRIZ, *April 11, 1898.*

I have received information from Salmas that by order of Emir-i-Nizam, Mihran Bagdasarian, American citizen, has been unjustly imprisoned. I have demanded his immediate release, and protested against this action. Please have orders telegraphed to Emir-i-Nizam to cease molesting American citizens.

Acting British consul-general to United States minister.

No. 2.] TABRIZ, *April 13, 1898.*

Referring my telegram 11th, Emir-i-Nizam, notwithstanding my request and protest, refuses to liberate Mihran Bagdasarian, and is about to bring him to Tabriz as a prisoner under escort. I have renewed my protest, and hold Persian Government responsible for damages and for breaking treaty rights. I believe Bagdasarian, who is accused of protecting and helping Armenian revolutionists, is innocent, and intrigue set on foot to extort money from him. Please do the needful and inform me. It is time Emir-i-Nizam should know that he can not trifle with impunity with American citizens. This will be a most unfortunate precedent of violating treaty rights if it is allowed to go unchecked. I await your instructions.

Mr. Tyler to acting British consul-general.

No. 3.] TEHERAN, *April 13, 1898.*

Thanks for your prompt action and telegrams. Have sent in vigorous protest, demanding immediate release of Bagdasarian and explanation of Emir's unjustifiable proceedings.

Acting British consul-general to United States minister

No. 4.] TABRIZ, *April 14, 1898.*

Bagdasarian left Salmas for Tabriz under escort this morning; will arrive Sunday. Please instruct.

Mr. Tyler to acting British consul-general.

No. 5.] TEHERAN, *April 14, 1898.*

Foreign minister has telegraphed to Emir-i-Nizam to release Bagdasarian. Shall be glad to know if it is done.

Acting British consul-general to United States legation.

No. 6.] TABRIZ, *April 17, 1898.*

Bagdasarian has reached and is still a prisoner. Emir-i-Nizam appears to take no notice of instructions sent him. I shall take measures to-morrow and report.

Mr. Tyler to acting British consul-general.

No. 7.] TEHERAN, *April 18, 1898.*

Do whatever is necessary on behalf of Bagdasarian; legation will support you. I have again insisted on his release. Don't allow any money payment.

Acting British consul-general to United States legation.

No. 8.] TABRIZ, *April 18, 1898.*

Bagdasarian has been handed to-day to me. I shall do needful.

[Inclosure 2 in No. 21.—Translation.—Telegrams sent in Turkish.]

Bagdasarian to United States Minister.

No. 1.] SALMAS, *17th of Zeekadeh, 1315 (9th of April, 1898).*

By order of the Emir-i-Nizam, I am kept as a prisoner. I beg you to obtain my release.

No. 2.] *Bergman to United States Minister.*

By orders of the Governments of Tabriz and Khoi, M. Mihran Bagdasarian, a citizen of the United States, has been for four days held as a prisoner at Kala Sar in Salmas. To-day the governor of Khoi has summoned him to appear at his court for examination. Neither I nor M. Bagdasarian know anything about the cause of his imprisonment or the object of his being ordered to Khoi. I, who am the steward of the orphanage, am not aware that he has committed any offense. Have the goodness to appeal to the Shah to obtain his release and the preservation of his rights.

The Foreign Minister to the Emir-i-Nizam.

No. 3.] TEHERAN, *22d of Zeekadeh, 1315 (14th of April, 1898).*

It is reported by the United States legation that the governor of Khoi has imprisoned Mihran Bagdasarian, who claims to be a citizen of the United States, without notifying the nature of his offense. The legation of the United States affirms that he has undisputable documentary proofs of his citizenship. Under these circumstances, as it is necessary to inquire into his national status, give orders for his discharge until the necessary examination can take place and his nationality determined, when his case can be decided on its merits.

United States Vice-Consul-General to M. Bagdasarian.

No. 4.] TEHERAN, *22d Zeekadeh, 1315 (April 14, 1898).*

The foreign minister has telegraphed to the Emir-i-Nizam to order your release. Let me know if it is done.

The Emir-i-Nizam to the Foreign Minister.

No. 5.] TEHERAN, *Zeekadeh 24, 1315 (April 16, 1898).*

As Ali Riza Beg, Turkish consul, suspected Mihran Bagdasarian of concealing revolutionaries (Armenian) and produced some reasons and evidence in support of his representations, it was necessary to instruct the governor of Khoi to send him with all respect under escort to Tabriz, where, with the assistance of the foreign office agency and the English consulate, an investigation of the case may be made, and the truth or falsity of the charge that he had given refuge to revolutionaries be determined; and at the same time his claim to the status of United States citizenship be also examined into.

Under the circumstances, if you think it advisable to cancel the order to bring him to Tabriz, send orders to that effect. Furthermore, if the United States legation will undertake that Mihran shall come himself and undergo examination he can be released from custody.

EMIR-I-NIZAM.

[Inclosure 3 in No. 21.]

Mr. Tyler to the Minister of Foreign Affairs.

LEGATION OF THE UNITED STATES, *April 11, 1898.*

SIR: The English consul in Tabriz has just informed me by telegraph that the Emir-i-Nizam has unjustly and without any apparent reason imprisoned at Kalassar, in Salmas, the Rev. Mihran Bagdasarian, a citizen of the United States, who, so far as I can learn, is engaged in succoring and protecting the helpless and starving Nestorians and Armenians, who have found it necessary to cross the frontier from Turkey into Persia. I beg to protest most strongly against this proceeding on the part of the Emir-i-Nizam, and to request that you will immediately telegraph to him to release M. Bagdasarian and require him to explain his conduct in taking this extreme measure, in order that I may know how to act and advise my Government in the matter. This gives the occasion to remind your excellency that Mirza Hussein Khan Mir Fanj is still in Teheran, and the Emir-i-Nizam's tyranny and oppression are allowed to go on unexposed and unchecked. I hope you will find it convenient to send Mirza Hussein Khan to Oroomiah to take up the appointment of Sarperast as soon as possible, that there may be some security for the protection of the rights and liberties of foreigners residing in those regions.

I take this opportunity, etc.,

JOHN TYLER.

[Inclosure 4 in No. 21.—Translation.]

Mr. Tyler to the Minister for Foreign Affairs.

LEGATION OF THE UNITED STATES, *April 11, 1898.*

SIR: I have the honor to inclose a telegram received last evening from Salmas regarding the unjust imprisonment of Mihran Bagdasarian, a United States citizen. Your excellency will know that to imprison a foreign subject without any apparent cause is a most serious proceeding, and it is with still greater surprise and regret that I find from the telegram that the governor of Khoi has summoned W. Bagdasarian to that town without signifying the charge for which he has been arrested. I trust your excellency has sent imperative orders for the immediate release of M. Bagdasarian, and I shall be glad if you will let me know as soon as possible the result.

I take this opportunity, etc.,

JOHN TYLER.

[Inclosure 5 in No. 21.—Translation.]

Mr. Tyler to the Minister for Foreign Affairs.

LEGATION OF THE UNITED STATES,
Teheran, April 18, 1898.

SIR: From a telegram which I received last evening, I am very much surprised to find that the Emir-i-Nizam has not only ignored your telegram, ordering Bagdasarian's release, but has had him brought to Tabriz as a prisoner, thereby violating treaty rights and doing great injustice to the man. Bagdasarian has now been a prisoner for more

than a week without any charge being made against him, or any report of his misconduct made to the legation. Your excellency must know that I can not permit this to continue, and that unless he is released without any further delay, I shall have to telegraph for instructions to my Government.

Receive, etc., JOHN TYLER.

[Inclosure 6 in No. 21.—Translation.]

Assistant Minister for Foreign Affairs to Mr. Tyler.

TEHERAN, *Zeekadeh 27, 1315 (April 20, 1898.)*

SIR: I have to acknowledge the receipt of your letter relating to the coming of Bagdasarian to Tabriz. It seems that the object you had in view was to prevent his coming, but as it happened he arrived at that city before the foreign office had taken measures to prevent it. Now it would seem better to wait before making other representations until after the examination has taken place.

Receive the assurance, etc.,

MAHMOOR.

[Inclosure 7 in No. 21.—Translation.]

Mr. Tyler to the Ehtesham-Es-Saltaneh.

LEGATION OF THE UNITED STATES,
Teheran, April 20, 1898.

SIR: I have to acknowledge the receipt of your letter of yesterday regarding the imprisonment of Mihran Bagdasarian and his forcible removal to Tabriz to answer a charge hitherto neither formulated nor stated against him. This is a most irregular proceeding and ought never to be done except in case of danger to public order and the state. You remark that my object was to have Bagdasarian liberated without being brought to Tabriz, but that he was on his way before the foreign office took measures to prevent it. If, however, action had been taken when I reported the matter on the 19th of Zeekadeh, the journey to Tabriz would have been prevented. If Bagdasarian has committed any crime against law and order the legation is quite willing that he should be tried by proper judicial process, but you must know that if it were advisable to liberate him in Salmas it is just as right that he should be set free in Tabriz. There is no justification for keeping him a prisoner because he has been wrongfully brought to Tabriz; it is an aggravation of the offense. Every man ought to be considered innocent until he has been proved guilty, but you appear to think that the fact of his being a prisoner is sufficient to establish the offense. What I have been anxious for was that Bagdasarian should be put upon his trial free from prejudice and suspicion, but that is impossible as long as he is a prisoner. In order to avoid any further complications, I must request you to give immediate orders to the Emir-i-Nizam to afford him every advantage which, as an innocent man and a foreign subject, he is entitled to.

I have, etc.,

JOHN TYLER.

[Inclosure 8 in No. 21.]

M. Bagdasarian to Mr. Tyler.

ORPHAN HOME, *Kala Sar Salmas, April 5, 1898.*

DEAR SIR: I most thankfully acknowledge the receipt of your letter dated the 17th of March, which was handed to me yesterday, and I express herewith my sincere and profound gratitude for kindness bestowed on us by you in our dire hour of need. I am glad to tell you that, owing to your kind interference in behalf of us, the waves of trouble did not reach as far as Kala Sar to torment us, but other Armenian villages suffered a great deal during the whole time of searching after imaginary bands of revolutionaries. Some poor refugees were arrested only who have been later set at liberty by special orders from Tabriz. I am sorry I could not help our own teacher in the village of Khosrova, Heand Gerakosian, because he was a Turkish subject, and the British consul-general at Tabriz declined to interfere in his behalf. He is still kept in chains at the state prison at Khoi, but he is quite an innocent man. Mr. Stevens, Her Majesty's consul-general, acting at Tabriz, was very kind indeed toward us in all their troubles, and we are very much obliged to him for all his valuable efforts to help us. By high and urgent orders from Tabriz, all the trouble of investigation was stopped at once, and now everything is quiet as before.

Yours, faithfully, M. BAGDASARIAN, B. D.

Secretary of State to Mr. Tyler.

No. 27.] DEPARTMENT OF STATE,
Washington, D. C., May 27, 1898.

SIR: I have to acknowledge the receipt of your dispatch No. 21, of the 21st ultimo, reporting the arrest of the Rev. Mihran Bagdasarian, a naturalized American citizen, for alleged complicity with the revolutionists in Persia.

Your action securing Mr. Bagdasarian's release from custody pending his trial is approved by the Department.

You will thank the acting British consul-general at Tabriz, through the British diplomatic representative at Teheran, for his friendly intervention in Bagdasarian's behalf.

Respectfully, yours, WILLIAM R. DAY.

Mr. Hardy to Mr. Day.

No. 38.] LEGATION OF THE UNITED STATES,
Teheran, Persia, August 8, 1898.

SIR: I have the honor to report that in the case of Mihran Bagdasarian, who, as explained in Mr. Tyler's dispatch No. 21 of April 21, 1898, was arrested at Salmas and taken to Tabriz, in violation of treaty rights, on the unfounded charge of being an Armenian revolutionist, I have to-day received a note from the foreign office that the governor of Azabaidjan has been ordered by the minister for foreign affairs to pay over to the said Bagdasarian the sum of 200 tomans, this being the amount of the indemnity claimed by the legation in his behalf for illegal arrest and detention.

I beg to add that Mr. Bagdasarian has been in constant trouble since his arrival in Salmas, both with his colleague in the management of the orphanage, and with its founder, Dr. Lepsins, of Berlin. Having been dismissed by the latter and ordered to turn the institution over to his associate, Mr. Bergmann, he has besieged the legation with letters and telegrams containing unsupported charges against the American missionaries in the vicinity, Mr. Bergmann, and the British consul-general, Mr. Wood, at Tabriz, to whom his interests had been confided by me. As it was impossible at this distance and from his wild statements to determine the merits of the controversy, and as he held the orphanage by force against Mr. Bergmann, who is a Russian subject, by conference with the Russian minister at this place, I arranged to refer the matter to the English and Russian consuls-generals at Tabriz.

I inclose herewith a copy of Mr. Wood's last report (1), together with his letter of advice to Mr. Bagdasarian (2), and of my letter of instruction to Mr. Wood (3). Mr. Bagdasarian is an example of a class of Armenians who resort to the United States for naturalization papers, but who have no apparent intention of residing there. Once nominally citizens of the United States, they adopt a tone of arrogance which is constantly bringing them into trouble, and in every petty personal quarrel they appeal to the legation. The Persian Government is very quick to recognize the difference between native American subjects temporarily residents of Persia and those naturalized subjects who change their nationality, but not their residence, especially as the English Government has long since refused to recognize as English subjects Persians who have complied with English naturalization laws by a short residence in India. The Persian foreign office refuses to recognize as citizens of any other nation Persians who have become naturalized in other countries and return to live in Persia, and Mr. Bagdasarian's indemnity could not have been collected had he formerly been a Persian instead of a Turkish subject. I would respectfully ask for instructions in such cases, namely, those in which naturalization has been secured solely for the purpose of evading local laws and there is no definite intention to return to the land of adoption. It is not generally possible to refer these cases specifically to the Department, for they occur at a distance and under circumstances requiring prompt action. It seems to me that some discretion should be given the legation, and it would greatly simplify the duties of the minister, and, in my judgment, better meet the demands of justice, if these pseudo citizens, who can show no intention of returning to the United States, were denied treaty rights and turned over to the local law. Precedent is so important in this country that some general principle one way or the other is indispensable.

I have, etc.,

ARTHUR S. HARDY.

[Inclosure 1 in No. 38.]

Mr. Wood to Mr. Hardy.

HER MAJESTY'S CONSULATE-GENERAL,
Tabriz, July 28, 1898.

SIR: I have the honor to forward for your excellency's knowledge the copy of a letter I have this day addressed to Mr. Bagdasarian,

with regard to his attitude in the matter of the Kalasar Orphanage, and Dr. Lepsins's acknowledged agent, Pastor von Bergmann. As you will perceive from the tenor of a paragraph in the first part of my letter, I have not yet taken advantage of your authorization to give Mr. Bagdasarian the option of coming up to Tabriz or of losing his protection, owing to Dr. Bergmann's presence at Kalasar, in the face of his promise not to go down there and to complicate matters.

With regard to the claim put in by Von Bergmann, which has been transmitted to me by Mr. Petrow, the Russian consul-general, I shall await a few days before replying to it in order to give Mr. Bergmann and Mr. Bagdasarian time to come to some arrangement, but then I shall request that Bergmann be called to Tabriz. When the two litigants are here matters can be investigated and claims balanced and satisfied.

I am afraid I have been rather hard on Mr. Bagdasarian in my letter, but, as you will have perceived from his correspondence or telegrams, he seems to be one of those men who claim all rights and privileges for themselves and have no idea that others can be entitled to any consideration.

From the complaint put in by Von Bergmann there seems to be no doubt that he really represents Dr. Lepsins, as far as the orphanage at Kalasar is concerned, whilst, on the other hand, Mr. Bagdasarian having only been requested to take temporary charge of it, pending Von Bergmann's arrival or the finding of some other competent person, he should have given up the affair without raising the difficulties he has done, whereby the orphans' interest as well as his own, and about which he is so pugnacious and headstrong, are likely to suffer. However this may be, I am only interested in bringing the matters to an honorable close between the two gentlemen, and of this I feel certain you are perfectly persuaded. Thanking you for the support you have given me in this case,

I have, etc., CECIL G. WOOD.

[Inclosure 2 in No. 38.]

Mr. Wood to Mr. Bagdasarian.

HER MAJESTY'S CONSULATE-GENERAL,
Tabriz, July 28, 1898.

DEAR SIR: I forward herewith in original a letter which has been addressed to you by the American minister at Teheran, and which came inclosed, but open, in a communication Mr. Hardy has sent me.

I can not do better than call your careful consideration of its contents, and again advise you to endeavor to come to some terms with Mr. Bergmann, who is undoubtedly the person desired to be at the head of the orphanage by Dr. Lepsins, or to give up the said orphanage against a written agreement that your just claim would be hereafter admitted by Mr. Bergmann as Dr. Lepsins's agent or representative.

It seems to me that there is nothing else for you to do, as I have only refrained from ordering you up to Tabriz owing to Dr. Bergmann's presence in Kalasar, and on account of the hopes I had of some settlement being come to between you after your receipt of my wired or written good and straightforward advice.

I see no way of helping you unless on your side you assist me by

showing some good will, instead of launching claims without any attempt at justifying them, or recklessly charging such as only wish to see justice done, and to avoid scandals around a charitable institution, of endeavoring to harm you either on the ground of denominational differences or other futile and specious reasons. I think it right to inform you that Mr. Bergmann has addressed a formal demand for the restitution to him of the orphanage, and has also put in a claim for certain sums against you through the Russian consul-general. I shall endeavor to obtain Mr. Bergmann's presence at Tabriz, when I shall require you to come up also, as the investigation into the pecuniary claims between you can be made either by me or through an arbitration, and a most disagreeable matter be put at rest, let us hope, forever.

I have, etc.,

CECIL G. WOOD.

[Inclosure 3 in No. 38.]

Mr. Hardy to Mr. Wood.

LEGATION OF THE UNITED STATES,
Teheran, August 2, 1898.

SIR: Yours of the 25th instant is at hand. There must, of course, be some board of control or some person—some authority, in short—from whom Mr. Bagdasarian holds his office, whatever it is, in the orphanage. I infer that it is Dr. Lepsins; and to him, therefore, Mr. Bagdasarian must make his appeal and defense. The legation has nothing to do with this question; and as a paid employee of Dr. Lepsins he can expect nothing from you beyond a friendly representation to Dr. Lepsins, in case you think he has been misrepresented by his rival and opponent. I do not understand which is the superior, Mr. Bergmann or Mr. Bagdasarian. If the former, the latter would seem to have no right to hold the orphanage if he has been requested to leave, and much less so if he has been so ordered by Dr. Lepsins. This question of his retention should be referred to his employer, and is one we have nothing to do with beyond friendly intervention. If, in your judgment, he has been misrepresented, you might, at your pleasure, write to Dr. Lepsins to that effect; but it seems to me, in view of the charges of immorality which have been brought each against the other, their differences are such as to preclude their working together in harmony, and Dr. Lepsins had better make his choice between them, unless they can agree to make peace and agree to live and work in harmony in the orphanage's interest. As to the many claims, that would appear to be a proper subject of reference to yourself and the Russian consul. If, however, either or both refuse your joint arbitration or decision, they can present their case to Dr. Lepsins. Being foreign subjects, we can do nothing more than to offer them a settlement by the representation of their nationalities; and if they refuse the only intervention provided by law and treaty, they must settle their differences as best they can. There is, therefore, no threat on our part, but simply a caution against any step which might lead to violence and complications with local authorities in such a way as would compromise the claim we have made here for damages. Mr. Bagdasarian seemed to me to be endeavoring to secure legation interfer-

ence in a matter placed in your hands. He has no ground to expect that. Thanking you very much for your trouble and efforts on his behalf,

I am, etc., ARTHUR S. HARDY.

Mr. Hardy to Mr. Hay.

No. 45.] LEGATION OF THE UNITED STATES,
Teheran, Persia, December 21, 1898.

SIR: In Mr. Tyler's No. 21, of April 21, 1898, the Department was informed of the arrest and imprisonment at Tabriz of Mr. Bagdasarian, a naturalized American citizen, formerly a Turkish subject. I have no very great sympathy with Mr. Bagdasarian, who, both before and since his arrest, has shown a facility for getting into trouble, and who seems to belong to that troublesome class of naturalized subjects whose chief object in changing their nationality is to return and to live abroad under the protection of the United States. Unless some such distinction, however, as I had the honor to suggest in my No. 38, of August 8, 1898, is made and uniformly acted upon, it is exceedingly important for the safety of Americans residing in Persia that all such flagrant violation of treaty rights should be summarily dealt with. This case was therefore vigorously pressed upon the attention of the foreign office, with the result that the governor of Azabaijan was ordered to pay to Mr. Bagdasarian, who, through the assistance of Her Britannic Majesty's consul-general in Tabriz, had already been liberated and declared innocent, the indemnity of 200 tomans claimed in his behalf.

Again, in June last the house of Dr. J. G. Wishard, of the American mission in the Shimran, was forcibly entered and robbed of personal effects to the value of 200 tomans. This was not a petty larceny, but a night attack by armed men. Dr. Wishard had taken every precaution within his power and had the usual guard of soldiers, who not improbably were cognizant of or concerned in the affair. The promptest measures were taken by him and myself for the discovery and arrest of the offenders, but, owing to the absence of all police efficiency and dilatory Persian methods of investigation, without result. I have meantime pressed for an indemnity of 200 tomans, for which there is ample precedent, and the general principle of liability has been admitted by the foreign office and promise of settlement given. But, as in the case of Mr. Bagdasarian, no progress has been made in collecting the money. Telegrams are sent to Tabriz and assurances given, but the claims remain unpaid.

I have, etc., ARTHUR S. HARDY.

Mr. Hay to Mr. Hardy.

No. 38.] DEPARTMENT OF STATE,
Washington, D. C., February 2, 1899.

SIR: I have to acknowledge the receipt of your No. 45, of December 21, 1898, relating to the claims of Mr. Bagdasarian and Dr. J. G. Wishard against the Government of Persia.

You report that the validity of each of these claims has been admitted by the Persian Government, and that in each of them a demand has been made for an indemnity in the sum of 200 tomans.

Your action is approved, and you are instructed to press the payment of the claims.

Referring to your No. 38, of August 8, 1898, I have to say that the Department approves generally your views therein expressed as to the line of conduct to be pursued by you toward natives of oriental countries who have come to the United States and become naturalized, and have then gone abroad without any intention of returning to the United States. The duty of allegiance goes hand in hand with the right of protection. Those who become naturalized as American citizens and then take up their permanent abode in a foreign land lose the right to claim the protection of this Government when they cease to pay it allegiance.

In coming to a determination in any particular case whether protection should be granted or refused, great care should be taken not to withhold protection where it may be justly claimed; but you are authorized to refuse it if upon a careful investigation you are satisfied that the privilege of naturalization has been abused for the mere sake of protection, and without any bona fide intention to bear allegiance to the United States.

I am, etc.,

JOHN HAY.

Mr. Hardy to Mr. Hay.

No. 52.] LEGATION OF THE UNITED STATES,
Teheran, Persia, February 28, 1899.

SIR: I have the honor to report that the indemnity of 200 tomans claimed in behalf of Mihran Bagdasarian, for arrest and imprisonment in violation of treaty provision, has been paid by his excellency Emir Nizam, governor of Azabaijan, to Mr. Cecil Wood, Her Britannic Majesty's consul-general at Tabriz, and that this incident is now satisfactorily closed.

Until it was proved that Mr. Bagdasarian was formerly a Turkish subject the foreign office contested this claim on the ground that the Persian Government did not recognize the change of nationality of a native Persian unless such change had received the sanction of the Shah.

It being shown that Mr. Bagdasarian was before naturalization a Turkish subject, this contention was abandoned, and the order to pay the indemnity claimed was sent to the Emir Nizam. The latter is a Persian of the old school, of undoubted ability and authority, practically independent of the central government. He has opposed in every possible way the execution of the order. Being informed recently by Mr. Wood that, as a last resort, Mr. Bagdasarian was being induced under pressure to accept a much smaller compensation, I insisted that the full amount of the claim be paid to Mr. Wood himself. I inclose herewith a copy of a letter from Hohrannes Khan, under secretary in the foreign office, announcing the final payment of the full amount of the claim to Consul-General Wood.

I have, etc.,

ARTHUR S. HARDY.

[Inclosure 1 in No. 52.]

Hohrannes Khan to Mr. Hardy.

TEHERAN, PERSIA, *February 27, 1899.*

SIR: We have received a telegram from his excellency the Emir-i-Nizam, dated 25th of February, saying that the indemnity of 200 tomans due to Mr. Bagdasarian has been paid to the English consulate at Tabriz.

I am glad to see justice done to Bagdasarian and this question closed, as all others pending between the foreign office and the American legation.

Yours, etc., HOHRANNES.

RUSSIA.

DESIGNATING THE FIRST SECRETARY OF EMBASSY AS CONSEILLER.

Mr. Hitchcock to Mr. Sherman.

No. 54.] EMBASSY OF THE UNITED STATES,
St. Petersburg, April 30, 1898.

SIR: During the coming month a new list of the diplomatic corps at this capital is to be issued by the department of ceremonies of the court at this capital, and inquiries have been made by the officials whose duty it is to prepare it, as to the designation of the members of the embassy. The official who requested this information considers that it would be anomalous should the first secretary of an embassy not be designated as conseiller. In view, however, of the Department's No. 153 of December 16, 1895, to my predecessor, I do not feel justified in sanctioning this designation without authority from the Department.

In referring to the dispatch above mentioned, it is but fair to say that the ruling of the Department appears to have been given upon a somewhat incomplete understanding of the premises. The diplomatic list here does not emanate from the ministry of foreign affairs, to which the secretary of embassy is accredited, but is a list of the officers of the various missions accredited here, with their families, including ladies, published by a bureau of the court as a social convenience, the names being communicated to an officer of that bureau informally and only semiofficially.

I regard it as highly desirable that the first secretary of our embassy here should be designated as conseiller, in conformity with the almost universal usage at this court, and in support of the dignity of the mission. The French and British Governments have, with this policy in view, given their first secretaries here the rank of "Minister Plenipotentiary performing the duties of conseiller," with advantage to their missions both when the ambassador is present and when abroad on leave of absence. While the rank of conseiller does not exist in the British service, the first secretary of that embassy here has for many years been so designated upon the diplomatic list until the present change was instituted last winter.

As, in addition to all the embassies, four of the legations at this court designate their secretaries as conseillers, not to so designate our own would be socially disadvantageous both to the secretary and myself.

As pointed out in the Department's No. 153, the title of conseiller is a special designation applied to a secretary of embassy or legation by certain governments only. Martens says (Guide Diplomatique, Chapter V) "Some governments give to the first secretaries of their higher missions the title of conseiller of embassy or legation." The functions of conseiller and secretary are identical, differing only in name, and no legal character or office is implied by the former term.

I trust, therefore, that in this first list in which this mission appears as an embassy it may be found permissible for the first secretary to be termed conseiller.

I have, etc., ETHAN A. HITCHCOCK.

Mr. Day to Mr. Hitchcock.

No. 69.] DEPARTMENT OF STATE, *May 23, 1898.*

SIR: I have to acknowledge the receipt of your No. 54 of the 30th ultimo, recommending that the first secretary of your embassy may be styled conseiller in the list of the diplomatic corps issued by the imperial department of ceremonies.

Calvo, in his Dictionary of International Law, states that—

> The conseiller of embassy or of legation is an agent whom governments attach sometimes to diplomatic missions in order to assist with his advice the public minister in affairs of certain importance, or which demand special knowledge which the minister is not deemed to possess.
>
> No diplomatic usage has fixed the attributes of the conseiller of legation. They are ordinarily determined by his government, and are merged into those of secretary of legation. It is the rule to-day, in the absence of formal instructions to the contrary, for the conseiller to supply the place of the chief of the mission, disabled or absent; and it is only in succession to the former, or in his absence, that this task is devolved upon the first secretary. The conseiller shares the privileges and immunities recognized in secretaries. Like the latter, he is named and appointed by the government itself, which gives notice of his nomination to the ministers of foreign affairs of the country where he is to reside. He is presented to the sovereign of this country by the chief of the post to which he is attached. He is clothed with a certain representative character: enjoys immunities of his own, independently of the ambassador, or of the chief of legation, but has no right to any ceremonial. In Germany the title of conseiller of legation is conferred upon the conseiller of the department of foreign affairs.

The above definition shows that the conseiller is virtually a secretary of legation.

Clause 5 of section 1674 of the Revised Statutes enumerates the list of diplomatic officers of the United States, and excludes all others. In this list the office of conseiller is not mentioned.

Section 37 of Instructions to Diplomatic Officers, which is based upon the law above referred to, prohibits in spirit, if not in letter, the designation of the first secretary as conseiller. The Department is, therefore, of opinion that this can not be done except by statutory authority.

Respectfully, yours, WILLIAM R. DAY.

Mr. Hitchcock to Mr. Day.

No. 84.] EMBASSY OF THE UNITED STATES,
St. Petersburg, June 7, 1898.

SIR: I have the honor to acknowledge the receipt of your No. 69, of May 23, relating to the designation of the first secretary of this embassy as conseiller. I note that in the opinion of the Department this could only be done by statutory authority; but for reasons given in my No. 54, of April 30, I trust the Department may see fit to secure such legislative enactment as will cover this point.

I have, etc.

ETHAN A. HITCHCOCK.

RAILWAY CONSTRUCTION AND PASSPORTS IN TA-LIEN-WAN.

Mr. Hitchcock to Mr. Day.

No. 75.] EMBASSY OF THE UNITED STATES,
St. Petersburg, May 25, 1898.

SIR: Referring further to the Department's No. 57 of April 30th, and more especially to the last paragraph of the copy of the dispatch No. 2875 from our minister at Peking, referring to the probable attitude of Russia with respect to the construction of railroads in Manchuria, I have the honor to report having to-day availed of a fitting opportunity to bring this matter to the notice of his excellency Count Mouravieff, by asking him whether any reservations in favor of Russia, with respect to the construction of railroads in Manchuria appeared in its lease, from China, of Port Arthur and Ta-lien-wan, to which his excellency replied in the affirmative, the agreement being that the Russian Government shall control all such construction.

His excellency further stated, in reply to an inquiry from me, that the rumor that no one would be allowed to land at Ta-lien-wan without a passport viséd by the Russian consul at Tientsin was without the slightest foundation.

I have, etc., ETHAN A. HITCHCOCK.

Mr. Day to Mr. Hitchcock.

No. 84.] DEPARTMENT OF STATE, *June 13, 1898.*

SIR: I have to acknowledge the receipt of your No. 75 of the 25th ultimo, stating that you were advised by Count Mouravieff that the Russian Government will control the construction of all railways in Manchuria.

Respectfully, yours. WILLIAM R. DAY.

APPLICATIONS FOR PASSPORTS.

Mr. Hitchcock to Mr. Day.

No. 60.] EMBASSY OF THE UNITED STATES,
St. Petersburg, May 10, 1898.

SIR: I have the honor to call your attention to a certain class of applicants for passports of the United States, and request a ruling of the Department which shall serve as a basis for the future.

Referring to 176 Appendix to Wharton's Digest of International Law, it appears to be the policy of the Department to recognize the claims to protection of agents of American commercial establishments in foreign countries who, by peculiar qualifications, are useful in promoting our mercantile relations, in spite of long-continued absence from the United States.

It is extremely desirable for the extension of our commercial relations with Russia that the services of American citizens, speaking the Russian language and familiar with the country, should be available to promote the interests of our producers at home, as agents, or in such other capacity as circumstances may require. To require that the connection of such agents or employees should be limited to two

years, or any other brief term, would seriously impair their usefulness

Upon this principal it was the practice of my predecessor to grant passports to agents for American commercial and industrial enterprises in Russia.

While recognizing the desirability of continuing this practice, and desiring a distinct ruling of the Department authorizing its continuance, I desire also to call your attention to certain cases, some of which, while technically coming within this category, are in fact little more than evasions of the Department's rulings, while if the volume of business done is to be a standard, others would at present lie outside of the category, although in the near future they might come well within it.

Illustrative of the former class is the case of Dr. Henry Michaels, a dentist living in Moscow, whose application for a passport has been the subject of many dispatches from the Department and from this legation.

Recently it appears that Dr. Michaels has become agent for certain American specialities. The fact that Dr. Michaels was engaged in promoting American industrial interests as agent for certain manufactures in the United States was communicated to this embassy by the consul at Moscow, who stated that—

> Dr. Henry Michaels has shown me sufficient evidence that he is doing business with the following American firms, viz: Bridgeport Gun Implement Company, Messrs. W. L. Gilbert Clock Company, of which firms you hold their contracts with Dr. Michaels.

The contracts referred to by the consul are the documents making Dr. Michaels agent for these firms and were held by the embassy pending consideration of the case under this new aspect. While thus debating the eligibility of Dr. Michaels for a passport a telegram from the consul informed me that Dr. Michaels and his wife were summoned to Paris by the dangerous illness of their son and that they could not leave without a passport. Under these circumstances, and in Dr. Michaels' urgent need, I issued the passport informing the consul that I considered that I should pass upon the bona fides of Dr. Michaels' business operations and their value in the promotion of American commercial interests in Russia, and in reply learn that he has in fact forwarded but one order to the United States, a copy of which he is unable to furnish. Dr. Michaels' agencies would thus appear to be possibly but a cloak, under cover of which he may evade the ruling of the Department governing his case, his real purpose being to continue his residence and the practice of his profession in Russia. Another applicant from Moscow, Dr. Regner, a naturalized American, also a dentist who has resided in Moscow for fifteen years, claimed that he was authorized to sell American dental instruments in Russia, but as he did not appear to have made any sales I did not deem this claim material in the case.

Certain applicants have set up the claim that they were promoting American commercial interests in Russia upon the ground that they are agents in Russia for certain German representatives of American manufactures who have put their Russian business into their hands.

The case of Mr. Oscar Hartoch belongs to still another class. Mr. Hartoch has resided in St. Petersburg since 1875. He received a passport from my predecessor in 1895 as director of the Petrovsky Oil Works Company of New Jersey. He has, during his long residence in Russia, been in the employ of the firm of W. Ropes & Co., an old-established American commercial house doing an exporting business

to America, and is now the manager of that business. In former years the house of Ropes & Co. did a large business, chiefly in the export of crash and sheet iron to America. That business now is little more than a name, although the firm still exists, and Mr. Hartoch informs me that it is the purpose of the partners to actively take up the importation into Russia of certain classes of American machinery.

Since the issuance of the passport to Mr. Hartoch, in 1895, the Petrovsky Oil Works Company has ceased to exist, it having become merged into the Mineral Oil Works Company, a Russian corporation. I granted a passport to Mr. Hartoch upon the strength of his connection with Ropes & Co., and his statement of their real purpose to reanimate their commercial undertakings between the United States and Russia.

With the earnest desire that our promising and growing commercial interests with Russia may have the fullest measure possible of that assistance which bona fide endeavors of American citizens here can render, and this without applying to infant commercial enterprises a test of present volume of business, where that might be unjust, I still desire to eliminate abuse of the continued protection accorded to American citizens by persons who use the color of such occupation to evade the rulings of the Department regarding abandonment of citizenship.

I therefore request such ruling of the Department as will afford a criterion in such cases.

I have, etc., ETHAN A. HITCHCOCK.

P. S.—Since writing the above the consul at Moscow has called at the embassy and exhibited sample orders procured by Dr. Michaels for American clocks in dozens, amounting to something over $1,000. This seems to put this case in somewhat different light.

ETHAN A. HITCHCOCK.

Mr. Day to Mr. Hitchcock.

No. 79.] DEPARTMENT OF STATE, *June 3, 1898.*

SIR: I have to acknowledge the receipt of your dispatch, No. 60, of the 10th ultimo, in which you invite the Department's attention to a certain class of applicants for United States passports, and request instructions which will serve as a guide for your future action. You refer to the policy of your predecessor in granting passports to American citizens, agents for American commercial and industrial enterprises in Russia, notwithstanding long residence abroad, and you favor a continuance of this practice on the ground that it is desirable for the extension of our commercial relations with Russia that the services of American citizens, familiar with the country and language, should be available to promote the interests of American producers and exporters. You refer, however, to the evasions which would result from following to the letter a ruling such as you recommend, and as an instance cite cases which have recently come to your notice, and you ask such a ruling from the Department as will enable you, while giving full protection to those persons who are bona fide representatives of American concerns, to prevent an abuse of the privilege by those persons who use the color of such occupations to

evade the rulings of the Department regarding the abandonment of citizenship.

You evidently have a correct understanding of the policy of the Department with regard to the issuance of passports to persons indefinitely residing abroad, and the Department feels that it may be safely left to you to deal with each individual case in your discretion upon the facts presented. As you state, it has been and should continue to be the policy of the Government to foster and promote the manufacturing and commercial interests of the United States, and to that end, in the case of bona fide agents and representatives of American interests, the rules usually applied to our citizens in respect to residences are relaxed. Of course mere technical compliance with the requirements in these exceptional cases is not sufficient. If you feel satisfied that the party applying for protection is not actually and in good faith representing American interests, then it is your duty to refuse to grant a passport. The extent of business done, while sometimes an important factor, should not be considered the sole criterion in judging of the good faith of the party.

With regard to the individual cases to which you refer, your action in case of Dr. Michaels is approved, the case having been submitted to your discretion. The Department shares your views as to the case of Dr. Regner and approves your granting a passport to Dr. Hartoch, in view of the facts stated.

The Department is scarcely prepared to recognize the right to recognition as American citizens of the parties you mention as setting up the claim that they are promoting an American commercial interest in Russia as agents there of German representatives of American manufactures. As above stated, however, the determination of the bona fides of these and similar cases must be left to your discretion.

Respectfully, yours,

WILLIAM R. DAY.

Mr. Hitchcock to Mr. Day.

No. 82.] EMBASSY OF THE UNITED STATES,
St. Petersburg, June 6, 1898.

SIR: Referring to my No. 60, of May 10, I have the honor to say that Mr. Thomas Smith, United States consul at Moscow, being in this city recently, I took occasion to make further inquiry regarding the special and urgent request of Dr. Michaels for a passport to enable him and his wife to go to Paris on account of the dangerous illness of their son. I then learned to my surprise that neither of them had gone to Paris in spite of the urgency indicated in the consul's telegram of April 21, copy of which I inclose. I did not hesitate to express to Mr. Smith my astonishment at this disclosure and I stated to him that I should require him to furnish me with a satisfactory explanation making it plain that Dr. Michaels and his wife were prevented from taking this journey which it was so urgently represented that the claims of paternity made necessary. Replying to this the consul wrote me on May 28 the letter, copy of which with its inclosure I inclose. On receipt of this letter I wrote the consul a letter dated May 30, copy of which I also inclose.

These facts appear to me to place Dr. Michaels's case in an extremely bad light, indicating a disposition to resort to misrepresentations for

the purpose of obtaining a passport which discredit his statements regarding his efforts on behalf of the promotion of American commerce in Russia, and in view of the rulings of the State Department as I understand them, I shall not, unless otherwise instructed by you, again issue a passpart to Dr. Michaels without conclusive evidence of a real intent, supported by acts, to return to the United States, there to reside and perform the duties of citizenship.

While earnestly desiring to retain for our country the allegiance of all of her citizens who may be by force of circumstances compelled to temporarily reside in Russia, and who continue during the term of such residence to maintain their national character, I deprecate the attempt of a certain class of persons to avail themselves of the protection and privileges pertaining to American citizenship while divesting themselves of all allegiance to our country except in name.

In this connection I submit the case of Dr. George L. Regner, copies of whose application together with the letter of the consul at Moscow of April 4 and my reply thereto of April 28 I enclose.

Dr. Regner has recently called at this embassy requesting continued protection at least for six months. He was told that either he was entitled to full protection as a citizen of the United States or he was not. That he had received in the United States not alone citizenship, but the special education which enabled him to practice dentistry; that he had embarked his capital in Russia and that he is now there permanently domiciled enjoying the fruits of that investment, all the returns from which he expends in Russia; that he is performing and has performed during the past fifteen years, so far as this embassy is informed, no part of his duties to the country of his alleged allegiance; that during all these years he has been reiterating the statement of his intent to return within two years, and that now, the Government of the United States holding him to the performance of this promise, he is unable to show that he has taken a single step in this direction, but on the contrary asks continued protection for the purpose of closing up his affairs preparatory to his return. All of these statements regarding Dr. Regner being admitted by him to be true, he was told that if he was prepared to support the statement which he made, of intent to return to the United States within six months, by an oath then, and only then, would the embassy consent to address a note to the authorities asking permission for him to remain for six months longer under his present passport. He was advised to give the matter consideration and call the following day should he still wish to subscribe to the oath proposed. Accordingly the oath, copy of which I inclose, was prepared for him, but he has not yet returned to the embassy.

I have, etc.,

ETHAN A. HITCHCOCK.

[Inclosure 1 in No. 82—Telegram.]

MOSCOW, *April 21, 1898.*

Hon. ETHAN HITCHCOCK,
United States Ambassador, St. Petersburg.

Dr. Henry Michaels and wife urgently request to receive their passports; have to leave for Paris; son dangerously sick.

THOMAS SMITH, *Consul.*

[Inclosure 2 in No. 82.]

Mr. Smith to Mr. Hitchcock.

CONSULATE OF THE UNITED STATES,
Moscow, Russia, May 28, 1898.

SIR: Confirming my telegram dated April 20, respecting Dr. Henry Michaels's request to forward his and Mrs. Michaels's passports to facilitate them in going to Paris, from which place they received a telegram stating that their son was ill and required their presence at once, but on receiving their passports neither of them left for Paris.

By your request I made inquiries of them why they did not go to France after receiving their passports. In answer Dr. Michaels has written me a letter and inclosing a doctor's certificate showing their reasons why they did not leave for Paris at the time when they expected to go.

I herewith have the honor to transmit to you his letter and a doctor's certificate for your decision.

I am, etc., THOMAS SMITH.

[Subinclosure 1.]

Mr. Michaels to Mr. Smith.

MOSCOW, *May 8, 1898.*

SIR: I herewith beg to reply to your note asking me why my wife did not leave for Paris as soon as she received her passport.

She could not go, as she caught a severe cold and could not travel and I could not leave her alone. When neither of us could leave the news came that our dear boy was out of danger.

When she can travel she proposes to join the boy and take him to the seaside.

Herewith I beg to inclose the doctor's certificate of her illness, and, if necessary, I can get one from Paris concerning the boy.

Yours, truly, H. MICHAELS.

[Subinclosure 2—Translation.]

CERTIFICATE.

The present is given to the American citizen Emily Michaels in that she has suffered from influenza from April 12 (24), and on account of lung complication and inflammation of the ear she is still under my treatment. In consequence of this illness she could not go abroad, to which I certify.

N. SCHKOTT,
Member of the Moscow Medical Board and Actual State Counselor.

[Inclosure 3 in No. 82.]

Mr. Hitchcock to Mr. Smith.

EMBASSY OF THE UNITED STATES,
St. Petersburg, May 30, 1898.

SIR: Your letter of May 28, inclosing letter from Dr. Michaels and physician's certificate, duly received. I have to say in this matter that Dr. Michaels fails entirely to point out what the illness was from

which his son was suffering when he so urgently required a passport in order to go to him, and Mr. S. Michaels's illness does not appear to have been of a nature which would prevent his going to his son in case of the urgent need represented.

I am, etc., ETHAN A. HITCHCOCK.

[Inclosure 4 in No. 82.]

Mr. Smith to Mr. Hitchcock.

CONSULATE OF THE UNITED STATES,
Moscow, Russia, April 4, 1898.

SIR: I have the honor to acknowledge the receipt of your letter dated February 14, contents of which I have communicated to Mr. G. L. Regner.

I herewith beg to transmit to you a new certificate stating that he is engaged in the sale of American goods.

I also join the corrected applications.

I am, etc., THOMAS SMITH.

[Inclosure 5 in No. 82.]

Mr. Hitchcock to Mr. Smith.

EMBASSY OF THE UNITED STATES,
St. Petersburg, April 28, 1898.

SIR: I am in receipt of your letter of April 4 in relation to the application of Mr. G. L. Regner for a new passport.

The certificate inclosed with it does not indicate that Mr. Regner is in good faith engaged in the promotion of American commerce with Russia. He appears to be engaged in the practice of his profession of dentist, and incidentally, probably for the purpose of rehabilitating his American citizenship, he has become an agent of a Russian firm, doing business in Moscow, for the sale of American specialties. There is not even any evidence that he has made any sales of such American specialties, which in any case are doubtless of quite minor importance as compared with the practice of his profession. Such business undertakings can not be recognized by this embassy as a means to evade the law. If they are real and bona fide enterprises, in the direction of genuine and substantial increase of American commerce and industry with the country in which a citizen of the United States is domiciled, they would, in my opinion, be acceptable as evidence of valid reason for such citizen's absence from his country, but in the present case they have the color of a mere evasion of the restrictions imposed by the Department of State.

If Mr. Regner desires to pursue the present line of his claim for protection, he will be required to submit a statement showing the value of sales of American goods made by him, on the basis of which I will submit his application to the Department of State. In its present condition his application for a passport is refused.

I am, etc.,

ETHAN A. HITCHCOCK.

[Inclosure 6 in No. 82.]

[Copy of oath.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, June 2, 1898.

I, George L. Regner, a naturalized and loyal citizen of the United States, do hereby solemnly swear that it is my real and fixed purpose to abandon all foreign residence and domicile and to return to the United States within six months, there to reside permanently and perform the duties of citizenship therein. It is my purpose in making this declaration to secure from the embassy of the United States at St. Petersburg its protection during the time which may be necessary to dispose of my effects and business in Moscow, and I hereby disavow under my solemn oath any intent to use this temporary protection to enable me meantime to acquire any other 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 I take all of these above-stated obligations freely, without any mental reservation or purpose of evasion whatsoever. So help me God.

Embassy of the United States at St. Petersburg.
Sworn to before me this ———

Mr. Hitchcock to Mr. Day.

No. 93.] EMBASSY OF THE UNITED STATES,
St. Petersburg, June 15, 1898.

SIR: I have the honor to acknowledge the receipt of your No. 79 of June 3, relating to passports. I note the discretion given me in regard to granting passports with much gratification, and beg to express my thanks for the same.

You will have seen in dispatches, subsequent to my No. 60 of May 10, further references to this subject, which are forestalled by the discretionary authority now granted me.

I have, etc.,

ETHAN A. HITCHCOCK.

Mr. Day to Mr. Hitchcock.

No. 90.] DEPARTMENT OF STATE, *June 23, 1898.*

SIR: I have to acknowledge the receipt of your No. 82 of the 6th instant, and approve your determination to issue no further passports to Dr. Henry Michaels and to Dr. George K. Regner, without conclusive evidence shown of a real intent, supported by acts, to return to the United States, there to reside and perform the duties of citizenship.

Respectfully, yours, WILLIAM R. DAY.

INTERNATIONAL PEACE CONFERENCE.

Mr. Hitchcock to Mr. Day.

No. 131.] EMBASSY OF THE UNITED STATES,
St. Petersburg, August 25, 1898.

SIR: I have the honor to inclose herewith copy and translation of a communication which was handed to me by Count Mouravieff yesterday.

The high and humanitarian importance of this document can not fail to recommend it to the absorbing interest of the President and

people of the United States, and the fact that Russia is the first to take a step in the direction of a general disarmament, and toward that universal peace which all Christian peoples must regard as the haven to which Christian progress ought to tend, places her in the very front rank of the civilized nations of the world, a position on which I did not hesitate to congratulate his excellency, in full confidence of the entire sympathy of our Government with the high aim to which the document gives expression.

In handing me the paper Count Mouravieff requested me to obtain an expression of our Government upon the subject.

I have, etc.,

ETHAN A. HITCHCOCK.

[Inclosure.]

Translation of document delivered by Count Mouravieff, Russian imperial minister of foreign affairs to Ethan Allen Hitchcock, ambassador of the United States, on Wednesday, August 12 (24), 1898.

The maintenance of general peace and a possible reaction of the excessive armaments which weigh down upon all nations present themselves, in the actual present situation of the world, as the ideal toward which should tend the efforts of all governments.

The magnanimous and humanitarian views of His Majesty the Emperor, my august master, are entirely in accord with this sentiment.

In the conviction that this lofty object agrees entirely with the most essential interests and the most rightful desires of all the powers, the Imperial Government believes that the present time is very favorable for seeking, through the method of an international conference, the most effective means of assuring to all nations the benefits of a real and lasting peace, and of placing before all the question of ending the progressive development of existing armaments.

In the course of the last twenty years the aspirations for a general pacification have become strongly impressed upon the minds of civilized nations. The preservation of peace has been set up as the end of international politics; it is in its name that the great powers have formed powerful alliances with one another; it is for the better guarantee of peace that they have developed, to proportions hitherto unknown, their military forces, and that they shall continue to augment them without hesitating on account of any sacrifice whatever.

All these efforts have not, however, yet accomplished the beneficent results of the much-wished-for pacification.

The ever-increasing financial expense touches public prosperity at its very source; the intellectual and physical powers of the people, labor and capital, are, in a great measure, turned aside from their natural functions and consumed unproductively. Hundreds of millions are used in acquiring fearful engines of destruction, which, to-day considered as the highest triumph of science, are destined to-morrow to lose all their value because of some new discovery in this sphere.

It is true also that as the armaments of each power increase in size they succeed less and less in accomplishing the result which is aimed at by the governments. Economic crises, due in great part to the existence of excessive armaments, and the constant dangers which result from this accumulation of war material, makes of the armed peace of our day an overwhelming burden which it is more and more

difficult for the people to bear. It therefore seems evident that, if this state of affairs continues it will inevitably lead to that very cataclysm which we are trying to avoid, and the horrors of which are fearful to human thought.

To put an end to these increasing armaments, and to find means for avoiding the calamities which menace the entire world, that is the supreme duty which to-day lies upon all nations.

Impressed with this sentiment, His Majesty the Emperor has deigned to command me to propose to all the governments who have duly accredited representatives at the Imperial Court the holding of a conference to consider this grave problem.

This conference will be, with the help of God, a happy augury for the century which is about to open. It will gather together into a powerful unit the efforts of all the powers which are sincerely desirous of making triumphant the conception of a universal peace. It will at the same time strengthen their mutual harmony by a common consideration of the principles of equity and right, upon which rest the security of States and the well-being of nations.

Cte. MOURAVIEFF.

ST. PETERSBURG, *August 12, 1898.*
(New style August 24.)

Mr. Hitchcock to Mr. Day.

[Telegram.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, August 26, 1898.

Have forwarded to you to-day an invitation from the Czar of Russia to a proposed conference of all nations to consider the problem of decreased armaments in furtherance of more peaceful relations between all nations.

HITCHCOCK.

Mr. Hitchcock to Mr. Day.

No. 135.] EMBASSY OF THE UNITED STATES,
St. Petersburg, August 26, 1898.

SIR: Referring to my No. 131 of yesterday, and learning from some of my colleagues that the document therein inclosed had been telegraphed by them to their respective governments, I have the honor to advise having this day cabled you.

I have, etc., ETHAN A. HITCHCOCK.

Mr. Hitchcock to Mr. Day.

[Telegram.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, September 3, 1898.

Count Mouravieff to-day gave me his conference programme as follows: First, no political nor diplomatic question—past, present, or

future—will be discussed; second, no secret suggestions or arrangements will be permitted, and sessions of conference to be open and public; third, present armaments not to be considered or disturbed, but if possible find way to avoid further increase; fourth, sole object exchange of ideas in furtherance of national economy and international peace in the interest of humanity as the supreme duty of governments; fifth, nothing binding on any power, but has great hopes discussions will, warrant and secure appointment by conference of expert commission to further consider and formulate methods for accomplishing desired results; sixth, time and place of conference to be determined by powers accepting invitation; seventh, he understands and appreciates position of our Government, but desires its counsel, advice, and sympathy; eighth, His Imperial Majesty and his excellency are alone responsible for the invitation, which was unknown to any other government or individual previous to its issue; ninth, English, German, French, Austrian, and Italian ambassadors have personally and officially expressed the sympathy of their respective governments, whose official reply to invitation will follow.

HITCHCOCK.

Mr. Hitchcock to Mr. Day.

No. 141.] EMBASSY OF THE UNITED STATES,
St. Petersburg, September 3, 1898.

SIR: I have the honor to confirm a telegram I have just sent you giving the result of an interview I had with his excellency Count Mouravieff an hour ago, the object of the interview being to obtain from him a fuller explanation of the object and programme of the conference in which our Government was asked to participate, by the invitation of His Imperial Majesty the Czar, inclosed to you with my No. 135 of August 26.

Count Mouravieff's absence at Moscow for the past ten days at the ceremonies attending the inauguration of the statue of His Late Imperial Majesty Alexander the Second has prevented my obtaining an earlier expression of his excellency's views, to-day telegraphed you, and which it was impossible for me to obtain when the invitation was handed to me, as the audiences granted to the diplomatic corps upon that occasion were necessarily very brief in view of his contemplated immediate departure for Moscow.

I have, etc.,

ETHAN A. HITCHCOCK.

Mr. Moore to Mr. Hitchcock.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 6, 1898.

Telegram as to disarmament received. Though war with Spain renders it impracticable for us to consider the present reduction of our armaments, which even now are doubtless far below the measure which principal European powers would be willing to adopt, the President cordially concurs in the spirit of the proposal of His Imperial Majesty, and will send a representative to the international conference.

MOORE, *Acting.*

Mr. Hitchcock to Mr. Day.

No. 143.] EMBASSY OF THE UNITED STATES,
St. Petersburg, September 7, 1898.

SIR: I have the honor to acknowledge the receipt a few moments ago of Mr. Moore's telegram, dated September 6. I shall have much pleasure in personally communicating its contents to the Imperial Minister of Foreign Affairs, Count Mouravieff, at his usual weekly reception this afternoon, feeling assured that he will express his high appreciation of the sympathy entertained by the President for the noble desire of His Imperial Majesty in furtherance of national economy and international peace, and that he will also express his great gratification at the decision of the President to send a representative to the proposed international conference.

I have, etc.,

ETHAN A. HITCHCOCK.

Mr. Hitchcock to Mr. Day.

No. 144.] EMBASSY OF THE UNITED STATES,
St. Petersburg, September 8, 1898.

SIR: I have the honor to report having on yesterday afternoon read Mr. Moore's telegram dated the 6th instant, the receipt of which was acknowledged by my No. 143, dated the 7th instant, to the Imperial Minister of Foreign Affairs, Count Mouravieff, who requested me to convey to the President his sincere thanks and high appreciation for his cordial concurrence in the spirit of the proposal of His Imperial Majesty, as well as for his expressed intention to send a representative to the international conference.

At the request of his excellency, I left a copy of the telegram with him for repetition by wire to His Imperial Majesty the Emperor, who is now at the Crimea.

I also availed of the opportunity to read to his excellency a copy of my telegram to you dated the 3d instant, which he affirmed as an entirely correct summary of the lengthened interview I had just had with him with reference to the proposed international conference.

I have, etc.,

ETHAN A. HITCHCOCK.

Mr. Hitchcock to Mr. Day.

No. 150.] EMBASSY OF THE UNITED STATES,
St. Petersburg, September 12, 1898.

SIR: I have the honor to inclose herewith for the files of the Department copy of my note dated [August 27] September 8, officially acknowledging the receipt of his excellency's note dated August 12–24, conveying the invitation of His Imperial Majesty the Emperor to the Government of the United States to participate in an international conference in favor of national economy and international peace, and informing his excellency in reply that the President cordially concurs in the spirit of the proposal of His Imperial Majesty and will send a representative to the international conference, thus confirming

the contents of Mr. Moore's telegram which was received September the 7th and read by me on that date to His Excellency Count Mouravieff, as advised in my No. 144 of September 8.

I have, etc.,

ETHAN A. HITCHCOCK.

[Inclosure.]

Mr. Hitchcock to Count Mouravieff.

EMBASSY OF THE UNITED STATES,
St. Petersburg, August 27 (September 8), 1898.

YOUR EXCELLENCY: Having heretofore personally acknowledged the receipt of your excellency's note of August 12–24, 1898, conveying the invitation of His Imperial Majesty the Emperor to my Government to participate in the international conference in which all the governments having duly accredited representatives at the imperial court have been invited to participate, for the purpose of exchanging ideas in furtherance of national economy and international peace in the interest of humanity as the supreme duty of governments, so forcibly and eloquently set forth in your excellency's note, I have the honor and the very great pleasure to inform your excellency that, though the war with Spain renders it impracticable for the Government of the United States to consider the present reduction of its armaments, which even now are doubtless far below the measure which the principal powers would be willing to adopt, the President cordially concurs in the spirit of the proposal of His Imperial Majesty and will send a representative to the international conference.

I avail myself, etc.,

ETHAN A. HITCHCOCK.

Mr. Day to Mr. Hitchcock.

No. 139. DEPARTMENT OF STATE,
Washington, September 14, 1898.

SIR: I have to acknowledge the receipt of your No. 131, of the 25th ultimo, inclosing a copy and translation of the circular note of the Russian foreign office, embodying the Emperor's proposition to hold a conference for the purpose of considering the possibility of reducing armaments and establishing a lasting peace.

As you were advised by this Department's telegram of the 6th instant, the President is of opinion that the existing state of war with Spain renders it impracticable at the present moment to further reduce our armaments, which even on the present war footing are doubtless far below the measure which the principal European powers would be willing to adopt in time of peace.

The President, however, cordially concurs in the spirit of His Imperial Majesty's proposal, and this Government will therefore send a representative to the international congress, as to the date and place of which the Department awaits further particulars.

Respectfully, yours,

WILLIAM R. DAY.

Mr. Hitchcock to Mr. Hay.

No. 157.] EMBASSY OF THE UNITED STATES,
St. Petersburg, September 29, 1898.

SIR: I have the honor to report that His Excellency Count Mouravieff, being abroad upon his vacation, I yesterday afternoon attended the usual weekly reception held in his absence by His Excellency Count Lamsdorff, acting minister of foreign affairs, who informed me that all of the powers represented by embassies here had officially accepted the invitation of His Imperial Majesty the Czar, and would send delegates to the conference, with the exception of Great Britain, the absence of Lord Salisbury from England being an explanation of the delay of the acceptance of the invitation by that Government, which acceptance, however, he expected would be received at an early date, when the Imperial Government would be prepared to make further communication with respect to the time and place of holding the conference.

I have, etc., ETHAN A. HITCHCOCK.

Mr. Hitchcock to Mr. Hay.

No. 161.] EMBASSY OF THE UNITED STATES,
St. Petersburg, October 6, 1898.

SIR: I have the honor to report that His Excellency Count Lamsdorff, at his usual weekly reception at the foreign office yesterday afternoon, informed me that the situation with respect to the proposed international conference remained as advised in my No. 157, of September 29; that is to say, the Imperial Government is still awaiting an official reply from the British Government, and further, that with respect to the invitation of the Italian Government, proposing an international conference to consider the control of anarchists, he has not yet received the instructions of His Imperial Majesty the Emperor.

I have, etc.,

ETHAN A. HITCHCOCK.

Mr. Pierce to Mr. Hay.

No. 179.] EMBASSY OF THE UNITED STATES,
St. Petersburg, November 9, 1898.

SIR: Referring to the embassy's No. 161, of October 6, I have the honor to say that on the occasion of my last interview with Count Lamsdorff, on his general reception day, he informed me that Great Britain has accepted the invitation to send a representative to the conference to consider the question of national armaments, referred to in the circular of the Imperial Goverment of August 12–24.

Believing that any observations made on this spot upon this great question can not fail to have a certain value, I venture to submit the following statement of what I have been able to gather since my return to my post, hoping that it may in some measure add to the information which will doubtless be desired by our own representative at the conference.

The question presents two broad phases: (1.) The humanitarian aspect, looking toward a future universal peace, which, while it has

long been the dream of philanthropists, has never before, I believe, been recognized as an attainable end, even in the distant future, in the materialism which governs state policies and international relations; (2.) The purely economic question of the absorption of men and resources for purely military purposes, to the detriment of national wealth and prosperity.

While both aspects of the question are clearly set forth as actuating the Imperial Government in Count Mouravieff's circular, I am convinced that the gravity of its economic side is not lost sight of or obscured by any undue enthusiasm over its humanitarian aspect.

It is perhaps, at first blush, a little disappointing that this great proposition of the Emperor's does not meet with warmer enthusiasm among the Russians themselves. But it should be remembered that the idea that a vast army is anything but a glory and a blessing is not only new, but is contrary to the traditions instilled into the Russian mind, and carefully fostered ever since the time of Peter the Great. To expect them now to at once respond with enthusiasm to a proposition which involves the belief that this great military establishment, hitherto held up as the bulwark and safety of the nation, is, in fact, but a drain upon the resources of the country, and which threatens to paralyze its development, would be to require an elasticity of temperament which the national character does not possess. Nor does the humanitarian aspect especially appeal to the ordinary Russian mind. The semioriental influences and traditions of the people have bred in them a slight regard for the value of human life and an apathetic fatalism which does not admit of the same point of view as exists in Western peoples. But furthermore, as this is essentially a military center, in which the greater part of society has some near individual interest in the army, any proposition looking to a reduction of the army suggests the possibility of affecting personal interests which could not be complacently regarded.

At the same time I do not wish to be understood as implying that there are not large numbers of people, both among the highly educated and among the merchant classes, who enter with enthusiasm into the views promulgated by the Emperor. These there are, and they regard the action with exultant pride in the sovereign, but they do not constitute the majority.

That the Russian press is silent on the subject is due to the fact that the newspapers have been forbidden to discuss the matter. Naturally officials of the Government are unwilling to give free expression to any opinions they may hold on the subject.

But whatever may be the state of public opinion on the question it is safe to say that it will not in any way sway the policy of the Emperor.

The general consensus of opinion among the members of the diplomatic corps now present appears to be that the proposition is visionary and utopian, if not partaking of quixotism. Little of value is expected to result from the conference, and indeed every diplomatic officer with whom I have talked seems to regard the proposition with that technical skepticism which great measures of reform usually encounter. This is, perhaps, an argument in support of an opinion which has been advanced in certain journals, that diplomatic training and traditions being wholly opposed to the object in view, diplomatic officers would be unsuitable representatives for such a conference.

You are doubtless already well informed as to the attitude of the European press on the subject, and as the Russian journals contribute

nothing to its literature I hesitate to attempt any summary, but yet a few observations concerning what has come under my notice may not be deemed amiss. Here, also, in the absence of any other modus vivendi than droit de force, skepticism as to the possibility of arriving at any results characterizes the greater part of the utterances, although nearly all unite in paying high tribute to the philanthropic motives of the Emperor in calling the conference. A few, chiefly of the less serious journals, referring to the recent increase in Russia's army and naval strength, as well as to her attitude in China, cast insinuations upon the good faith of his alleged benevolent intentions.

Many of the French papers bring up the old bone of contention between France and Germany over Alsace-Loraine as an insurmountable impediment to any halt on the part of France in her military progress, while others suggest that a compromise on this question which would forever end it might be reached by Germany's surrendering Loraine. Nearly all apply some point or other of international politics to the question, pointing to it as an obstacle to be overcome before anything approaching disarmament can be considered, even when grave results are admitted as an inevitable end to a continuance of the present progress in applied military science and development.

Certain journals, considering more particularly the economic side of the question, point to Italy as a State ruined by the military development of the age. Statistical facts are brought forward to show the enormous sum expended annually by the various states for military purposes, and the vast numbers of men kept out of useful employment, while on the other side is given some idea of what could be accomplished in the way of material wealth, by the employment of the same men and money productively, giving rise to the reflection that possibly the increased wealth and resources so gained would be as powerful an agent in holding back aggression as are the present standing armies of Europe. Our own recent war has been an object lesson to all the world in the power of material wealth in time of national need.

Many German newspapers have, while eulogizing the Emperor's humanitarian benevolence, argued that the expenditure of money and employment of men for military purposes is not impoverishing the state, since the money is expended and redistributed through the country, while the men find employment which they could not otherwise obtain. It is needless to say that these writers are not disciples of John Stuart Mill.

The English newspapers have generally treated the subject more abstractly than the continental press, admitting the truth of the broad principles involved, but while less ready to find specific objections and obstacles, are still not free from skepticism as to the possibilities.

But few suggestions for the accomplishment of the desired result have been made, though there have been some, as, for instance, the proposal that the minor powers should disarm, the peace of Europe to be guaranteed by the great powers, a measure which, while doubtless beneficial to the smaller states, would leave the guaranteeing powers where they are.

Count Lamsdorff informs me that the Imperial Government has as yet formulated no further programme regarding the conference than that given in the embassy's No. 141 of September 3, nor has it any definite policy in the matter, the purpose of the conference being tentative and to open discussion as to the best means to bring about the desired result, if it be possible of attainment at all. I do not think that it is the expectation of anyone in the Imperial Government that the end in

view can be even approximately reached at an early day. The difficulties standing in the way are fully realized, but what is hoped for is that, by opening discussion, ways to meet those difficulties may suggest themselves.

In a conversation which I have recently had on the subject with a very eminent authority on international law, of world-wide reputation, the following views were expressed: Droit de force being, in effect, the modus vivendi under which nations now maintain their respective claims, if the very essence of that modus vivendi is to be swept away, as must be the case if any restriction is laid upon the employment by a nation of any part of its resources at its own discretion in military development, a new modus vivendi must be found, adequate to the new conditions. Every nation, as every individual, is inalterably justified in defending its own rights against all encroachments by such means as, within accepted usage, lie within its grasp, and to repel force by force. In civilized communities the law undertakes to protect the individual in his rights in lieu of his maintenance of them vi et armis. But there is among nations no equivalent to the laws of civilized communities, for, however highly the principles of so-called international law, as enunciated by the various eminent authorities on the subject, may be regarded, they have not the sanctioning force of law, except in so far as certain of them are incorporated into treaties. In our own relations with Russia we have recently had an illustration of the absence of binding force of generally accepted principles of international law. I refer to the case of the *James Hamilton Lewis* and the reply of the Russian Government, referred to in the embassy's No. 177 of the 11th instant, in which the Russian Government, finding that the generally accepted principle of a jurisdiction extending 3 miles out to sea is inadequate to the defense of its case, claims that the limit of marine jurisdiction should be considered, in view of modern conditions, as extending to at least 5 miles from shore.

The proposal of the Emperor would seem to make the time auspicious for the consideration of the question of compiling a code of international principles having, by acceptance by treaty among the powers, the sanctioning force of law. While it is not to be pretended that such a code would be the universal panacea for all international difficulties and disputes, any more than the civil law cures all private quarrels, it would at least be a great stride in advance in international relations, and might form the basis of a modus vivendi among the powers which would take the place of droit de force.

It may be argued that, given such a code, there would still be lacking either police or judicial tribunal to make it effective. But the same argument might be applied to treaties, and yet, experience shows, that the agreement of nations by treaty, while it does not prevent warfare, diminishes it and improves international relations.

If it is admitted that the existence of such a code would be a gain in international relations it might perhaps be pertinent to consider a further extension of the same idea in the establishment of a permanent international congress, having legislative powers, subject to the ratification of the respective governments, whose functions should be to so amend, from time to time, the international statutes as to meet new or unforeseen conditions.

Respectfully submitting the foregoing,

I have, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires ad interim.

Mr. Peirce to Mr. Hay.

No. 193.] EMBASSY OF THE UNITED STATES,
St. Petersburg, November 24, 1898.

SIR: Referring to my No. 179, of November 9, I have the honor to say that yesterday being Count Mouravieff's first reception day since his return from abroad, I called upon him for the purpose of paying my respects.

Referring to the conference on the subject of arresting the growth of national armaments, his excellency informed me that he had not yet formulated any programme, but that he should now set about doing so. He said that too much must not be expected in the way of immediate results. The phase of the matter which seems at present to occupy his attention is the economic one demanding a halt in the ever-increasing cost of national defenses and in the development and adoption of new inventions and discoveries which render useless to-morrow the improvements of yesterday. It is his opinion that the scope of the conference should be, first of all, to try and discover what is the consensus of opinion of the powers as to the best way to remedy the present evil.

He expressed also the opinion that the delegates should be the diplomatic representatives accredited here, where the conference will be held, at the time, and without the association with them of military representatives.

I have, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires ad interim.

Mr. Hitchcock to Mr. Hay.

[Telegram.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, January 12, 1899.

Count Mouravieff yesterday handed to the representatives of the foreign powers additional circular note on the peace conference, reciting that the warm welcome of almost all foreign powers fully justifies the Russian Government in having issued its invitation. Notwithstanding the generally favorable opinion the political prospect has changed recently, and several of the powers have proceeded to increase armaments, in the presence of which uncertain situation it might be asked whether the powers consider the moment opportune for international conference on the lines of the circular of August last. However, the Russian Government believes it is possible to proceed at present with the exchange of ideas on, first, the investigation without delay of means to limit progressive development of military and naval armaments; second, to prepare for the discussion on the question of possibility of preventing armed conflicts by pacific means of diplomacy. In case the powers deem the moment favorable for the meeting of the conference on the basis of the August and present circular, the following themes are suggested for discussion: First, agreement not to increase for fixed term the existing military and naval forces nor war budgets, with a view to their future diminution. Second, interdiction of new arms and explosives and of more powerful powder than is used at

present. Third, limitation of use in field operations of existing powerful explosives and prohibition of throwing bombs from balloons. Fourth, interdiction of submarine torpedo boats and similar destructive engines. Fifth, adaptation to naval warfare of the stipulations Geneva conference of 1868. Sixth, neutralization, in the similar manner, of life-saving craft. Seventh, revision of the laws of war as formulated by Brussels conference and not yet ratified. Eighth, acceptance in principal of the employment of good offices, mediation, and arbitration to prevent war, with a view to establish uniformity in their employment. It is understood that all political questions and status established by treaty shall be absolutely excluded from the deliberations. I am requested to ask instructions of my Government, and say that the Emperor of Russia suggests that the conference should not be held at any great capital where it might be affected by political influences. Place to be selected later. A copy of circular will be sent by next mail.

HITCHCOCK.

Mr. Hitchcock to Mr. Hay.

No. 230.] EMBASSY OF THE UNITED STATES,
St. Petersburg, January 14, 1899.

SIR: I have the honor to confirm my telegram of January 12, and to inclose herewith copy of a translation of Count Mouravieff's second circular, dated December 30, 1898 (January 11, 1899), upon the subject of the conference to consider the question of the progressive growth in the expense of national armaments and what, if any, means can be found to minimize the existing evils.

This able document seems to require no especial comment at the present time further than to note that the Imperial Government has, upon further consideration, deemed it best to abandon the idea of holding the conference at St. Petersburg, and to suggest that it meet at some other place than one of the great capitals, on account of the political influences which might affect its deliberations.

In handing me the circular Count Mouravieff laid emphasis upon the fact that the suggestions made by the Imperial Government regarding the deliberation of the conference are to be considered not as an outline of its policy, but as tentative remarks embodying its opinions, upon which the comments of the other powers will be welcomed, as will any further suggestions from their side.

I have, etc.,

ETHAN A. HITCHCOCK.

[Inclosure in No. 230.—Translation.]

ST. PETERSBURG, *December 30, 1898.*

MR. AMBASSADOR: When, during the month of August last, my August Master ordered me to propose to the governments who had accredited representatives in St. Petersburg the meeting of a conference for the purpose of seeking the most efficient means of assuring to all peoples the benefits of a real and lasting peace, and above all, to place a limit upon the progressive development of existing armaments, nothing seemed opposed to the realization in the comparatively near future of this humanitarian project.

The welcome reception accorded to the measure of the Imperial Government by almost all the powers can but justify this hope. Appreciating fully the sympathetic manner in which the adhesion of almost all the governments has been expressed, the Imperial Cabinet has at the same time received with the liveliest satisfaction the evidences of hearty assent which have been addressed to it, and which do not cease to arrive from all classes of society of the different parts of the world.

Notwithstanding the great current of opinion which has been produced in favor of a general pacification, the political horizon has sensibly changed in its aspect recently. Several powers have proceeded with new armaments, enforcing additional increase of their military forces, and in the presence of this uncertain situation one might be led to ask whether the present moment is opportune for an international discussion of the ideas set forth in the circular of August 12–24.

Hoping, however, that the elements of trouble which agitate the political world will soon give place to a calmer order of things and one of a nature to encourage the success of the proposed conference, the Imperial Government for its part is of the opinion that it will be possible to proceed at once with a preliminary exchange of ideas among the powers with a view—

(*a*) Of seeking without delay for means of placing a limit upon the progressive increase of land and naval armaments, a question which plainly is becoming more and more urgent in view of the new increase of these armaments; and

(*b*) To prepare the way for a discussion of the questions relating to the possibility of preventing armed conflicts by the pacific means at the disposition of international diplomacy.

In case the powers consider the present moment favorable for the meeting of a conference on these bases, it certainly will be useful for the cabinets to agree among themselves upon the subject of a programme of its work.

The themes to submit to an international discussion at the actual conference might generally be summed up in the following manner:

1. An understanding stipulating the nonincrease for a fixed term of the present effectives of land and naval forces, as well as of the war budgets relating thereto; a preliminary study of the manner in which there might be even realized in the future a reduction of the effectives and the budgets above mentioned.

2. Interdiction of the putting into use in armies and navies of any new firearms whatever, and of new explosives, as well as more powerful powders than those now adopted, as well for guns as for cannon.

3. Limitation of the use in land campaigns of explosives of great power already in existence, and the prohibition against the throwing of all projectiles and explosives from balloons, or by similar means.

4. The interdiction of the use in naval warfare of submarine torpedo boats or plungers, or other engines of destruction of the same nature; engagement not to build in the future war vessels with rams.

5. The adaptation to naval warfare of the stipulations of the Geneva Convention of 1864, upon the basis of the additional articles of 1868.

6. Revision of the declaration in regard to the laws and customs of war, elaborated in 1874 by the Brussels conference and still remaining unratified.

7. The acceptance in principle of the usage of good offices, of mediation, and of optional arbitration for such cases as lend themselves to it, with a view of preventing armed conflicts between nations; an understanding upon the subject of their mode of application, and the establishment of a uniform code of practice in their use.

It is clearly understood that all questions concerning the political relations of states, and of the established order of things by treaty, as, in general, all questions which do not enter directly into the programme adopted by the cabinets ought to be absolutely excluded from the deliberations of the conference.

In addressing to you, Mr. Ambassador, the request to have the goodness to obtain the instructions of your Government upon the subject of my present communication, I would ask you at the same time to bring to its notice that in the interest of the great cause which lies so near the heart of my August Master, His Imperial Majesty considers that it would be well for the conference not to meet in the capital of one of the great powers, where there are concentrated so many political interests, which might perhaps react against the progress of a work in which are interested in a like degree all the countries of the world.

Accept, etc., COUNT MOURAVIEFF.

Mr. Hitchcock to Mr. Hay.

No. 242.] EMBASSY OF THE UNITED STATES,
St. Petersburg, January 27, 1899.

SIR: I have the honor to hand you herewith a copy of the Journal de St. Petersbourg, dated January 13–25, 1899, on the first page of which appears the full text of the circular dated December 30, 1898 (January 11, 1899), copy of which was inclosed with my No. 230, dated January 14.

On the second page of the same journal you will find an inspired editorial, which I have reason to know is a semiofficial reply to certain comments of the press, and more particularly to an editorial which appeared in the issue of the Times (London), dated January 20 last, adversely criticising Count Mouravieff's circular above referred to.

I have, etc.,

ETHAN A. HITCHCOCK.

[Inclosure in No. 242.—Translation.]

Leader in Journal de St. Petersbourg of January 13–25, 1899.

The circular of the Imperial Government of December 30, which we print elsewhere, gives a more definite form to the proposal contained in the communication of the 12th of August last on the subject of a meeting of a conference for the purpose of assuring to the people of the world the benefits of peace. In designating to the powers, in the event of the present time seeming favorable to them for the convening of the conference, a certain number of questions to examine, with a view of the common elaboration of a detailed programme, the imperial cabinet has proven its desire of arriving at a complete agreement in a matter of such great importance to all civilized nations.

Certain foreign papers have already published their first comments upon the subject of the new Russian circular. Without wishing to underrate the value of these organs of the press, we are not able to see that they represent a majority of European public opinion. This public opinion has pronounced itself with such

unanimity in favor of the idea contained in the Russian communication of August 12 that it can not be supposed that this opinion has changed on this account. In awaiting the opinions which may be expressed by other journals when the text of the new circular shall be known to them, we will confine ourselves for the present to showing how certain organs of the press have so singularly erred.

Certain English papers have maintained that Russia, previous to the meeting of the proposed conference, ought herself to set the example of reducing her military and naval forces.

That is a theory to which it would be very difficult to subscribe; and inasmuch as one of the journals maintaining it has thought that it could invoke common sense to support its criticisms of the Russian proposals, it is permissable to say in reply that simple common sense is quite sufficient to justify the theory it develops.

In truth, what power is there which could think of reducing alone its military forces, when the others not only do not stop but still keep increasing their armaments? No government whatever, justly solicitous of its duties toward the nation, could so manifestly disregard the most elementary laws of public foresight. The régime of armed peace which was pointed out in the Russian circular of August 12 not having changed, the Imperial Government should, as well as the others, remain with arms ready.

Russia, however, in no way ceases to ardently wish that this régime, so onerous to the people and so prejudicial to the lofty interests of humanity, may come to an end. It is exactly this state of mind which inspired the initiative which she took in this matter and which continues to direct her efforts in the same way. It is to be hoped that the acknowledged interests of nations and general good sense will overcome the obstacles which the realization of the Russian proposals may meet.

But it would certainly be illogical to expect that Russia should reduce or stop its armament as long as the proposed conference shall not have assembled or resulted in the desired results. As long as the other powers continue to increase their armaments, Russia naturally sees herself obliged to resort to similar measures, without on that account renouncing her invariably pacific views or her hope of seeing the development of the great humanitarian ideas or the well-known interest of civilized nations bring about a general agreement of the powers, so desirable for the realization of the magnanimous views of His Majesty the Emperor.

Mr. Hay to Mr. Pierce.

No. 214.] DEPARTMENT OF STATE,
Washington, February 4, 1899.

SIR: I have to acknowledge the receipt of Mr. Hitchcock's No. 230, of the 14th ultimo, inclosing Count Mouravieff's circular of December 30 (January 11 last) in regard to the peace conference.

You will inform the Imperial Government that in reply to that circular the President directs you to express his most cordial interest in the proposed conference and his most sincere desire that it may contribute to the lasting peace of the world, and to give assurance that when the time and place of meeting of the conference are indicated he will appoint a representative of the United States of America to attend its meetings and participate in its deliberations.

I am, etc.,

JOHN HAY.

Mr. Pierce to Mr. Hay.

[Telegram.]

EMBASSY OF THE UNITED STATES.
St. Petersburg, February 10, 1899.

Disarmament conference will be held at The Hague.

PIERCE.

Mr. Pierce to Mr. Hay.

No. 247.] EMBASSY OF THE UNITED STATES,
St. Petersburg, February 10, 1899.

SIR: I have the honor to inform you that I have to-day received from the imperial foreign office a circular note, a copy and translation of which I inclose, announcing that, the Government of Her Majesty the Queen of the Netherlands having expressed its consent, the conference heretofore proposed by the Russian Government will be held at The Hague.

I confirm the telegram sent you to-day announcing this fact.

I have, etc.,

HERBERT H. D. PIERCE,
Chargé d'Affaires ad interim.

[Inclosure.—Translation.]

Count Mouravieff to Mr. Pierce.

ST. PETERSBURG, *January 28, 1899.*

CHARGÉ D'AFFAIRES: Referring to the circular communication dated December 30, 1898, I have the honor of informing you that the Imperial Government has placed itself in communication with the Government of Her Majesty the Queen of the Netherlands in regard to the choice of The Hague as the ultimate scene of the proposed conference.

The Government of the Netherlands having expressed its accord in this matter, I have the honor to request you to inform your Government of this choice, which will without doubt be received with general sympathy.

Accept, etc., COUNT MOURAVIEFF.

Mr. Pierce to Mr. Hay.

[Telegram.]

EMBASSY OF THE UNITED STATES,
St. Petersburg, February 16, 1899.

Count Mouravieff informs me Russian Government awaiting our reply to the second and third notes relating to disarmament conference; topics suggested in the second note should be regarded as tentative, subject to debate, and will not be insisted upon by Russia. Is the Government of the United States favorable to the proposition of second note, and to The Hague as the place to hold conference? The majority of foreign powers have replied favorably to both notes.

PIERCE.

Mr. Pierce to Mr. Hay.

No. 252.] EMBASSY OF THE UNITED STATES,
St. Petersburg, February 16, 1899.

SIR: I have the honor to confirm my cipher telegram of this day.

In the course of a conversation with Count Mouravieff yesterday he brought up the matter of the conference on the subject of reduction

of armaments and informed me that the Russian Government is awaiting a response from our Government to the notes dated December 30, 1898 (January 11, 1899), copies of which were forwarded to you in the embassy's Nos. 230 of January 14 and 247 of February 10, respectively.

Referring to that dated December 30, 1898, (January 11, 1899), which I have designated for brevity as the second note in my telegram, he stated that the topics for discussion suggested in that note were submitted tentatively, and were subject to debate as to whether or not they should be taken up in the conference; that the Russian Government merely suggested them as timely, but had no intention of insisting upon their consideration by the conference, but that international conditions having changed since the promulgation of the original circular note proposing the conference, it now became necessary to obtain an expression of opinion from the powers on the general subject, with a view to ascertaining whether they still regard the time appropriate for holding such a conference. An expression is also desired as to the place of meeting proposed, namely, The Hague.

I asked his excellency whether a date had yet been fixed upon, to which he replied that it had not, and that the determination of the date would be left to the Government of Holland.

Regarding the character of representation, his excellency said that he supposed each of the powers would send a delegate having a seat in the conference accompanied by one or more advisers, forming a commission.

I have, etc., HERBERT H. D. PIERCE,
Chargé d'affaires ad interim.

Mr. Hay to Mr. Pierce.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 17, 1899.

Inform Imperial Government President approves Count Mouravieff's suggestions for topics and place of conference.

HAY.

Mr. Pierce to Mr. Hay.

No. 274.] EMBASSY OF THE UNITED STATES,
St. Petersburg, March 9, 1899.

SIR: I have the honor to report that Count Mouravieff informed me yesterday that at the conference on the subject of the arrest of the present progressive increase in cost of national armaments, to be held at The Hague, Baron de Staal, ambassador at London, will be the Russian representative, assisted, in an advisory capacity, by Mr. F. de Martens, a commissioner from the ministry of finance, and one, or perhaps two, officers each of the army and navy.

Mr. de Martens is the president of the board of arbitration upon the Venezuela question, and while none of the commission but Baron de Staal will occupy any seat in the actual conference, doubtless his high

attainments as an authority upon international law will give great weight to his opinion with his colleagues. Knowing well his personal views upon the subject, I feel confident that the tendency of his advice would naturally be favorable to any measures which might in general promote the principle of international arbitration and more firmly establish a harmonious accord upon the doctrines of international law among the powers.

The minister of the Netherlands at this court has confidentially informed me that Her Majesty the Queen of the Netherlands will probably appoint May 16 as the date of assembling of the conference, this day being chosen out of compliment to the Emperor, whose birthday it is.

I have, etc.,

HERBERT H. D. PIERCE,
Chargé d'affaires ad interim.

SPAIN.

POLITICAL SITUATION IN CUBA.

Mr. Sherman to Mr. Woodford.

No. 4.] DEPARTMENT OF STATE,
Washington, July 16, 1897.

SIR: Before you go to your post it is proper to state to you the President's views on the relation of your Government to the contest which is now being waged in Cuba. The same occasion requires that you should be made acquainted with the course which has been deemed best for the United States to follow under existing conditions.

During thirteen years of the past twenty-nine years the island of Cuba has been the scene of grave disorder and sanguinary conflict. On two distinct occasions the power and authority of the Spanish Crown have been arrayed against a serious and persistent effort of a large proportion of the population of the island to achieve independence.

The insurrection which began at Yara in October, 1868, lasted for ten years, and ended not so much because of the physical repression of the revolt by force of arms as by reason of the exhaustion of the combatants and the conclusion of a truce based upon the concession to the Cubans of certain measures of autonomous reform in 1877 and 1878. The peace thus brought about proved unstable, and, after some sixteen years of more or less unsatisfactory continuance, was broken by a renewed manifestation of the deeply rooted aspirations of the native Cuban elements toward more complete enjoyment of self-government. Beginning in February, 1895, in an uprising which, like the previous insurrection of Yara, was local and unorganized, the movement rapidly spread until, on the 27th of that month, the superior authority of the island deemed it necessary to issue a proclamation declaring the rich and populous districts about Matanzas and Santiago de Cuba in a "state of siege." Thereafter, notwithstanding the extensive military operations undertaken to crush the revolt, and despite the unprecedented exertions put forth by Spain and the armies and treasure poured into the disturbed territory, the conflict extended over the greater part of the island and invaded the western provinces, which the insurrection of Yara had failed to arouse.

For more than two years a wholly unexampled struggle has raged in Cuba between the discontented native population and the mother power. Not only has its attendant ruin spread over a larger area than in any previous contest, but its effects have been more widely felt and the cost of life and treasure to Spain has been far greater. The strife continues on a footing of mutual destruction and devastation. Day by day the conviction gathers strength that it is visionary for Spain to

hope that Cuba, even if eventually subjugated by sheer exhaustion, can ever bear to her anything like the relation of dependence and profit she once bore. The policy which obviously attempts to make Cuba worthless to the Cubans, should they prevail, must inevitably make the island equally worthless to Spain in the event of reconquest, whether it be regained as a subject possession or endowed with a reasonable measure of self-administration.

The recuperative processes, always painfully slow in an exhausted community, would necessarily be doubly remote in either of the latter contingencies, for in the light of events of the past twenty-nine years capital and industry would shrink from again engaging in costly enterprises in a field where neither proximate return nor permanent security is to be expected. To fix the truth of this assertion one need only regard the fate of the extraordinary efforts to rehabilitate the fortunes of Cuba that followed the truce of 1878. The capital and intelligence contributed by citizens of the United States and other countries, which at that time poured into Cuba seeking to endow the island with the marvelous resources of modern invention and advanced industrial processes, have now become submerged in the common ruin. The commerce of Cuba has dwindled to such unprofitable proportions that its ability for self-support is questionable even if peace was restored to day. Its capacity to yield anything like adequate return toward the support of the mother country, even granting the disposition to do so, is a matter of the gravest doubt.

Weighing all these facts carefully and without prejudice, in the judgment of the President the time has come for this Government to soberly consider and clearly decide the nature and methods of its duty both to its neighbors and itself.

This Government has labored and is still laboring under signal difficulties in its administration of its neutrality laws. It is ceaselessly confronted with questions affecting the inherent and treaty rights of its citizens in Cuba. It beholds the island suffering an almost complete paralysis of many of its most necessary commercial functions by reason of the impediments imposed and the ruinous injuries wrought by this internecine warfare at its very doors; and above all, it is naturally and rightfully apprehensive lest some untoward incident may abruptly supervene to inflame mutual passions beyond control and thus raise issues which, however deplorable, can not be avoided.

In short, it may not be reasonably asked or expected that a policy of mere inaction can be safely prolonged. There is no longer question that the sentiment of the American people strongly demands that if the attitude of neutrality is to be maintained toward these combatants it must be a genuine neutrality as between combatants, fully recognized as such in fact as well as in name. The problem of recognition of belligerency has been often presented, but never perhaps more explicitly than now. Both Houses of Congress, nearly a year ago, adopted by an almost unanimous vote a concurrent resolution recognizing belligerency in Cuba, and latterly the Senate, by a large majority, has voted a joint resolution of like purport, which is now pending in the House of Representatives.

At this juncture our Government must seriously inquire whether the time has not arrived when Spain, of her own volition, moved by her own interests and by every paramount sentiment of humanity, will put a stop to this destructive war and make proposals of settlement honorable to herself and just to her Cuban colony and to man-

kind. The United States stands ready to assist her and tender good offices to that end.

It should by no means be forgotten that besides and beyond the question of recognition of belligerency, with its usual proclamation of neutrality and its concession of equal rights and impartial imposition of identical disabilities in respect to the contending parties within our municipal jurisdiction, there lies the larger ulterior problem of intervention, which the President does not now discuss. It is with no unfriendly intent that this subject has been mentioned, but simply to show that this Government does not and can not ignore the possibilities of duty hidden in the future, nor be unprepared to face an emergency which may at any time be born of the unhappy contest in Cuba. The extraordinary, because direct and not merely theoretical or sentimental, interest of the United States in the Cuban situation can not be ignored, and if forced the issue must be met honestly and fearlessly, in conformity with our national life and character. Not only are our citizens largely concerned in the ownership of property and in the industrial and commercial ventures which have been set on foot in Cuba through our enterprising initiative and sustained by their capital, but the chronic condition of trouble and violent derangement in that island constantly causes disturbance in the social and political condition of our own people. It keeps up a continuous irritation within our own borders, injuriously affects the normal functions of business, and tends to delay the condition of prosperity to which this country is entitled.

No exception can be taken to the general proposition that a neighboring nation, however deeply disturbed and injured by the existence of a devastating internal conflict at its doors, may be constrained, on grounds of international comity, to disregard its endangered interests and remain a passive spectator of the contest for a reasonable time while the titular authority is repressing the disorder. The essence of this moral obligation lies in the reasonableness of the delay invited by circumstances and by the effort of the territorial authority to assert its claimed rights. The onlooking nation need only wait "a reasonable time" before alleging and acting upon the rights which it, too, possesses. This proposition is not a legal subtlety, but a broad principle of international comity and law.

The question arises, then, whether Spain has not already had a reasonable time to restore peace and been unable to do so, even by a concentration of her resources and measures of unparalleled severity which have received very general condemnation. The methods which Spain has adopted to wage the fight give no prospect of immediate peace or of a stable return to the conditions of prosperity which are essential to Cuba in its intercourse with its neighbors. Spain's inability entails upon the United States a degree of injury and suffering which can not longer be ignored. Assuredly Spain can not expect this Government to sit idle, letting vast interests suffer, our political elements disturbed, and the country perpetually embroiled, while no progress is being made in the settlement of the Cuban problem. Such a policy of inaction would in reality prove of no benefit to Spain, while certain to do the United States incalculable harm. This Government, strong in its sense of right and duty, yet keenly sympathetic with the aspirations of any neighboring community in close touch with our own civilization, is naturally desirous to avoid, in all rational ways, the precipitation of a result which would be painfully abhorrent to the American people.

For all of the reasons before stated the President feels it his duty to make the strongest possible effort to help bring about a result which shall be in conformity alike with the feelings of our people, the inherent rights of civilized man, and be of advantage both to Cuba and to Spain. Difficult as the task may seem now, it is believed that frankness, earnestness, perseverance, and a fair regard for the rights of others will eventually solve the problem.

It should be borne in mind from the start that it is far removed from the feelings of the American people and the mind of the President to propose any solution to which the slightest idea of humiliation to Spain could in any way be attached. But no possible intention or occasion to wound the just susceptibilities of the Castilian nation can be discerned in the altogether friendly suggestion that the good offices of the United States may now be lent to the advantage of Spain.

You are hereby instructed to bring these considerations as promptly as possible, but with due allowance for favorable conditions, to the attention of the Government of Her Majesty the Queen Regent, with all the impressiveness which their importance demands, and with all the earnestness which the constantly imperiled national interests of the United States justifies. You will emphasize the self-restraint which this Government has hitherto observed until endurance has ceased to be tolerable or even possible for any longer indefinite term. You will lay especial stress on the unselfish friendliness of our desires, and upon the high purpose and sincere wish of the United States to give its aid only in order that a peaceful and enduring result may be reached, just and honorable alike to Spain and to the Cuban people, and only so far as such aid may accomplish the wished-for ends. In so doing, you will not disguise the gravity of the situation, nor conceal the President's conviction that, should his present effort be fruitless, his duty to his countrymen will necessitate an early decision as to the course of action which the time and the transcendent emergency may demand.

As to the manner in which the assistance of the United States can be effectively rendered in the Cuban situation, the President has no desire to embarrass the Government of Spain by formulating precise proposals. All that is asked or expected is that some safe way may be provided for action which the United States may undertake with justice and self-respect, and that the settlement shall be a lasting one, honorable and advantageous to Spain and to Cuba and equitable to the United States.

For the accomplishment of this end, now and in the future, our Government offers its most kindly offices through yourself.

Respectfully, yours,

JOHN SHERMAN.

Mr. Woodford to Mr. Sherman.

No. 11.] LEGATION OF THE UNITED STATES,
San Sebastian, Spain, September 14, 1897.

SIR: Yesterday my predecessor, Mr. Taylor, at 12 o'clock, presented his letters of recall to the Queen Regent at her summer palace, the Miramar. At half after 12 I was received by the Queen and presented my letters of credence.

I simply said:

YOUR MAJESTY: It is my great honor to place in your royal hands these letters of credence from the President of the United States accrediting me as minister plenipotentiary at your Court. I am directed by the President to express to you his sincere wishes for the health and happiness of Your Majesty and of your son, the King, and for the peace and prosperity of Spain.

The Queen then entered into very courteous conversation in English, which lasted about ten minutes, after which the ceremony of presentation ended.

Minister Taylor has transferred to me the balance of the "contingent fund" and "clerk-hire fund" belonging to this legation, and he has placed the legation property and archives at Madrid in the possession of the secretary of legation, Mr. George Stanton Sickles.

I have to-day telegraphed to you the following dispatch:

SHERMAN, *State Department, Washington:*

Presented to Queen Monday afternoon. Spanish minister of foreign affairs will not go to baths and himself suggests first official interview for Saturday, September eighteenth.

I will keep you promptly and fully advised of all negotiations as they proceed, and have the honor to be, with great respect,

Your obedient servant,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

SAN SEBASTIAN, SPAIN,
Monday, September 13, 1897.

SIR: On Wednesday afternoon, September 8, Sir Henry Drummond Wolff, the British ambassador, called upon me, and in the course of a very friendly interview, mentioned the rumor (published in the papers here) that the Spanish naval attaché at Washington had been charged with some possible impropriety in connection with our fortifications at Charleston or elsewhere on our coast. This led to a general talk about the condition of affairs in Cuba and I took the opportunity to have a full and frank conversation.

At the outset I impressed upon him that the United States does not seek to annex Cuba or to establish a protectorate over Cuba, but sincerely desires that Spain settle the war in some manner that shall be just and honorable to her and yet secure to Cuba peace with prosperity.

I then mentioned the question of health.

I pointed out that nearly every epidemic of yellow fever in the United States has originated in Habana or at some point in Cuba, from which the disease has spread to our coast. I told him that owing to the bad sanitary conditions of Cuba and the peculiar formation of the harbor of Habana, which is never thoroughly washed out by the tides, this danger is great even in times of peace. That in war and with the present neglect of sanitary precautions at Habana and throughout Cuba, the danger is increased terribly.

I see from the telegrams of the last few days that an immediate confirmation of my statements has come from points in Mississippi and Louisiana and possibly in Georgia and Texas.

Next I spoke of the food question. I told him how largely dependent the people of the United States have been upon Cuba for our nec-

essary supplies of sugar. I called his attention to the fact that our own sugar crop, raised mostly in Louisiana and Texas, does not furnish more than one-tenth of the sugar we consume, and that our attempts to supply ourselves with beet sugar grown in the United States have been retarded by the fact that many of our people are averse to paying bounties for raising beets, although the bounty system has alone enabled the people of continental Europe to produce their great supplies of beet sugar.

I endeavored to impress upon him that the sugar of Cuba is as vital to our people as are the wheat and cotton of India and Egypt to Great Britain.

Next I called his attention to the enormous pecuniary losses suffered by our citizens because of the continuance of this war. I mentioned that large amounts of capital had been invested by American citizens in the sugar and tobacco plantations and in the iron mines and railways of Cuba and that large loans had been made by our citizens on such securities; that for three years these plantations, mines, and railways have been useless; that they are being destroyed alike by Spanish authorities and by the insurgents; that the security for American loans is thus greatly impaired and even rendered valueless, and that all investments and loans of American capital are thus practically unproductive and in great danger of being finally and completely lost.

I next called his attention to the irreparable injury inflicted upon our commercial interests. As we no longer receive from Cuba the sugar and tobacco which we obtained in times of peace, we are no longer able to find markets in Cuba for our wheat, corn, meat, and the various manufactured articles with which we have hitherto supplied almost the entire wants of Cuba. I pressed on his thought that our great commerce with Cuba has thus been practically destroyed.

Next I pointed out to him that during the previous ten years of war, from 1868 to 1878 and during the present three years of war, the United States Government has faithfully sought to observe all the obligations of neutrality; has been at great care and expense to police a coast line of nearly 3,000 miles, and that this effort has also involved constant danger of irritation and violence. I added that we had not yet acknowledged a condition of belligerency, although Spain had very early done this in our own civil war, and that during the entire continuance of our civil war Habana had been an entrepôt where blockade runners had gathered and from which enormous supplies of all munitions of war and food and clothing had been shipped to ports of our own insurgent States.

I then spoke of the injuries and losses which our citizens resident in Cuba have suffered in their persons as well as in their property, and of the apparent utter inability of the Spanish Government to give them that protection to person and property to which they are entitled alike under our treaties with Spain and under the law of nations. I told him that these injuries and losses amounted to very great sums, but that at present I am not seeking to press reclamation therefor, being willing to postpone such matters as long as I justly can, in hope of being able to secure the larger results of peace.

Next I told him somewhat, although not in detail, of the horrible and unchristian and uncivilized manner in which the present struggle in Cuba is being conducted. I told him of the reconcentrado camps, with their conditions of disease, immorality, and death.

Having pressed these various suggestions upon him as fully as his exceeding courtesy and great patience would permit, I put the direct question to him whether, if Cuba lay about 100 miles west of the United Kingdom, and if all the conditions existed therein and between Cuba and the United Kingdom which now exist in Cuba and between Cuba and the United States, England would not be compelled in the interest of her people and of humanity and of civilization to find some way of putting promptly an end to the struggle?

To his natural question as to what the United States proposed to do, I simply replied that the necessities of the case are such that some means must be found very promptly to secure peace and restore the conditions of order and good government under which the people of Cuba and Spain and of the United States can enjoy somewhat of their old prosperity. I told him frankly that I was not prepared that afternoon to suggest a definite remedy, but that before Congress should meet in December some means must be found whereby this struggle shall be put in the sure way of being peacefully and finally ended.

In this connection I pointed out to him that the entire population of Cuba is only from 1,500,000 to 1,800,000; that statisticians usually regard one in five as being the outside proportion of male adults in any country; that upon this basis there could not be in Cuba more than 360,000 native males of all classes, black, white, creole, and Spanish; that of the male adults in any population not more than one-half are capable of bearing arms, and that this could give to the insurgents at the outside an army of not more than 180,000 men. I then impressed upon his thought that even if all of these 180,000 men were in arms, Spain had sent to Cuba within the last three years nearly that number of men; that Spain claimed that 70,000 of the native and resident male adults were in fact actively helping the Spanish Government; that if this were so, Spain had already employed during the rebellion an army amounting to at least 250,000 men, and possibly amounting to 300,000 men, to crush a rebellion in which, according to Spanish figures, not more than 40,000 Cubans are really engaged, and in which not more than 110,000 can be possibly engaged, if 70,000 are, as claimed, in the Spanish army and all the rest were in the insurgent army; that, of course, no such numbers are in fact in the insurgent army; that Spain had spent enormous sums of money in prosecuting the war, probably amounting to about $300,000,000, and that in spite of all this expenditure of men and money the rebellion is apparently stronger to-day than it ever has been.

I told him that the executive ability which the Spanish war office had shown in sending so many men so far and so promptly had impressed me very deeply, but that after all this only demonstrates how strong is the rebellion and how doubtful is the ability of Spain to suppress it. That while it might not be possible for the untrained and poorly armed Cuban insurgents to possess themselves of the forts, cities, and the strong places of Cuba, it still is certain that Spain, upon the other hand, can not crush the rebellion within any reasonable time. That thus the island is being literally destroyed and that even if the rebellion were ended now, Cuba for two or three years must be valueless to anybody. That if the rebellion continues the island must become a practical desert and that the policy now pursued by the Spanish Government can only restore peace by producing a graveyard that shall be as large as Cuba herself.

I did not attempt to explain to the ambassador how peace can be restored. But I did say to him that the United States stands ready to proffer her good offices in any way that shall accomplish with certainty the desired and necessary result of peace.

I tried to make very clear to him that we wish to do nothing that shall justly wound the proper sensibilities of Spain, but the time has come when, for the protection of our citizens in their persons and lives and in their great property interests and for the sake of humanity and civilization, the United States must accept the duty which our position in the Western Hemisphere imposes upon us of seeing that this cruel, uselesss, and horrid warfare must stop.

I closed the conversation by saying to him that if Cuba could at once and without any evasion or reservation have such autonomy under Spanish titular authority as Canada now enjoys under British rule, I believed our Government and people would feel that there would be reasonable certainty of Cuban peace and prosperity and of that protection to American interests to which we are entitled, and that we should be content; but that events are apparently moving so rapidly in Cuba that the conditions may come at any day when the insurgents might reject any suggestion of autonomy and mediation and insist upon absolute independence.

Beyond this I did not go, and to the ambassador's question as to whether I was willing that he should report the substance of our conversation to his Government, I told him that I hoped he would do so.

I called upon him by appointment early this morning and showed him the draft of this letter, and he read to me his letter to Lord Salisbury reporting our conversation. Our respective reports agree substantially, so that there can be no misunderstanding as to what I said.

The British ambassador has been uniformly most courteous and kind to my predecessor, Mr. Taylor. He has received me with very prompt and exceedingly generous and hospitable welcome, and I trust and believe that the relations between our legation and the British embassy will continue upon the same friendly and cordial relations as heretofore. No effort on my part shall be wanting to secure this most desirable result.

We have just received the news of the capture of a Spanish fort by insurgents in the heart of the province of Santiago de Cuba. This after a siege of some fourteen days, during which the Spanish military authorities were either ignorant that the siege was going on or unable to send relief. This is practical demonstration of the proportions to which the rebellion has grown.

This afternoon I am to be formally presented to the Queen Regent at her summer palace of Miramar.

I will telegraph you and write you again after the presentation.

With great respect, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 25.] LEGATION OF THE UNITED STATES,
San Sebastian, Spain, September 20, 1897.

SIR: On Friday, September 17, I received telegram in cipher from Assistant Secretary Day, which I translated as follows:

President directs that you act at discretion in interview to-morrow.

DAY.

On Saturday, September 18, I had my first official interview with the Duke de Tetuan. It was held at his private office at 5 o'clock in the afternoon and lasted nearly three hours. Señor Alfonso Merry del Val, secretary to the minister of foreign affairs, acted as interpreter. After the exchange of usual courtesies the Duke remarked that he presumed I had some communication to the Spanish Government, and that he was ready to listen to whatever I might say.

I replied as follows, and give you my exact words:

I wish to say to your excellency that the relations between your Government and mine are such that true friendship requires us to speak to each other with entire frankness. The President most earnestly desires peace and friendship between Spain and the United States. I can not impress this fact upon your thought too strongly. If in anything I shall say I shall seem earnest and positive, it is because I wish no possible misunderstanding between you and me and because I believe that we shall most certainly maintain the ancient peace and friendship between our two Governments if there can be no possible misunderstanding by Spain of what the United States desires and seeks. Therefore, and at the beginning of our negotiations, I wish to impress upon your excellency this primary and essential fact. We wish peace and friendship.

The Duke answered that Spain desired the same; that he should speak with equal frankness and sincerity, and that he thanked the United States Government for the direct and friendly way in which our negotiations were to be opened.

I then read to the Duke the essential parts of the written instructions received by me from your Department before I started for my post, being Department dispatch No. 4, dated July 16, 1897. I omitted the first paragraph and began with the words "during thirteen years of the past twenty-nine years," etc., and read down to and including the words "the United States stands ready to assist her and tender good offices to that end," being on the last line but one of page 6 of the dispatch.

I omitted the paragraph beginning on the last line of that page, "It should by no means be forgotten that besides and beyond," etc.

I began reading again on page 7, at the words "The extraordinary, because direct and not merely theoretical," etc., which are about at the middle of page 7, and continued reading down to the top of page 11, where I omitted the words "but with due allowance for favorable conditions," and then read to the end of the document.

After a short silence the Duke replied that the matter was of such grave importance that he could give no answer until he could have full consultation with the entire council of state; that it had been officially announced that the Queen would return with her court to Madrid on Monday, September 27; that the council of state could not be convened until after the return of the court to Madrid, and that then the subject would have the full consideration which its importance required.

He then asked me if I would furnish him with a copy of so much of the dispatch as I had read, or should I not feel at liberty to do this, if I would address him in writing, stating the substance of what I had read and communicating to the Spanish Government our desires and wishes.

I told him that I would address him in writing on Thursday, September 23, instant, and the Duke promised in reply to submit such letter to the council of state next week at Madrid.

I pressed upon him with all possible courtesy, and yet with entire frankness, the necessity of early peace in Cuba, and tendered to the

Spanish Government through him the good offices of the United States to secure this result.

Long and full conversation then followed, in which the Duke sought earnestly to persuade me that the Spanish Government is doing everything to secure peace, and believes that it can crush the rebellion thoroughly before next spring. To this I replied that I feared that he underrated the strength of the rebellion and that the present condition of Cuba gave no apparent hope of early peace, and that if peace came as the result of the campaign now being conducted in Cuba it would be the peace of a graveyard, and not of a prosperous and happy country.

He insisted very courteously but very firmly on the proposition that the rebellion had no hope of success, except in the sympathy and aid that it received from the people of the United States, and intimated, although in very guarded terms, that he feared that our Government is not doing all that we can to prevent assistance being given to the rebellion from the United States.

I replied that the United States had for years, both during the previous rebellion and the present one, fulfilled faithfully and loyally all its treaty obligations; had striven earnestly to prevent all expeditions from the United States in aid of the rebellion; and that we could not admit or concede that our Government had in any respect failed in the fullest discharge of all our duties to Spain, and I most courteously suggested that, if possible, his excellency would not further insist upon such intimation.

To this he replied that he recognized the difficulties of the situation and supposed that the President had done all within his power.

I did not even suggest any claims or reclamations for the great losses and injuries to person and property which our people have suffered and are suffering in Cuba. I have left such discussion for other and more opportune occasion.

I said nothing about the manner in which the war is being conducted beyond what I have already reported herein and what my instructions as read to the Duke state so forcefully and yet so temperately. I was careful to say nothing that should wound his susceptibilities and so possibly embarrass our negotiations at the outset.

I explained to him at the close, as I had at the beginning, that peace in Cuba is an absolute necessity for our people and our country, and that our sincere desire is for peace and the prosperity that can only come with peace. I therefore suggested, in bringing our interview to an end, but without pointing out any formula, that the Spanish Government should give to me, before the first of November next, such assurance as would satisfy the United States that early and certain peace can be promptly secured, and that otherwise the United States must consider itself free to take such steps as its Government should deem necessary to procure this result, with due regard to our own interests and the general tranquillity.

Yesterday I telegraphed you, in cipher, as follows:

Cipher dispatch signed "Day" received September 17. Interview with Duke de Tetuan lasted nearly three hours; friendly in manner, positive in meaning. Read to him all essential parts of instructions dated July 16, State Department No. 4. Pressed necessity of early peace. Tendered good offices. Duke asked copy of instructions or letter from me stating our wishes. Promised letter on Thursday, September 23. Duke will submit this letter to council of state next week at Madrid after court returns. Queen goes to Madrid Monday, September 27. Told Duke we hope final

decision during October and can not delay decision by the United States longer than October 31. Full details by mail.—WOODFORD.

I have, etc.,

STEWART L. WOODFORD

Mr. Woodford to Mr. Sherman.

[Telegram.]

LEGATION OF THE UNITED STATES,
San Sebastian, September 23, 1897.

Have delivered note to Spanish minister for foreign affairs. Have followed very closely text of State Department instructions number 4. Have ended with these words: "To accomplish this end now and in the future, the Government of the United States hereby offers its most kindly offices. Allow me to assure your excellency that in suggesting as early answer to this tender of good offices as the gravity of the question permits there is nothing further from [the] thought of the President or from the purpose of the Government of the United States than the possibility of embarrassing the Spanish Government, but it is sincerely hoped that during the coming month of October the Government of Spain may either be able to formulate some proposal under which this tender of good offices may become effective, or may give satisfactory assurances that peace in Cuba will, by the efforts of Spain, be most promptly secured. Permit me to close this note as I began, with the most sincere and respectful suggestion that peace in Cuba is necessary to the welfare of the people of the United States, and that the only desire of my Government is for peace and that sure prosperity which can only come with peace."

WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 34.] LEGATION OF THE UNITED STATES,
San Sebastian, Spain, September 23, 1897.

SIR: As arranged in my interview with the Spanish minister of foreign affairs on Saturday last, September 18, I have to-day addressed him an official note setting forth the desires and wishes of the United States in regard to the Cuban question. I inclose herewith copy of same for your information.

I have the honor, etc., STEWART L. WOODFORD.

[Inclosure.]

Note of United States to Spain, September 23, 1897.

LEGATION OF THE UNITED STATES,
San Sebastian, Spain, September 23, 1897.

YOUR EXCELLENCY: On Saturday, September 18 instant, you did me the honor to receive me in our first official interview after my presentation to Her Majesty the Queen on Monday, September 13. Upon

your very courteous intimation that you would be pleased to listen to whatever communication I might have for the Spanish Government, I replied to your excellency that the relations between your Government and mine were such that true friendship required us to speak to each other with entire frankness. I beg to reiterate the purposes of friendship and good will with which that interview began. The President most earnestly desires peace and friendship between Spain and the United States. I can not impress this fact upon your thought too strongly. If in anything I may write in this communication or hereafter I shall seem earnest and positive, it is only because I believe that we shall most certainly maintain and strengthen the ancient peace and friendship between our two Governments if there shall be no possible misunderstanding by Spain of what the United States desires and seeks. Therefore and at the beginning of our negotiations I wish to impress upon your excellency this primary and essential fact: The United States wish peace and friendship with Spain.

After I had read to your excellency certain parts of instructions which I had received from my Government before departing from Washington to come to my post, you did me the honor to ask me if I would furnish you with a copy of so much of the dispatch as I had read, or, should I not feel at liberty to do this, if I would address you in writing stating the substance of what I had read and communicating to the Spanish Government the desires and wishes of the United States. I had the honor to reply to you that I would address you in writing on Thursday, the 23d of September, and your excellency very courteously assured me that such communication would be laid before the council of ministers as soon as the same could be conveniently done after the return of Her Majesty's court to Madrid. It thus becomes my duty, under the instructions of my Government and pursuant to your very considerate suggestion, to invite the attention of the Spanish Government to the following statements:

During thirteen years of the past twenty-nine years the island of Cuba has been unfortunately the scene of grave disorder and sanguinary conflict. On two distinct occasions the power and authority of the Spanish Crown have been arrayed against a serious and persistent effort of a large proportion of the population of the island to achieve independence. The insurrection which began at Yara in October, 1868, lasted for ten years, and ended not so much because of the physical repression of the revolt by force of arms as by reason of the exhaustion of the combatants and the conclusion of a truce based upon the concession by the Spanish Government to the Cubans of certain measures of autonomous reform in 1877 and 1878. The peace thus brought about proved unstable, and, after some sixteen years of more or less unsatisfactory continuance, was broken by a renewed manifestation of the deeply rooted aspirations of the native Cuban elements toward more complete enjoyment of local self-government. Beginning in February, 1895, in an uprising which, like the previous insurrection of Yara, was local and unorganized, the movement spread rapidly until, on the 27th of that month, the superior authority of the island deemed it necessary to issue a proclamation declaring the rich and populous districts about Matanzas and Santiago de Cuba in a "state of siege."

Thereafter, notwithstanding the extensive military operations undertaken to crush the revolt, and despite the unprecedented exertions put forth by Spain and the armies and treasure poured into the disturbed

territory, the conflict extended over the greater part of the island and invaded the western provinces, which the insurrection of Yara had failed to arouse. For more than two years a wholly unexampled struggle has raged in Cuba between the discontented native population and the mother power. Not only has its attendant ruin spread over a larger area than in any previous contest, but its effects have been more widely felt and the cost of life and treasure has been far greater. The strife continues on a footing of mutual destruction and devastation. Day by day the conviction gathers strength that it is visionary for Spain to hope that Cuba, even if eventually subjugated by sheer exhaustion, can ever bear to Spain anything like the relations which she once bore. The policy which obviously attempts to make Cuba worthless to the Cubans, should they prevail, must inevitably make the island equally worthless to Spain in the event of reconquest, whether Cuba be regained as a subject possession or endowed with a reasonable measure of self-administration.

The recuperative processes, always painfully slow in an exhausted community, would necessarily be doubly remote in either of the latter contingencies, for, in the light of the events of the past twenty-nine years, capital and industry would shrink from again engaging in costly enterprises in a field where neither proximate return nor permanent security is to be expected. To fix the truth of this assertion one need only regard the fate of the extraordinary efforts to rehabilitate the fortunes of Cuba that followed the truce of 1878. The capital and intelligence contributed by citizens of the United States and other countries which at that time poured into Cuba, seeking to endow the island with the marvelous resources of modern invention and advanced industrial processes, have now become submerged in the common ruin. The commerce of Cuba has dwindled to such unprofitable proportions that its ability for self-support is questionable, even if peace were restored to-day.

Weighing all these facts carefully and without prejudice, in the judgment of the President the time has come for the Government of the United States to soberly consider and clearly decide the nature and methods of its duty both to its neighbors and itself. It is ceaselessly confronted with questions affecting the inherent and treaty rights of its citizens in Cuba. It beholds the island suffering an almost complete paralysis of many of its most necessary commercial functions by reason of the impediments imposed and the ruinous injuries wrought by this internecine warfare at its very doors. And above all, it is naturally and rightfully apprehensive lest some untoward incident may abruptly supervene to inflame mutual passions beyond control, and thus raise issues which, however deplorable, it might not be possible to avoid.

In the true interest of peace and friendship the Government of the United States believes that a policy of mere inaction can not be safely prolonged.

The President of the United States considers it to be his serious and friendly duty to inform the Government of Spain that there is no longer question that the sentiment of the American people strongly demands that if the attitude of neutrality is to be maintained by the United States toward these combatants in Cuba, it must be a genuine neutrality as between combatants fully recognized as such in fact as well as in name. The problem of recognition of belligerency has been

often presented to the decision of the Government of the United States, but never, perhaps, more explicitly than now. Both Houses of the American Congress, nearly a year ago, adopted by an almost unanimous vote a concurrent resolution recognizing belligerency in Cuba, and latterly the Senate of the United States, by a large majority, has voted a joint resolution of like purport, which is now pending in the House of Representatives. The American Congress has now adjourned, but will meet again early in the approaching December.

At this juncture the President instructs me, in most courteous form and with most friendly purpose, to inquire of the Spanish Government whether the time has not arrived when Spain, of her own volition, moved by her own interests and by every paramount sentiment of humanity, will put a stop to this destructive war and make proposals of settlement honorable to herself and just to her Cuban colony and to mankind.

The extraordinary, because direct and not merely theoretical or sentimental, interest of the United States in the Cuban situation can not be ignored. Not only are our citizens largely concerned in the ownership of property and in the industrial and commercial ventures which have been set on foot in Cuba through their enterprising initiative and sustained by their capital, but the chronic condition of trouble and violent derangement in that island constantly causes disturbance in the social and political condition of our own people. It keeps up continuous irritation within our borders, injuriously affects the normal functions of business, and tends to unsettle the condition of prosperity to which the United States is entitled.

No exception can be taken to the general proposition that a neighboring nation, however deeply disturbed and injured by the existence of a devastating internal conflict at its doors, may be constrained on grounds of international comity to disregard its endangered interests and remain a passive spectator of the contest for a reasonable time while the titular authority is repressing the disorder. The essence of this moral obligation lies in the reasonableness of the delay invited by circumstances and by the effort of the territorial authority to assert its claimed rights. The onlooking nation need only wait a "reasonable time" before alleging and acting upon the rights which it, too, possesses.

The question arises, then, whether Spain has not already had a reasonable time to restore peace and been unable to do so, even by tremendous concentration and expenditure of her resources and by the employment of measures of unusual severity. The methods which Spain has adopted to wage the fight give no prospect of immediate peace or of a stable return to the conditions of prosperity which are essential to Cuba in its intercourse with its neighbors. Spain's inability entails upon the United States a degree of injury and suffering which can not longer be ignored.

Assuredly Spain can not expect the Government of the United States to sit idle letting vast interests suffer, our political elements be disturbed, and the country be perpetually embroiled, while no apparent progress is being made in the settlement of the Cuban problem. Such a policy of inaction by the United States would in reality prove of no benefit to Spain while certain to do the United States incalculable harm.

For all the reasons before stated, the President feels it his duty to make the strongest possible effort to help bring about results of peace

and prosperity which shall be in conformity alike with the feelings of the American people, the inherent rights of civilized man, and be of advantage both to Cuba and to Spain.

It should be borne in mind from the start that it is far removed from the feelings of the American people and the mind of the President to propose or suggest any solution to which the slightest idea of humiliation to Spain could in any way be attached. The President most earnestly trusts that no possible intention or occasion to wound the just sensibilities of the Castilian nation can be discerned in the altogether friendly suggestion that the good offices of the United States may now be lent to the advantage of Spain.

In obedience to the instructions of my Government, I now bring these considerations to the attention of the Government of Her Majesty the Queen Regent.

I sincerely trust that Her Majesty's Government will appreciate the constantly imperiled national interests of the United States, and will believe that it is only after the most patient waiting and with the sincerest friendliness that these suggestions are made.

I trust that Her Majesty's Government will also appreciate the self-restraint which the Government of the United States has hitherto observed until endurance has ceased to be possible for any longer indefinite term.

I trust that Her Majesty's Government will believe in the unselfish friendliness of the desires of the United States, and in the high purpose and sincere wish of the United States to give its aid only in order that a peaceful and enduring result may be reached, just and honorable alike to Spain and to the Cuban people, and only so far as such aid may accomplish the wished-for ends. I can not disguise the gravity of the situation nor conceal the conviction of the President that should his present effort be fruitless his duty to his countrymen will necessitate an early decision as to the course of action which the time and the transcendent emergency may demand.

As to the manner in which the assistance of the United States can be effectively rendered in the Cuban situation, the President has no desire to embarrass the Government of Spain by formulating precise proposals. All that is asked or expected is that some safe way may be provided for action which the United States may undertake with justice and self-respect and that the settlement shall be a lasting one, honorable and advantageous to Spain and to Cuba and equitable to the United States.

For the accomplishment of this end, now and in the future, the Government of the United States hereby offers its most kindly offices.

Allow me to assure your Excellency that, in suggesting as early an answer to this tender of good offices as the gravity of the question may permit, nothing is further from the thought of the President or from the purpose of the Government of the United States than the possibility of embarrassing the Spanish Government.

But it is sincerely hoped that during the coming month of October the Government of Spain may either be able to formulate some proposal under which this tender of good offices may become effective or may give satisfactory assurances that peace in Cuba will, by the efforts of Spain, be promptly secured.

Permit me to close this note as I began, with the most sincere and respectful suggestion that peace in Cuba is necessary to the welfare

of the people of the United States, and that the only desire of my Government is for peace and that sure prosperity which can only come with peace.

I avail myself of this opportunity to renew to your Excellency the assurance of my most distinguished consideration.

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 37.] LEGATION OF THE UNITED STATES,
Madrid, October 2, 1897.

SIR: On Wednesday evening, September 29, ultimo, the Spanish ministry tendered their resignations to the Queen Regent.

I withhold comment until a new ministry shall have been announced.

* * * * * * *

I have, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

MADRID, SPAIN, *Monday, October 4, 1897.*

SIR: On Thursday afternoon, September 30, Mr. Schevitch, the Russian ambassador, called, and we had a very friendly interview, lasting about two hours and a half.

He courteously opened the conversation by most kind reference to the long and strong friendship between Russia and the United States. He then referred to the many and contradictory reports published in the Spanish, English, and continental press with regard to my mission, and asked me if I was willing to tell him, for transmission to his Government, what is the general purpose of the United States in regard to Spain and the Cuban question.

I replied that I should be glad to have full, open, and direct conversation with him; that the United States appreciated the faithful friendship of the Russian Government; that we sought only to preserve the general peace, and that he was at entire liberty to report to his Government all that I should say.

I began by impressing upon him clearly and strongly that the United States does not seek to annex Cuba or to establish a protectorate over Cuba, but only and sincerely desires that Spain shall promptly end the war in some manner that shall be honorable and just to Spain and yet secure to Cuba permanent peace, with the prosperity that should come with peace.

I then discussed with him the question of health.

I tried to explain that yellow fever is not epidemic in the United States; that it almost always originates in Central America or in the West Indian Islands; that nearly every epidemic of yellow fever in the United States has originated at some point in Cuba, from which the disease has spread to our coast. I told him of the bad sanitary condition of Cuba and explained the peculiar formation of the harbor of Habana, which is never thoroughly cleaned out by the tides, thus

threatening great danger even in peace; that in war, and with the present neglect of sanitary precautions at Habana and throughout Cuba, the danger is increased many times.

I next spoke about the sugar question.

I explained to him that the people of the United States have been largely dependent upon Cuba for our necessary supplies of sugar; that our native sugar crop, raised mostly in Louisana and Texas, does not furnish more than one-tenth of the sugar we consume; that we are dependent upon other countries for nearly nine-tenths of the sugar we use; and that until the Cuban rebellion we obtained very much of our sugar from Cuba; in a word, that the sugar plantations of Cuba are as necessary to the food supply of the United States as the wheat fields of Russia and the United States are necessary to the rest of the world.

I next spoke of the financial losses suffered by American citizens because of the continuance of this war.

I mentioned that under our treaty rights with Spain, American citizens had invested large amounts of money in the sugar and tobacco plantations; in the iron mines and railways; and in waterworks, gas works, and electric plants in Cuba; that large loans had been made by our bankers and citizens on such securities; that for three years these plantations, mines, railways, and other properties have been useless; that they are being destroyed alike by the Spanish authorities and by the insurgents; that all such investments and the security for such loans are thus greatly impaired and even rendered valueless, and that they are not only unproductive, but in great danger of being completely destroyed.

Then I called his attention to the injuries inflicted upon our commerce.

As we no longer receive from Cuba the sugar and tobacco which we received in time of peace, we are no longer able to find markets in Cuba for our wheat, corn, meat, and the various manufactured articles with which we have hitherto supplied a large proportion of the wants of Cuba. I pressed on his thought that our great commerce with Cuba has thus been practically destroyed.

I next spoke of certain political conditions.

I told him that many of the young men and young women of Cuba are educated each year in the schools and colleges of the United States; that for fifty years the young people of Cuba had been so educated and were naturally imbued with the influence of American social and political life; that Cuba was less than 100 miles from the United States and nearly 3,000 miles distant from Spain; that thus the Cuban population was naturally and inevitably influenced by our systems of education, by our political example, and by this physical and inchangeable fact of geographical proximity.

I next pointed out that during the previous ten years of war, from 1868 to 1878, and during the present three years of war, the United States Government has sought faithfully to observe all the obligations of neutrality; has been at great care and expense to police a coast line of nearly 3,000 miles, and that this effort has naturally involved constant danger of irritation and possible violence. I suggested to him that while constant attention has been drawn to alleged filibustering expeditions from the United States, it was quite possible and even probable that under the cover of continually charging that such expe-

ditions were being prepared in the United States, the insurgents were in fact receiving their supplies from other and equally convenient points on the Gulf of Mexico and in other West Indian Islands about which nothing was publicly said.

I also suggested that we had not yet acknowledged a condition of belligerency, although Spain had done this very early in our civil war and although during the entire continuance of our civil war Habana had been a great supply station where blockade runners had gathered and from which enormous supplies of munitions of war and food and clothing had been openly shipped to ports in our own insurgent States. I called his attention to the patient forbearance shown and practiced by the United States during all that time.

I then returned to the question of pecuniary losses inflicted upon our people by the war. I told him that our citizens resident in Cuba had suffered not only in property but in person, and that the Spanish Government appeared to be utterly unable to give to American citizens in Cuba that protection to person and property to which we are entitled alike under our treaties with Spain and under the law of nations. I told him that these injuries and losses amounted to very large sums, but that as yet, since my arrival in Spain, I have not sought to press reclamations for such injuries and losses, but that I am trying to postpone such matters as long as I can justly do so in the hope of being able to secure the larger results of permanent peace.

Next I told him, although not with great detail, of the unusual manner in which the present struggle in Cuba is being conducted. I told him of the reconcentrado camps, with their inevitable conditions of disease, immorality, and death.

Then I spoke of the evident inability of Spain to end this struggle within any reasonable time. I told him that the entire population of Cuba is only from 1,500,000 inhabitants to 1,800,000; that Spain claims to have sent more than 200,000 soldiers to Cuba within the last three years; that this was one soldier to each nine persons of the entire population; that in addition thereto Spain claims she has large bodies of Cuban volunteers and recruits in her military service amounting to between 50,000 and 70,000 men; and after three years of such efforts the insurrection is still powerful and progressive. I sopke of the number of the Spanish army who had been killed or disabled by wounds and sickness; of the numbers who had died in hospital and in the field; and I found he was as well informed on these points as myself, possibly better.

I spoke of the great expense to Spain in money as well as in men of conducting such war at so great a distance from Spain. I told him that the numbers of men sent and the amounts of money lavished by Spain in her efforts to crush the rebellion impressed me greatly with the executive ability shown by the Spanish war office in transporting so many troops so safely and so far and with the patriotic purpose of the Spanish people to do all in their power to keep Cuba under their flag. I added that if such expenditure of men and money had thus far produced no visible results it seemed to me demonstration that Spain could not crush the rebellion; that possibly under the system pursued by Spain the island might be ultimately devastated, but that it could not be subdued; that even if the rebellion were ended now, Cuba must for a long time be of no value to anybody; that if the rebellion continues, the island must become a practical desert, but that to make a desert is not to secure peace.

I summed the situation up by saying to the ambassador that the purpose of my Government is to help Spain secure peace; that to this end I had tendered the good offices of our Government.

The ambassador then asked me what steps I had taken, and I replied that on September 18 I had full, frank, and friendly conversation with the Spanish minister of state; that in accordance with an understanding then reached between the Spanish minister and myself I addressed on Thursday, September 23, an official note to the Spanish minister of state setting forth the purposes and wishes of my Government, with the courteous expression of the most friendly wish that it might suit the convenience of the Spanish Government during the coming month of October to formulate some proposal under which the tender of good offices by the United States might become effective or give some satisfactory assurance that peace in Cuba can, by the efforts of Spain, be secured at an early day.

The ambassador asked me if my Government would be willing that he should have a copy of such note. I at once replied that when it was sent to the Duke of Tetuan I had furnished a second copy with written permission to the Spanish Government to make the note public whenever his excellency the Spanish minister of state might desire to do so, and that while my Government reserved the right to make the text of the note public whenever it should consider such course necessary for the safeguarding of its own interests and for the preservation of the general tranquillity, I must, at least for the present, refer him to the Spanish foreign office for such information as it may be disposed to give.

I have shown the draft of this report to the Russian ambassador, so that he may know just what I report to you, and to aid him in his report to his own Government.

I am, etc., STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

MADRID, SPAIN, *Tuesday, October 5, 1897.*

SIR: On Sunday afternoon, October 3, Herr von Radowitz, the German ambassador, called and we had a cordial and full interview, lasting about one hour. He asked me if I was willing to tell him for transmission to his Government what is the general purpose of the United States in regard to Spain and the Cuban question. I replied that I should be glad to have full, open, and direct conversation with him; that we sought only to preserve the general peace, and that he was at entire liberty to report to his Government all that I should say.

I began by impressing upon him clearly and strongly that the United States does not seek to annex Cuba or to establish a protectorate over Cuba, but only and sincerely desires that Spain shall promptly end the war in Cuba in some way that shall be honorable and just to Spain and yet secure to Cuba permanent peace with the prosperity that should come with peace.

I then spoke of the question of the public health.

I explained that yellow fever is not endemic in the United States; that it almost always originates in Central America or in the West Indian islands; that nearly every epidemic of yellow fever in the

United States has originated at some point in Cuba, from which the disease has spread to our coast. I told him of the bad sanitary conditions of Cuba and explained the peculiar formation of the harbor of Habana, which is never thoroughly cleaned out by the tides, thus threatening great danger even in peace, and that in war, with the present neglect of sanitary precautions at Habana and throughout Cuba, the danger is increased many times.

I next spoke about sugar.

I explained to him that the people of the United States have been largely dependent upon Cuba for our necessary supplies of cane sugar; that our native cane-sugar crop, raised mostly in Louisiana and Texas, does not furnish more than one-tenth of the sugar we consume; that we are dependent upon other countries for nearly nine-tenths of the sugar we use, and that until the Cuban rebellion we obtained very much of our cane sugar from Cuba—in a word, that the sugar plantations of Cuba are as necessary to the food supply of the United States as are the cotton fields of India and the cotton and wheat fields of Egypt and the grain fields of Russia to England and to other countries.

I then spoke of the financial losses suffered by American citizens because of the continuance of the war in Cuba.

I mentioned that under our treaty rights with Spain American citizens had invested large amounts of money in the sugar and tobacco plantations and in the iron mines and railways of Cuba, and in waterworks, gas works, and electric plants in Cuba; that large loans had been made by our bankers and citizens on such securities; that for three years these plantations, mines, railways, and other properties have been useless; that they are being destroyed alike by the insurgents and by the Spanish authorities; that all such investments and the security for such loans are thus greatly impaired and even rendered valueless, and that they are not only unproductive but in great danger of being completely destroyed.

Then I called his attention to the injuries inflicted upon our commerce.

As we no longer receive from Cuba the sugar and tobacco which we received in time of peace, we are no longer able to find markets in Cuba for our wheat, corn, meat, and the various manufactured articles with which we have hitherto supplied a large proportion of the wants of Cuba. I pressed on his thought not only that our great commerce with Cuba has thus been practically destroyed, but that Cuba is being so devastated that, although she is one of the richest and most fertile parts of the world, she is of no value to the commerce of the world.

I next spoke of certain political conditions.

I told him that many of the young men and young women of Cuba are educated each year in the schools and colleges of the United States; that for fifty years the young people of Cuba have been so educated, and are naturally imbued with the influences of American social and political life; that Cuba is less than 100 miles from the United States, while it is nearly 3,000 miles distant from Spain; that thus the native Cubans are naturally and inevitably influenced by our system of education, by our political example, and by this physical and unchangeable fact of geographical proximity.

I next pointed out that during the previous ten years of war, from 1868 to 1878, and during the present three years of war, the United States Government has sought faithfully to observe all the obligations

of neutrality; has been at great care and expense to police a coast line of nearly 3,000 miles, and that this effort has naturally involved constant danger of irritation and possible violence. I suggested to him that, while constant attention has been drawn to alleged filibustering expeditions from the United States, it is quite possible, and even probable, that, under the cover of continually charging that such expeditions are being prepared in the United States, the insurgents are in fact receiving their supplies from other and equally convenient points on the Gulf of Mexico and in other West Indian islands about which nothing is publicly said.

I also suggested that we had not yet acknowledged a condition of belligerency, although Spain had done this very early in our own civil war, and although during the entire continuance of our civil war Habana had been a great supply station where blockade runners had gathered and from which enormous supplies of munitions of war and food and clothing had been openly shipped to ports in our own insurgent States. I called his attention to the patient forbearance shown and practiced by the United States during all that time.

I then returned to the question of pecuniary losses inflicted upon our people by the war. I told him that our citizens resident in Cuba had suffered not only in property but in person, and that the Spanish Government appeared to be utterly unable to give to American citizens in Cuba that protection to person and property to which we are entitled alike under treaties with Spain and under the law of nations. I told him that these injuries and losses amounted to very large sums, but that as yet, since my arrival in Spain, I have not sought to press reclamations for such injuries and losses, but that I am trying to postpone such matters as long as I can justly do so in the hope of being able to secure the larger results of permanent peace.

Next I told him, although not with great detail, of the unusual manner in which the present struggle in Cuba is being conducted. I told him of the "reconcentrado" camps, with their inevitable conditions of disease, immorality, and death.

Then I spoke of the evident inability of Spain to end this struggle within any reasonable time. I told him that the entire population of Cuba is only from 1,500,000 inhabitants to 1,800,000; that Spain claims to have sent more than 200,000 soldiers to Cuba within the last three years; that this was 1 soldier to each 9 persons of the entire Cuban population; that in addition thereto Spain claims that she has large bodies of Cuban volunteers and recruits in her military service amounting to between 50,000 and 70,000 men, and that after three years of such efforts the insurrection is still powerful and progressive. I spoke of the number of the Spanish army who had been killed or disabled by wounds and sickness; of the numbers who had died in hospitals and in the field; and I found him as well informed on these points as myself, possibly even better.

I spoke of the great expense to Spain in money and in men of conducting such a war at so great a distance from Spain. I told him that the numbers of men sent and the amounts of money lavished by Spain in her effort to crush the rebellion impressed me greatly with the executive ability shown by the Spanish war office in transporting so many troops so safely and so far and with the patriotic purpose of the Spanish people to do all in their power to retain control of Cuba. I

added that if such expenditure of men and money had thus far produced no visible results it seemed to me demonstration that Spain could not crush the rebellion; that possibly under the system pursued by Spain the island might be ultimately devastated, but that it could not be subdued; that even if the rebellion were ended now Cuba must for a long time be of no value to anybody; that if the rebellion continues the island must become a practical desert, but that to make a desert is not to secure peace.

I summed the situation up by saying to the ambassador that the purpose of my Government is to help Spain secure peace, and that to this end I have tendered the good offices of our Government.

The ambassador naturally asked me if I was willing to tell him what steps I had taken, and I promptly replied that on September 18 I had full, frank, and friendly conversation with the Spanish minister of state; that in accordance with an understanding then reached between the Spanish minister and myself, I addressed, on Thursday, September 23, an official note to the Spanish minister of state, setting forth the purposes and wishes of my Government, with courteous expression of the most friendly desire that it might suit the convenience of the Spanish Government during the current month of October to formulate some proposal under which the tender of good offices by the United States might become effective or give some satisfactory assurance that peace in Cuba can, by the efforts of Spain, be secured at an early day.

The ambassador asked me if I felt at liberty to give him a copy of such note. I at once replied that when it was sent to the Duke de Tetuan, I had furnished the Duke with a second copy and with written permission to him to make the note public whenever his excellency might see fit to do so, and that, while my Government reserved the right to make the text of the note public whenever it should consider such course necessary for the safeguarding of its interests and for the preservation of the general tranquillity, I must, at least for the present, refer him to the Spanish foreign office for such information as it may be disposed to give.

I have shown the draft of this report to the German ambassador, so that he may know just what I report to you and to aid him in his report to his own Government.

I am, etc., STEWART L. WOODFORD.

Mr. Sherman to Mr. Woodford.

No. 43.] DEPARTMENT OF STATE,
Washington, October 5, 1897.

SIR: Your dispatch of the 20th ultimo is at hand acknowledging telegram received by you signed "Day," as stated, and confirming your telegram of 19th instant. Your interview with the Duke of Tetuan is noted with interest. In view of the reported change of ministry in Spain, I presume we may expect the answer to the tender of the good offices on the part of the United States, as authorized by your instruction of July 16, will be somewhat delayed. I have just received your cable of the 4th instant announcing the formation of a new ministry. The President hopes you will take an early opportunity to communicate the condition of affairs in Spain and the probable attitude of the new ministry compared with that of the preceding one.

As to the claim on the part of the Duke of Tetuan, that this country has been negligent in restraining material aid and assistance to the insurgents, you are well aware of the great difficulty experienced in policing so extensive a coast as we have, and, as so clearly and ably stated by you to the duke, our Government has used every legitimate means to preserve our international obligations to Spain and to prevent unlawful expeditions against her sovereignty.

The President awaits full and early information of the situation, which will no doubt be acted upon by the new ministry.

Very respectfully,

JOHN SHERMAN.

Mr. Woodford to Mr. Sherman.

No. 39.] LEGATION OF THE UNITED STATES,
Madrid, October 6, 1897.

SIR: On Monday, October 4th, instant, I telegraphed you as follows:

SECRETARY SHERMAN, *Washington:*

New ministry formed. Sagasta, president; Gullon, minister of state; Moret, minister of colonies.

WOODFORD.

I hope that the new ministry will act in the interest of peace.

I withhold further comment until I understand the situation better.

Yesterday afternoon, October 5, I called on Señor Sagasta, president of the council. Our interview was very cordial, but nothing was said about pending negotiations beyond the mutual expression of sincere desire that peace might be kept and friendship strengthened between Spain and the United States.

I have, etc., STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

LEGATION OF THE UNITED STATES,
Madrid, Spain, October 11, 1897.

SIR: The French ambassador, the Marquis de Reversezux, has returned to Madrid and I have this afternoon had an exceedingly cordial interview with him.

The Cuban question came up and he said that Mr. Schevitch, the Russian ambassador, had told him of our interview of September 30 (reported in my "confidential" dispatch of October 4), and that he understood our position and would not trouble me to repeat the wishes of our Government. But he suggested that he would be glad to know, if I felt at liberty to state it, what step the United States proposed next to take.

I replied that as we sought neither annexation nor a protectorate, but only peace, I could say nothing about any future action until I should know and study the reply to be made by the Spanish Government.

I spoke briefly, temperately, but strongly on the necessity of peace, and suggested that if Cuba lay within 100 miles of the French coast and like conditions existed, France would be compelled to insist upon peace and such local government in the island as would protect the just and natural interests of France.

I added that I thought the patience and consideration shown by the United States toward Spain deserved the approval of the world.

Respectfully, yours,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 47.] LEGATION OF THE UNITED STATES,
Madrid, October 16, 1897.

SIR: I beg to acknowledge receipt this day of your dispatch No. 43.

In reply to your suggestion that owing to the change of ministry in Spain the answer to the tender of good offices on the part of the United States may be somewhat delayed, I think the Spanish Government will answer before the 1st of November proximo.

In further reply to your request that I take early opportunity to communicate the condition of affairs in Spain and the probable attitude of the new ministry, compared with that of the preceding one, I can only say that I believe the present Sagasta ministry is to-day somewhat in doubt as to just how it will reply to our note, and is seeking to sound public opinion in Spain and in Europe. I do not expect that Spain will accept our tender of good offices. My best judgment is that the note, when received, will prove to be a general offer of somewhat indefinite autonomy, with a general expression of hope on the part of Spain that the rebellion in Cuba will be practically ended at an early day. I do not think any date will be fixed. I doubt whether the Spanish official mind comprehends real autonomy as Englishmen and Americans would understand autonomy. I doubt whether Spain could give in theory or enforce in fact such autonomy as Canada has. You are in closer touch with Cuba than I am, and can better judge whether Cubans will be satisfied with such autonomy as they will probably get.

The best judgment I can form to-day is, after all, but speculation. The tenor of the Spanish reply is likely to be changed at the last moment, and until it is delivered I prefer not to express very positive convictions as to its probable contents.

I thank you for your generous and cordial approval of what I said to the Duke de Tetuan about the fidelity of our Government in observing our international obligations to Spain. I shall not admit, directly or indirectly, in any manner or for any purpose, that my Government has been at all derelict. Indeed, I believe that under very difficult conditions we have done our duty so faithfully that Spain owes us gratitude and not criticism for faithful observance of our neutrality duties.

I will try to keep you advised fully as to the situation, but I prefer to report facts rather than speculative theories.

I have, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 50.] LEGATION OF THE UNITED STATES,
Madrid, October 26, 1897.

SIR: Yesterday afternoon, October 25, I received the reply of the Spanish Government to my note dated and delivered to the Duke de

Tetuan, then minister of foreign affairs, on September 23 ultimo. This reply is dated October 23d, instant.

I am having this reply carefully translated, and hope to be able to telegraph a summary of its contents to you this evening.

Meanwhile, for the convenience of the Department, I inclose herewith two copies, typewritten, of the Spanish text of this note. I withhold comments until I can study carefully the completed translation.

I have, etc.,

STEWART L. WOODFORD.

[Inclosure.]

Reply of the Duke of Tetuan to Mr. Woodford's note of September 23, 1897.

[Translation.]

MINISTRY OF STATE,
Palace, October 23, 1897.

EXCELLENCY: My worthy predecessor, the Duke of Tetuan, had the honor to receive, in regular course, the courteous and studied note which your excellency was pleased to address to him on the 23d of September last; but the Government, which has but now obtained the confidence of the Crown, being obliged to devote its initial labors to measures of internal concern which are demanded by every political change, took a genuine and thoughtful interest in having its first acts and its conduct clearly demonstrate that it was adopting with sincerity a new course, and a minute study of the matters in order to acquire an exact knowledge of them all being necessary, has perhaps delayed more than it would have wished the reply to the aforesaid note. Our desire to proceed with loyalty and frankness in our relations with the Government which your excellency so worthily represents at this court, and the obligation to respond to the sentiments which your excellency is pleased to express, require that this preliminary explanation be made, to the end of removing any imputation of doubts and vacillations on the part of one who, by reason of having attained to power with a defined programme, considers his honor engaged to its immediate realization without casuistic distinctions or unnecessary delays.

Gratifying and pleasing have been at all times for the Government of His Majesty the expressions of good feeling put forth by that of the United States, and the assurances that it proposes to maintain with that of Spain the peace and friendship which have traditionally united the two nations; but still greater satisfaction is caused to the mind of this Government by the marked insistence wherewith your excellency declares in your aforesaid note of the 23d of September that it is the most earnest desire of the President of the United States that this friendship be conserved and increased upon foundations of concord and reciprocal confidence.

So positive and so reiterated an asseveration not only would extenuate in the present case a warmth of style which fortunately does not exist in the note to which I am replying, but would serve to explain whatever omissions or confusion of ideas might arise from the elevated aim of speedily attaining ends which are deemed to be humanitarian, or

from the natural and ardent defense of obligations and interests which are regarded as sacred.

These circumstances enable us to discern in the note of the 23d of September an earnest desire for the termination of the Cuban insurrection, and they remove from the words in which this laudable wish is expressed whatever minatory character might be attached to them upon the first impression by anyone who did not dwell upon and attach due weight to those words, in view of the cordial and eloquent declarations with which the note begins and ends. These declarations, moreover, allow the Spanish Government, persuaded of the good faith and importance thereof, to respond with the same frankness to all the statements of the note without its declarations being restricted by the consciousness and conviction of rights which no one disputes, or by the apprehension lest historical and established facts, or fundamental principles which have always been maintained, and which are likewise still undisputed, might be thereby obscured.

Starting from these acceptable premises, the present Government of His Majesty sees no obstacle to examining the measures most conducive to bringing about the termination of a struggle which, while it is more painful and costly to Spain than to any other state, also concerns and in indirect ways injures the American nation, both by reason of having so close at hand the calamities inseparable from every civil war and because of the losses necessarily caused to its commerce, to its industries, and to the property of its citizens by a contest of this character, if it should be maintained for an indefinite time and with its past characteristics; for, in view of the manifold associations and various ties of modern peoples, it is hardly possible to conceive that lasting disturbance can exist in one of them without affecting the neighboring nations and justifying all of these in cherishing the desire for peace and proffering friendly councils, but never interference or intrusion.

The present Government of His Majesty is now most advantageously situated for investigating the points referred to and for securing the pacification of Cuba on the proper basis, since its own character, the antecedents of those who compose it, and the public and solemn promises which in the past and of its own sole initiative it has made to the representatives of the country involve, in the colonial policy of Spain and in the manner of conducting the war, a total change of immense scope, which must exercise considerable influence upon the moral and material situation of the Greater Antilla.

The Government of His Majesty, by reason of its firmly rooted convictions, in order to subserve the peninsular interests equally with those of the Antillas, and holding the resolute purpose to draw closer with ties of true affection the indissoluble bonds which unite the mother country with its cherished provinces beyond the seas, is determined to put into immediate practice the political system which the present president of the council of ministers announced to the nation in his manifesto of the 24th of June of this year. The acts accomplished by the present Government, notwithstanding the short time which has elapsed since its elevation to power, are a secure guaranty that not for anyone nor for anything will it halt in the path which it has traced, and which, in its best judgment, is that which will bring us to the longed-for peace.

To military operations, uninterrupted for a single day and as energetic and active as circumstances demand, but ever humanitarian and

careful to respect all private rights as far as may be possible, must be joined political action honestly leading to the autonomy of the colony in such a manner that upon the full guaranty of the immutable Spanish sovereignty shall arise the new personality which is to govern itself in all affairs peculiar to itself by means of an executive organization and the insular council or chamber. This programme, which constitutes true self-government, will give to the Cubans their own local government, whereby they shall be at one and the same time the initiators and regulators of their own life, but always forming part of the integral nationality of Spain. In this way the island of Cuba will form a personality with its own peculiar functions and powers (atribuciones) and the mother country, moving in the sphere of action which is exclusively its own, will take charge of those matters—such as foreign relations, the army, the navy, and the administration of justice—which involve national requirements or needs.

In order to realize this plan, which it advocates as a solemn political engagement voluntarily assumed while its members were in opposition, the Government of His Majesty proposes to modify existing legislation so far as necessary, doing so in the form of decrees to admit of its more speedy application, and leaving for the Cortes of the Kingdom, with the cooperation of the senators and deputies of the Antillas, the solution of the economical problem and a patriotic and fair apportionment of the payment of the debt.

Thus broadly outlined, your Excellency, these are the measures, honorable to the Peninsula and just to Cuba, which the Government of Spain of its own volition and actuated only by patriotic aims and elevated humanitarian feelings proposes to make use of henceforth in order to put an end to the Cuban insurrection, assembling beneath the Spanish standard all the prominent men of the country, without distinction of origin or conduct, in order to oppose them to those professional agitators by nature and habit, who subsist only by strife and have no other object than rapine, destruction, and disorder. Military severity toward these destructive men will within a brief time prove the more advantageous and effective, since in the task to be performed by it will cooperate, of their own impulse, all those islanders who henceforth, feeling that they are the masters of their destinies, will find it to their own interest and advantage to put an end to ruinous and already unendurable excesses.

The formula for so auspicious a change will be henceforth peace, with liberty and local self-government, while the mother country will not fail to lend at the proper time the moral and material means in aid of the Antillean provinces, but will cooperate, on the contrary, toward the reestablishment of property, developing the inexhaustible sources of wealth in the island, and devoting itself especially to the promotion of public works and material interests, which, when peace shall have been assured, will rapidly increase, as was the case after the last war.

Having thus set forth the conciliatory, humane, and liberal purposes of the Government of His Majesty, in deference to the legitimate and justifiable interest which the Cuban insurrection awakens on the part of the people and Government of the United States, I have now to consider certain of the statements contained in your note of the 23d September last.

Your Excellency is pleased to state therein that the President of the United States feels it his duty to make the strongest possible effort to

contribute effectively toward peace, while giving friendly assurance that there is nothing further from his mind than the occasion or intention of wounding the just susceptibilities of Spain, but your excellency does not set forth the means of which the President might avail himself to attain those ends, neither do you recall the fact that on various occasions the Government of His Majesty has made special mention of several highly important means. It would be desirable to make clear a point of such elementary importance, and to state exactly, first of all, the nature of the proffered aid and the field wherein it would act, and then to decide as to its greater or less efficacy, since only by a previous and perfect knowledge thereof is it possible for both parties to reach a complete agreement.

The Spanish and American Governments agreeing in the same desire to secure immediate peace in Cuba, and both being interested therein, although in different degrees, the Government of His Majesty being interested as a sovereign and the United States in the character of a friend and neighbor, there will doubtless be found suitable bases for a friendly understanding, whereby Spain shall continue to put forth armed efforts, at the same time decreeing the political concessions which she may deem prudent and adequate, while the United States exert within their borders the energy and vigilance necessary to absolutely prevent the procurement of the resources of which from the beginning the Cuban insurrection has availed itself as from an inexhaustible arsenal.

On various occasions the Governments of His Majesty have found themselves obliged to call the attention of the Government of the United States to the manner in which the so-called laws of neutrality are fulfilled in the territory of the Union. Despite the express provisions of those laws and the doctrines maintained by the American Government in the famous Alabama arbitration with regard to the diligence which should be used to avoid whatsoever aggressive act against a friendly nation, it is certain that filibustering expeditions have set forth and unfortunately continue to set forth from the United States, and that, in the sight of all men, there is operating in New York an insurrectionary junta which publicly boasts of organizing and maintaining armed hostility and constant provocation against the Spanish nation.

To effect the disappearance of such a state of things, as is demanded by general international friendship, would be, in the belief of the Government of His Majesty, the most effectual aid in the attainment of peace that the President of the United States could render. It would be sufficient, to make such aid effectual, that he adopt the procedure followed in similar cases by such of his illustrious predecessors as Van Buren, Tyler, Taylor, Fillmore, and Pierce in the years 1838, 1841, 1849, 1851, and 1855, and that while condemning, by means of an energetic proclamation, those violating the Federal laws and aiding the insurrection in Cuba he notify all American citizens doing so that they can not henceforth count upon the diplomatic protection of the Government of Washington, in however grave a situation their wrongful conduct may place them. By thus abandoning to their fate those who infringe the fundamental statutes of the Union and openly conduct illegal filibustering expeditions, and by energetically and constantly restraining those who convert the Federal territory into a field of action for reprehensible filibustering schemes, by exacting, lastly, of all superior and

subordinate officials the strictest fulfillment of their duties in all that relates to the laws of neutrality, the President would do more toward peace than is possible by any other means or procedure whatever.

If, however, it be alleged that the powers of the Executive are limited on this point, we must recall the doctrine advanced by the United States before the arbitral tribunal of Geneva, according to which "no nation may, under pretext of inadequate laws, fail in the fulfillment of its duties of sovereignty toward another sovereign nation." The United States, moreover, possess in their own history the eloquent example they gave to the New World when they deemed it necessary to provide themselves with more energetic laws whereby to furnish new means of preventing the excesses of filibusterism, and in a very short time they brought about the passage by the Congress of such measures as were deemed necessary to that end, as was the case with the act of March 10, 1838, which remained in force for two years.

It follows, then, from what has been stated that in order to prove by acts the warm desire for peace and friendship by which the friendly Government of the United States is actuated it is very important that it should take all necessary measures, with determination and persistency proportionate to the vast means at its disposal, to prevent the territory of the Union from constituting the center in which the plots for the support of the Cuban insurrection are contrived. He who is not disposed to grant the means does not earnestly desire the end in view; and in this case the end, to wit, peace, will be attained by the United States exerting itself energetically to enforce with friendly zeal the letter and spirit of its neutrality laws.

According to your Excellency's note, the President of the United States wishes His Majesty's Government either to formulate some proposition that will enable him to render his friendly offers effectual or to give assurance that pacification will speedily be secured by the efforts of Spain.

Your Excellency will find in this note a full reply to both alternatives.

His Majesty's Government, with all respect and with the traditional and sincere friendship which it has professed for the gigantic country of North America ever since the beginnings of its independence, suggests to it that either by the publication of a proclamation more energetic than those of Mr. Cleveland, and by which all persons violating the domestic and international laws prohibiting the encouragement of rebellions in friendly countries shall be declared outlaws, or by the severe application of the regulations at present in force, or, lastly, by adding to them if they are not adequate, it shall completely cut off the support which the Cuban insurrection is receiving from the United States, and by showing itself the firm and sincere friend of Spain shall annihilate the vain hopes of those who are trusting to possible conflicts between two nations which, from their history and mutual advantage, ought to live and wish to live in close and warm friendship.

Spain has always had the desire and the capacity to maintain friendly relations with the United States, even in those times of such critical importance to the Union when the United States was compelled to appeal to arms to preserve the Federal bond. It was only after the Northern States had declared the blockade of the coasts of the South, and when England, France, and Holland, preeminently maritime and colonial nations, had decided to recognize the belligerency of the Confederates, that Spain determined to declare a neutrality which was

sincerely friendly to the United States, at the same time that she refused to have any intercourse with the rebels, and rejected the proposals which they made her repeatedly, and, finally, at Cadiz, required the surrender of 42 prisoners whom the privateer *Sumter* had on board, and whom she placed at the disposal of the American consul. There is no wonder that, in view of such conduct, Mr. Perry, the United States representative at Madrid, expressed to the then ministers of state, Señores Calderon Collantes and the Marquis de Miraflores, on various occasions, with delicate persistency, as well as in official conferences and communications, the gratitude of his Government and the satisfaction which it felt at the noble conduct of Spain.

His Majesty's Government, cherishing the same feelings at present, takes pleasure in notifying the United States Government that the pacification of the western provinces of the island has greatly progressed through the valiant efforts of the Spanish arms, and that it is confident of completing it in a short time, thanks to the energetic and unceasing efforts of its troops and the beneficial effect of the new and ample reforms, which are based upon principles of love, of forgiveness of the past, and of pardon to all who seek the protection of the historical banner of their country, and upon the assurance that the island shall henceforth govern itself, and that mutual affection shall draw closer the national tie which unites it to its former discoverer.

The problem being solved on these bases and in this manner, His Majesty's Government has no doubt of its ability to maintain a friendly understanding with the United States Government, and it does not hesitate to assert that when the internal system of the island of Cuba has been reorganized upon new principles the insurrectionary germs which have hitherto, unhappily, undermined it will disappear forever, thereby giving such security offered to domestic and foreign capital seeking advantageous investments in the island as will cause an abundant revival of the former wonderful prosperity to which the incomparable fertility of its soil entitles it.

It is not necessary to refer to the supposition of a continued prolongation of the struggle, nor to that of a change in the attitude of the United States toward the combatants. The first supposition is refuted by the overwhelming eloquence of facts known to everybody, as even the greatest pessimists must admit that the situation at present is very different from what it was when the hosts of Maceo and Maximo Gomez were overrunning the provinces of Havana and Pinar del Rio. The sugar plantations are preparing to plant cane and to grind that which has been saved from the flames. There is likewise every indication of a magnificent tobacco crop, and as soon as the arrival of the illustrious General Blanco shall have restored tranquility to the public mind, all men will be convinced that the work which that leader is about to perform is for good men a work of peace, liberty, autonomy, and clemency, and this conviction will tend to the restoration of peace, the path of which will be smoothed by reason and right.

As to the second supposition, to wit, that of imagining a change of attitude toward the combatants, it would be so ungrounded, so unjust, so unjustifiable, so contrary to the correct procedure of the Washington Cabinet under circumstances when discrimination was much more difficult, that it must be rejected as utterly improbable. Whatever passions may, at a given moment, blind the judgment of a deliberative chamber in countries like the United States, where right and justice

always triumph, the executive power will act as a secure safeguard of whose fitness and energy any doubt would be offensive. At a time when the insurgents are losing their principal chiefs without replacing them by others of standing, when discouragement pervades their ranks, and when they are without any imitation of a constituted government "capable of performing the corresponding international duties," a characteristic and exact criterion, according to the illustrious General Grant and his successors, to justify the recognition of belligerency, no one should consent to the neglect of voluntary engagements or to the destruction of the uniform legal doctrine followed in such notable cases as those of the Congressionalists of Chile and the Sudists of Brazil.

In this connection it is timely to remember that the American Government had to admit, in its note of April 4, 1896, that it was impossible to recognize the belligerency of the rebels at that time, although the insurrection was in a much more flourishing condition, and that, if Spain were withdrawn from the island of Cuba, the sole bond of union between the many heterogeneous elements in the island would disappear, which proves the necessity of her presence and the absurdity of the idea that there can be any other organization in the island possessing the attributes of lawful international personality. The insurgents, as has already been said on another occasion by His Majesty's Government, have always been and still are without any real civil government, fixed territory, courts of their own, a regular army, coasts, ports, navy, everything that the principal American writers on international law and statesmen require as preliminary to the discussion of a recognition of belligerency. The rebel bands never fight for honor and victory, nor do they even defend themselves; they hide behind the dense thickets of the tropical soil, and sally with impunity when the situation is temporarily in their favor. Under these circumstances it is impossible to admit that there can be a change in the attitude of the United States toward the combatants in Cuba.

As His Majesty's Government has decided, freely and deliberately, to establish autonomy in Cuba, there arises by the force of circumstances the case foreseen by the eminent Mr. Cleveland in his message of December 7, 1896; and, admitting the continuing international accountability (solidarity) of the governments which succeed each other in a country, it can not be doubted that the present most worthy President will agree with his predecessor that no just reason exists for conjecturing that the pacification of the island of Cuba will fail to be effected upon this basis. The Government of His Majesty the King of Spain expects with confidence from the rectitude, love of peace, and friendship of the President of the United States that he will aid it in this noble and humane undertaking, and that he will exert himself energetically to prevent the insurrection from receiving from the United States the moral and material aid which gives it its only strength and without which it would have already been subdued or would certainly be subdued very speedily.

It is, therefore, above all indispensably necessary that the President should decide upon his course toward Spain so far as regards the Cuban problem, and that he should state clearly whether he is ready to put a stop absolutely and forever to those filibustering expeditions which, by violating with the greatest freedom the laws of friendship, injure and degrade the respect which the American Government owes to itself

in the discharge of its international engagements. There must be no repetition of such lamentable acts as the last expedition of the schooner *Silver Heels*, which left New York in spite of the previous notification of His Majesty's legation at Washington and before the eyes of the Federal authorities, because it is only thus that the peaceful intentions of the United States Government will be proved and that the friendly understanding to which I have referred will be possible.

With the new policy already inaugurated by His Majesty's Government every pretext for those popular expressions of sympathy with the insurrection which have been mentioned as a powerful argument in various Presidential messages disappears, as the Cubans will find in autonomy the very solution recommended as the most expedient even by the executive authorities of the United States Government. By this policy those advances and improvements in the situation of the Great Antilla which the Washington Cabinet itself, not many months ago, in an official note, declared would be "most potential" for the termination of hostilities, and for bringing about a change in the tendencies and feelings, not of the North American Government, but of the very people of the United States on this subject, are also realized by the voluntary initiative of the mother country. This change of feeling may and ought to appear in more and more friendly acts and conduct which, without any doubt, will be received with deep gratitude by the Spanish people and Government. This, in the opinion of the undersigned, is the most adequate way of avoiding the dangers to which your Excellency alludes in your note as the result of a possible arousing of mutual passions, and this is likewise the best means of attaining that happy harmony which will certainly enable the Spanish Government to restore perfect peace within a short period to the beautiful island of Cuba, for the good of Spain, the United States, and humanity in general.

Her Majesty's Government, now and always faithful to the ties of affection which unite it with the United States, and cherishing, moreover, the firm intention of drawing them closer, in reply to the courteous wishes expressed by your Excellency, will be most happy to have your Excellency state whatever you may think proper, with entire liberty, and in the form which you may deem most fitting with regard to the alternatives mentioned, or upon any other points, with the assurance that your Excellency's views, opinions, or assertions will always be heard with friendly interest, and will be respected so far as may be permitted to a Government by primary and permanent duties, the neglect of which the Madrid cabinet can not imagine that so respectworthy and so friendly a nation as the United States will advise.

I avail myself, etc.,

PIO GULLON.

Mr. Woodford to Mr. Sherman.

No. 51.] LEGATION OF THE UNITED STATES,
Madrid, October 27, 1897.

SIR: Yesterday, October 26, I sent you two copies of the Spanish text of the note from the Spanish minister of foreign affairs, dated October 23, and delivered to me on October 25.

Yesterday I also cabled to you a full summary of the contents of such letter. This summary was in cipher and is translated as follows:

SHERMAN, *Secretary of State, Washington:*

Spanish answer to note of September 23 received yesterday. Contains about 5,000 Spanish words. If desired, will cable the text. The following is summary: Explains the delay in answer; expresses gratification at assurances of friendship on the part of the United States. These assurances deprive note of threatening character which at first sight some might find therein; admits that the United States are deeply affected by war in Cuba; says this justifies its desire for peace, but denies that it justifies interference; present Spanish Government is bound by every consideration to a change of policy that should satisfy the United States and pacify Cuba in reasonable time; Spanish Government has decided to put into immediate effect the political system which the present president of the council of ministers did outline in his manifesto of last June 24; will not for anything or anyone stop in path which in its judgment leads to peace; military action will not be interrupted for a single day; will be energetic and vigorous but humane, and as much as possible will respect private rights; military action will be accompanied by political action leading to autonomy but guaranteeing Spanish sovereignty; this will result in investing Cuba with distinct personality; the island will be governed by an executive and by a local council or chamber; Spain will control foreign relations, army, navy, and administration of justice.

To accomplish this the present Government will modify existing legislation by decree, leaving to the Spanish Cortes, with aid of Cuban senators and deputies, to solve economical problem and properly distribute the debt. It says that the President of the United States, in proffering good offices to secure peace, does not state the measures he proposes to take. Suggests that the best way is to leave Spain free to conduct military operations and grant political reforms while the United States devotes itself to absolutely stopping all assistance from that country to insurgents. In spite of neutrality laws, the United States has allowed and continues to allow illegal expeditions to leave its shores, contrary to views maintained by the United States in Alabama arbitration. Refers to Cuban Junta openly working in New York. Spanish Government thinks best evidence of desire for peace is to remove this condition of affairs. Refers to the line of conduct in analogous cases followed by Van Buren, Tyler, Taylor, Fillmore, and Pierce in years '38, '41, '49, and '55. Suggests that the President condemn filibustering efforts by a proclamation and refuse diplomatic protection to filibusters. Says territory of the United States is field of action for filibusters. By exacting strictest compliance with duty from Federal agents in respect of the neutrality laws the President of the United States would do more for peace than it is possible in any other way.

The United States can not plead deficient executive power. Refers to attitude of the United States at Geneva arbitration that no nation can neglect its international duties under the pretext of deficient laws. Refers to act of March 10, 1838, to show that new and stronger legislation can be had if desired. Only by vigorous measures can the United States show that its expression of desire for peace and friendship is sincere. If the United States desires peace let it fulfill the letter and the spirit of the laws of neutrality. Referring to suggestion that Spain formulate some method by which tender of good offices may be made effective, answers that there are two methods: In the first place, a President's proclamation even more forcible than those of Cleveland declaring outlaws those who violate laws against fomenting rebellion, second, the severe application of existing laws or enacting new ones to cut off all support to Cuban insurrection. Only frank and decided friendship to Spain will crush vain hopes cherished by insurrectionists. Refers to attitude of Spain toward the United States in war of rebellion. Spain adopted neutrality only after similar action by England, France, and Holland, and after the United States had declared blockade of Southern ports. Even then Spain refused repeated overtures from rebels, and required surrender at Cadiz of forty-two prisoners on Confederate cruiser. The United States expressed satisfaction at noble conduct of Spain. Spanish Government hopes by force of arms and effect of new and ample reforms to complete pacification of western provinces, already much advanced as a result of military operations.

On this presentation of case Spain counts on a friendly attitude of the United States, asserting that with internal reorganization of the island the germs of the rebellion will disappear, thus guaranteeing investments of national and foreign capital. Declines to consider hypothesis of continued prolongation of war, or that the United State will change its attitude toward contending parties. The latter hypothesis is impossible in view of great change in military situation since the rebel leaders overran western provinces. Estates are preparing for planting cane, and a fine

tobacco crop is predicted. On arrival of the new Captain-General of Cuba improved conditions will become apparent. Therefore Spain regards change of attitude by the United States as incredible. Counts upon executive department to counterbalance passions which may blind deliberating chambers. Refers to opinion of Grant, that a constituted government, able to make international agreements, possession of seaports, etc., necessary to justify the recognition of belligerency. Says that insurgents have no true civil government, no fixed territory, courts, regular army, navy, ports, or coast. The Government of the United States acknowledges in note April 4, 1896, at time when insurrection was much stronger than now, that it could not recognize belligerency of insurgents. Spontaneous grant of autonomy is the case anticipated by Cleveland in his message of December 7, 1896. Spain has no doubt that the President will agree with his predecessor, and will assist Spanish Government in accomplishing its object in Cuba by energetically preventing moral and material aid from the United States to support insurrectionists.

It is, above all, necessary that the President of the United States should decide on his conduct toward Spain in respect to the Cuban problem and state definitely whether he is disposed to absolutely stop, now and always, illegal expeditions which violate laws of friendship and wound the self-respect of the Government of the United States. Such events as last expedition of schooner *Silver Heels* in the presence of Federal authorities, notwithstanding previous notice given by Spanish minister, must not be repeated. Since the new policy toward Cuba there is no pretext for popular sympathy in the United States toward rebellion. The present solution is in line with that suggested by the United States as desirable, and should change the sentiments of both Government of the United States and people toward Spain. The note closes with reference to bonds of sympathy between Spain and the United States, requests free expression of my views in regard to its contents, promises full attention to such views by present Government as far as its duties to itself will permit, adding that it can not imagine that so friendly a nation as the United States would counsel it to forget those duties.

WOODFORD.

I will send full translation in duplicate not later than to-morrow, October 28.

I simply acknowledge receipt of note to Spanish Government, and await further instructions from you as to my full and final reply.

This is in obedience to special instructions received confidentially from Assistant Secretary Day under date of October 1 instant.

I have, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 53.] LEGATION OF THE UNITED STATES,
Madrid, October 30, 1897.

SIR: On October 28 instant I received from you a telegraphic dispatch in cipher, which I translate as follows:

WOODFORD, *Minister, Madrid:*

Send by mail full text of Sagasta manifesto June 24 last referred to in Spanish answer.

SHERMAN.

To-day I obtained from Señor Sagasta, president of the council of ministers, the inclosed copies of the manifesto of the Liberals addressed to the nation and signed by Praxedes M. Sagasta, dated Madrid, 24th June, 1897, and published in El Correo, an evening paper of Madrid, on Thursday, June 24, 1897. In the private note from Señor Sagasta accompanying these newspaper copies he states that it was not an official document, only the manifesto of a party that was out of power, and

that there was not a special edition made, and that it was made public through its publication in the newspapers.

I have, etc.,

STEWART L. WOODFORD.

[Inclosure—Translation.—From El Correo, Madrid, Thursday, June 24, 1897.]

MANIFESTO OF THE LIBERAL PARTY TO THE NATION.

The doors of the Parliament being closed to the Liberal party while the anomalous situation created by the want of self-control and the discourtesy of the Government continues, so perilous a complication arises in the national policy and so unmaintainable a lack of equilibrium is caused in public affairs that those whom it behooves to speak in the name of their parties may not shrink from the publication of their opinions and the announcement of their resolves.

The censurable proceedings of the present Government would have imposed upon us the duty of breaking the truce of tolerance into which we spontaneously entered for the honor and benefit of the country upon the breaking out of the Cuban insurrection, and of explaining our past toleration and affirming our present views in radical opposition to those held by the Government, had it been possible to appeal to the Parliament and lay before it a statement of the public grievances.

In face of the gravity of events and the magnitude of misfortunes, the Liberal party can do no less than appeal to determinations as firmly adopted as maturely considered, aiming to bring about the only possible remedy. Prudence at the present time consists in emphasizing with all the energy of will the intensity of the peril, and we had decided to proclaim before the Parliament the solutions we advocate, feeling assured that the nation, esteeming them transcendental, would not have qualified them as excessive.

But an unprecedented act, known to all, has occurred to perturb the parliamentary course, especially as the head of the cabinet (Canovas), offending a party and stultifying himself, has not hesitated to deny to the conflict the sole solution universally recognized as the guarantee of calm and free parliamentry discussion.

Within the Cortes themselves it would seem that the absence of their adversaries would have inspired the Conservative party with sufficient respect to abstain from voting, without debate, laws involving the future and the wealth of the nation. Far from this, the parliamentary opportunities afforded by the absence of the opposition have only served to compromise in a few hours the remnants of our public credit and the most sacred revenues of our treasury, without those resources, gathered at such cost, having been applied in conformity with the national sentiment, or even now making them sufficient to meet with punctuality the sacred debt owing to those Spaniards who are shedding their blood beyond the seas for their country.

(Several paragraphs follow emphasizing the alleged shortcomings of the Conservative government—its ignoring of the sentiments of the country, its misapplication of public funds, and its general incompetency to deal with the problems confronting it—in face of all which the Liberal party had kept silent until silence has become impossible.)

It has been insistently said that the Liberal party lacks, and has ever lacked, any ideas in regard to the Cuban problem. The facts, on the contrary, demonstrate that no political party has formulated so clear and definite a programme nor advocated it so consistently as the Liberal party has done, for it initiated and developed a policy before—and long before—the insurrection broke out, and it did so expressly to avoid and prevent it.

To this policy responded and by this purpose were inspired the reforms of Señor Maura, which, had they not met with such parliamentary obstacles and they been enacted, could have been reasonably applied, and, we rightfully believe, would have averted the disasters and prevented the horrors of the present insurrection.

The Liberal party was able to overcome those parliamentary obstacles by consenting to certain formal amendments which did not impair the value of the original bill and which brought all the insular and peninsula parties into accord. But when this promise was enacted as a law the insurrection had already been begun; nevertheless, far from beholding therein a motive for withholding the initiation of those reforms, we believed on the contrary that those reforms should be hastened in the firm and constant aim of aiding by political action the unquestionable victories of our army over the rebels.

In the judgment, therefore, of the Liberal party, political action should have constantly accompanied military action; this was due to the strict obedience which law ever exacts; this was moreover demanded of us by our solemn pledges; for if the

Liberal party sought to bring about at all costs material pacification by means of war, it was no less ambitious to assure through political means a moral peace in that section of Spanish territory. Our army has ever conquered, and in all quarters, because best of all representing the energies of the nation; but all the efforts in the world are insufficient to maintain peace in Cuba by the bayonet alone.

The Government, however, adopted the exclusive system of arms (as though by this means alone it were possible to end wars of this nature) and sent to the fields of Cuba 200,000 men and the treasures of the Peninsula.

The Liberal party, although daily grown more steadfast to its programme, nevertheless believed itself bound by high duty to interpose no obstacles under these circumstances, and still less to embarrass the plans of our military commanders. Rather by lauding and glorifying the tried valor and the high virtues of our armed forces it endeavored to spread in every quarter the confidence it intimately cherished—that in the extreme resort those forces would be capable of overcoming even greater difficulties.

Time and events have affirmed our conviction. The Government, yielding at last to evidence, has sought to change its system and join to military action that of policy and diplomacy, without taking into account that such evolutions are only fruitful of result when accompanied by a serious change of heart; since, otherwise, political action, far from fortifying military action, contradicts and weakens it by creating two opposing currents which mutually disturb and destroy each other, and whose collision causes the inefficacy and discredit of both.

For these reasons the Liberal party might have been able to contemplate with resignation the lowering of its reform banner, but it could not acquiesce in its discrediting. If the new policy is not to be carried out by authorities inspiring confidence in all minds (and such confidence can not be inspired by those who ever oppose that policy), and if its execution be not controlled by a large spirit of rectitude, without partiality toward any of the political factions existing in Cuba, it were better not to undertake it, for failure at this juncture would bring about irremediable consequences.

As regards the reforms which have been decreed by the Government, the Liberal party deliberately omits any expression of its judgment, since opposition would now be barren and criticism fruitless. We do not desire to diminish a single jot by amendments useless for good the influence which such reforms may exert toward procuring peace. But that those reforms are not the solution of the Cuban problem is a point on which it is not permissible to remain silent.

In framing those reforms the Government appears to have proposed the indefinite postponement of the interesting economical and commercial questions which the law of March 15 inaugurated and the solution of which it imperiously demanded. Within the scope of that law could be readily embraced the most progressive measures; but the Government, perpetually irresolute between the concessions to the colony and the privileges of the mother country, lacked an impelling motive in any sense and, while awaiting such a tariff as the Cubans might frame, promised, first in the Cortes and afterwards in the Gazette, the publication of another internal tariff which Cuba and the Peninsula are still vainly awaiting.

Instead of fulfilling the law it has chosen to cast it in disrepute and, without the cognizance of the Parliament, certain reforms have been planned, the inauguration of which is dependent upon the authorities who only a few days before had deemed the mere suggestion of such a change a criminal act. The revenue question, constantly announced by that same Government to be the unavoidable necessity of the hour as well as the keystone of the commerce and budget of Cuba, is still unsettled, while the mercantile life and economic fate of the land remain equally in suspense.

From all that has been said may be readily deduced what would have been the course of the Liberal party had it been in power under the described circumstances. It would have carried out the programme so positively maintained without hesitancy or fear, introducing greater moderation in the conduct of the war, greater energy in diplomatic action, and greater sincerity in policy.

To these ends it would have set at head of the army a general who, without impairment of his logical consistency and authority, could exchange the present system of war for one in harmony with the new policy, thereby modifying the social condition, to-day as anomalous as it is unbalanced, which drives many sons of Cuba to the horrible alternative of taking to the field (de irse á la manigua) or succumbing to misery.

It would have divided the enormous task of combatting the insurrection and inaugurated the necessary political régime, intrusting this latter labor to a person experienced in the complex functions of government, whose qualifications would not only enervate, but rather bring into greater relief the prestige of the chief of our army in those regions.

In this manner would be aided the difficult adjustment of the reforms to the needs and circumstances of the times, an essential condition in every political undertaking, and in the present case the more delicate, in so far as in leading to the autonomy of the colony it involves the integral guarantee of the Spanish sovereignty, while settling at the same time the grave financial problems of that sovereignty, the partition of the debt, and the establishment of the Cuban revenue tariff in such terms that in bringing forth the new personality from the bosom of the mother country the future of our economical relations and of the public credit would be cemented upon the foundation of an unalterable compact (compromiso) and of a mutual interest completely alien to all outside motives of expediency.

The Liberal party does not believe that the generosity and love of the Spanish nation would be met with criminal indifference by the pacific and honorable inhabitants of the island of Cuba, but that they would assist such efforts in so far as they may contribute toward the dissolution of the insurgents; neither does it understand that its influence upon the definite economical and political settlement will cause it to relax in the speediest pacification (of Cuba), to which latter end every energy must be devoted, the rigor of arms against the unsubmitting rebels being simultaneously accompanied by measures attractive for those sons of Cuba who desire to live, masters of their own destinies, under the ancient banner of Spain.

(Several paragraphs follow, criticising the conduct of the Philippine campaign and counseling conciliation as a means toward a contented peace.)

That is what the Liberal party would have done if holding power; this is what it would have advocated in the chambers, exercising its right of criticism and offering to the country and to the Crown the manner of replacing the uncertain conduct of the Government that has proved so unfruitful of good. It is confident that its political procedure would have diminished Spanish sacrifices and spared the shedding of Spanish blood. Let him be responsible to whom it is due that this has not been done. Not even may his culpability be extenuated by any need of facing internal difficulties at home, since the support of the nation has never been more sincere and more unconditional.

The Liberal party still believes that the speedy and energetic application of its principles and governmental measures would stay the course of the evils that afflict the country and bring it near to the pacification of its colonies; but it already feels well-grounded fears that the continuance, even for a brief time longer, of the existing military and political system will cause the procedure herein set forth, and in which it has unshaken faith, to lose its virtue and become deprived of its redemptive power.

In these circumstances, silence would be disloyalty to the country and to the monarchy, and delay in the denunciation of errors of such magnitude would be complicity with those who commit them.

PRAXEDES M. SAGASTA.

MADRID, *June 24, 1897.*

Mr. Woodford to Mr. Sherman.

No. 56.] LEGATION OF THE UNITED STATES,
Madrid, November 1, 1897.

SIR: On October 30 ultimo I sent you copy of my translation into English of Spanish note of October 23 ultimo. I promised to send duplicate translation so soon as same could be prepared. To-day I inclose herewith such duplicate translation.

On October 30 I also sent formal acknowledgment to the Spanish minister of foreign affairs of his note of October 23, received by me on October 25, and being his reply to my note of September 23 delivered to the Duke de Tetuan.

Herewith I inclose copy of such acknowledgment.

To-day I send you telegram in cipher reading as follows:

SHERMAN, *Secretary of State, Washington:*

I have acknowledged Spanish note, adding request for official copy of manifesto, last June 24, and stating that the note has been transmitted to my Government for further instructions before availing myself of suggestions to communicate further views. Closed the acknowledgment with these words: "It is, however, my immediate duty to state most distinctly to your excellency that the Government of the

United States, in the matter of the so-called filibustering expeditions which your excellency has referred to so frequently and at such length in your note, has loyally fulfilled all the requirements of its own domestic laws, all its treaty obligations to Spain, and all the duties imposed upon it by international law."—WOODFORD.

I have, etc.,

STEWART L. WOODFORD.

[Inclosure.]

Mr. Woodford to Señor Gullon.

No. 25.] LEGATION OF THE UNITED STATES,
Madrid, Saturday, October 30, 1897.

EXCELLENCY: In acknowledging the honor which I had in receiving on the afternoon of Monday, October 25th instant, the courteous note which you addressed to me under date of the 23d instant in reply to mine of September 23d ultimo to your distinguished predecessor, the Duke of Tetuan, permit me to suggest that the manifesto of June 24th ultimo, to which your excellency refers in your note, appears to have important bearing upon the subjects discussed by your excellency therein. My Government, having no official copy of this manifesto, has instructed me to procure and transmit one for its consideration in connection with your note. I therefore request your excellency to do me the favor of furnishing me with an official copy thereof at the earliest date convenient to you. Your note of the 23d instant, the receipt of which is hereby acknowledged, has been transmitted to my Government, and I await its further instructions before availing myself of your courteous suggestions to communicate my further views thereon.

It is however, my immediate duty to state most distinctly to your excellency that the Government of the United States, in the matter of the so-called filibustering expeditions to which your exce lency has referred so frequently and at such length in your note, has loyally fulfilled all the requirements of its own domestic laws, all its treaty obligations to Spain, and all the duties imposed upon it by international law.

I avail myself of this opportunity to renew to your excellency the assurances of my most distinguished consideration.

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 60.] LEGATION OF THE UNITED STATES,
Madrid, November 6, 1897.

SIR: On November 1 instant, in my dispatch No. 56, I inclosed to you copy of my note to Spanish minister of foreign affairs, acknowledging receipt on October 25 of his answer, dated October 23, to my note to the Duke de Tetuan of September 23 ultimo.

On November 5 instant I received from the Spanish minister of foreign affairs his acknowledgment, dated November 3 instant, of my said reply.

He inclosed to me copy of the Spanish newspaper El Correo, dated June 24, 1897, containing the manifesto of the Liberals, to which reference was made in the Spanish answer of October 23, and which I have already inclosed to you in duplicate in my dispatch No. 53 of October 30 ultimo.

He stated that the chief of the Liberal party maintains his promises and agreements, and that this manifesto now acquires an official character as the programme of the present cabinet; and added that he delays all rejoinder to my note of acknowledgment until the receipt of the full reply which I promised in such acknowledgment. I inclose copy of my translation of such note from the Spanish minister of November 3, and have the honor to be,

Very respectfully, yours,

STEWART L. WOODFORD.

[Inclosure—Translation.]

MINISTRY OF STATE,
Palace, November 3, 1897.

EXCELLENCY: Replying to the courteous note, dated the 30th of October ultimo, by which your excellency has been pleased to acknowledge the receipt of that which I had the honor to send you on the 23d of the same month, I take pleasure in inclosing a copy of one of the newspapers in which was published the manifesto addressed to the nation on the 24th of June of the current year by the president of the council of ministers, who was then and is now chief of the Liberal monarchical party.

To proceed in everything with the necessary clearness (i. e., to prevent any possible misunderstanding) I must explicitly state that, the said writing being the programme which a party then out of power formulated and addressed to the nation upon the most important questions, the printed document or manifesto which I inclose did not have at the time of its publication an official character, its true character being that of an authentic declaration of the opinions of a militant political group, signed by its acknowledged (or recognized) chief.

The latter having been raised to power by the confidence of Her Majesty the Queen Regent, and maintaining, as he does, his promises and agreements, that manifesto now acquires, with regard to the policy of Spain, and very especially to the colonial policy, a certain official character as the program of the present cabinet, which with all sincerity I pointed out in the note of the 23d of October ultimo.

As regards the latter and its text, the statement which your excellency is pleased to make that you await, before replying to it, new instructions from your Government induces me to delay all rejoinder until the receipt of the promised reply, postponing until it is known and until the United States, through the authorized channel of your excellency, shall have determined and explained its friendly desire to cooperate in the advanced work of pacification of Cuba; my purpose to consider, also, as may be due, the brief statement which your excellency opposes at this time to the well-grounded and extensive considerations employed in the note of October 23 to lament (the existence of) filibustering expeditions, to suggest the legal means to prevent them, and to demonstrate the great influence which their final suppression would have in obtaining the peace desired by all.

I avail myself of this opportunity to renew to your excellency the assurances of my most distinguished consideration.

PIO GULLON.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

Mr. Sherman to Mr. Woodford.

No. 61.] DEPARTMENT OF STATE,
Washington, November 8, 1897.

SIR: I inclose for your information copy of the Department's note of the 6th instant to the Spanish minister at this capital, calling attention to the suffering inflicted upon the rural population of Cuba who have been forcibly concentrated in the towns; also copy of a dispatch from our consul at Matanzas, relating to the same subject.

Respectfully, yours,

JOHN SHERMAN.

(Inclosure No. 1 printed in Foreign Relations, 1897, p. 509.)

[Inclosure No. 2.]

Mr. Brice to Mr. Day.

CONSULATE OF THE UNITED STATES,
Matanzas, October 15, 1897.

SIR: I have the honor to submit the following report for your earnest consideration:

During the past two weeks death from starvation (among reconcentrados and poor people) has rapidly and alarmingly increased. The figures given are under the actual number of deaths, as many of these people die unaccounted for.

Over 2,000 (I have the list of names) have died in this city—want of food—since January 1 up to October 1, 1897. Since latter date the daily average death rate has been over 45 persons. Sixty-two died last Sunday; of these 57 from actual starvation. Normal death rate of Matanzas City prior to Weyler's concentration order 6 persons daily (not including soldiers).

In the interior towns of province the situation is beyond belief. In some towns one-third to one-half the population has disappeared. I inclose a clipping from Spanish paper at Colon, translated. It only tells part of the story. Such things are not usually allowed published. A careful estimate from reliable sources gives the number of deaths from starvation and diseases incident thereto over 22,000 in the province (not including this city). I should say that 5,000 more added would be no exaggeration. If no prompt measures of relief are afforded these people, sixty days hence the majority of them (reconcentrados) will be exterminated, as predicted by a prominent general of Cuba.

Local authorities are powerless and unable to cope with the situation. Cities and towns are bankrupt and can give little or no relief to the starving thousands. Last Monday morning six to seven hundred starving women unexpectedly raided the market and carried off everything in sight. Pandemonium reigned for an hour or more. We are likely to have riots and mobs in the near future if no relief is given. Allow these people to go out into the country and plant crops, and in less than sixty days all will be well and starvation a thing of the past.

I am, sir, etc.,

A. C. BRICE,
United States Consul.

[Subinclosure—Translation.]

HORRIBLE SCENES.

The correspondent of La Union de Colon at Jagney Grande, under date of 24th instant, writes as follows:

"It is estimated that over 6,000 souls arrived at this town in compliance with the concentration order. Of these 6,000 it is scarcely possible that two-thirds remain, the rest having died of hunger, and to judge by what is seen, many others will soon die for similar cause. The deceased are daily seen to be carried to the cemetery by their own relations, and sometimes, as it recently happened, two weak and lean children were carrying their father. Horror! They were carrying him in a codfish box, tied with a rope to prevent it from falling to pieces. It is useless to state that they had to stop at every step, and such was the sight until they arrived at the cemetery. Do you believe anyone rendered assistance? Not a soul, because the relatives have to dig the graves, and nobody accompanies the corpse, to avoid the performance of the job.

Until late days the dead were carried in boxes, palm husks, and any way. They now have a kind of rustic bier; but as there are no coffins or boxes the sight is the same. Absolute abandonment reigns here. The deputy mayor, Don Manuel Fernandez, cacique of this town, whose leave must be had to do anything, and the justice of the peace, his loyal servant, might well try and alleviate so much misery instead of using their activity, the former to matters he should not touch and the latter to illtreat the poor concentrated people, venting his fury to the extreme of clubbing a poor woman in the street.—(From El Correo de Matanzos, September 30, 1897.)

Mr. Woodford to Mr. Sherman.

No. 61.] LEGATION OF THE UNITED STATES,
Madrid, November 8, 1897.

Late Saturday night, November 6 instant, I received telegram from you in cipher, which I translate as follows:

WASHINGTON, *November 6, 1897.*

WOODFORD, *Minister, Madrid:*

Your telegraphic summary of Spain's reply of October 23 has been attentively considered, but in the absence of full text, and particularly the text of the manifesto of June 24, it is not possible to instruct you as to definite response. They should soon come by mail, when the matter will be urgently taken up. Meanwhile, it is proper to

say that this Government discerns in the reply hopeful indication of change in the policy of Spain, although it would seem that the reforms to be decreed are to be supplemented, in all the most important particulars, by an enactment of the Cortes. The scope and effect of the Spanish programme remain to be seen. As evidence of sincerity in the direction of reforms, an immediate change in the treatment of the noncombatant Cubans would be an effective guarantee. This is not a change dependent upon legislation or decree. The Spanish Government pledges (itself) henceforth to conduct the war humanely. That pledge is most gratifying and its prompt fulfillment is expected. Thousands of the concentrados are perishing of want. Women and children are suffering by hundreds even in Habana under the direct control of the superior authorities. Any longer continuance of this policy can not fail to imperil the kindly disposition of this Government to lend benevolent countenance to Spain's proposals of reforms. The recent change of commanders admits of instant abandonment of policy of depopulation and devastation that has so shocked the sense of this Government and people and of the world.

As for the Spanish charges of inefficient enforcement of our neutral duties, this Government can admit no laxity on its part. On the contrary, it has faithfully performed its full duties as required by our international obligations.

Your provisional acknowledgment of the Spanish note, as reported in your telegram of November 1, is approved.

SHERMAN.

I appreciate sincerely your prompt approval of my full and explicit assertion in my note to the Spanish Government of October 30, reported to you by telegraph on November 1, that the United States has fulfilled loyally all its duties under our internal laws, our treaty obligations with Spain, and the international laws.

I have the honor, etc.,

STEWART L. WOODFORD.

Mr. Sherman to Mr. Woodford.

No. 64.] WASHINGTON, *November 11, 1897.*

SIR: Referring to the Department's instructions to you, No. 61, of the 8th instant, communicating copy of my note to the Spanish minister of the 6th November, remonstrating against the sufferings inflicted upon the rural populations of Cuba who have been forcibly concentrated in towns, I have to send herewith for your further information copy of a dispatch from the United States consul-general at Havana, showing that the distressing effects of concentration of noncombatants have been scarcely less sorely felt in the capital city of Havana, under the immediate control of the superior authorities of the island, than in the provincial towns where the ability of the local administration to care for the helpless hordes forced upon them by that inhuman military policy is presumably less, and where disease and hunger hold unchecked sway.

Respectfully, yours, JOHN SHERMAN.

[Inclosure.]

Mr. Springer to Mr. Day.

No. 675.] UNITED STATES CONSULATE-GENERAL,
Havana, October 20, 1897.

SIR: In the most northern part of this city, close to the entrance to the harbor, in proximity to the morgue, the public jail, the Punta park and battery, etc., are found "los fosos," the foss, ditch, or moat of the old city walls, part of which are still stand-

ing. The space within these walls has been utilized for a number of years past by the city government as a place of deposit for its street-cleaning apparatus, its mules and carts, and as a general storehouse for all such public works material, and as a place also of detention and shelter for vagrants and street beggars. At the entrance to the place and on the street corner is the morgue. Within the limits are erected a number of buildings for various uses of the city government, but the largest is a two-story wooden building of about 200 feet front by 70 deep. This was erected to serve as a shelter to hundreds of homeless and houseless vagrants who roamed the streets, begging by day and sleeping in doorways and porticos at night. The city has also for some months past been issuing here twice a day, free to all applicants, rations, consisting of bread and the peculiar Spanish "rancho," a soup of beans, potatoes, lentils, cabbage, codfish, and pork, the latter often rotten and rancid. But within the past three months hundreds of families of the "reconcentrados" have been brought into Habana from the neighboring towns of San Miguel, Campo Florida, Jaruco, and even Aguacate, and huddled into these quarters without any further provision made for them than the bare floor space. As to their food, I am told that the rations now issued amount to 1,000 twice a day, and this coarse, and for the most part unsuitable, food is eagerly taken and ravenously devoured, and even then found inadequate.

The misery and sickness prevailing among these "reconcentrados," the greater part of them women and children, is simply indescribable, and the mortality among them, due to inanition and fever, frightful.

Having been informed that an American woman was among these "reconcentrados" I visited the "fosos" yesterday morning. I found in one part of the building referred to, which has now been given up altogether to their use, over 500 women and children of all ages, from a puling infant of a few weeks old to an anæmic girl of 17 years, crowded into a space where only 200 should be accommodated, with due regard to the laws of hygiene and decency. I learned that their condition has been greatly improved within a few weeks past, or even days, thanks to the initiative of a few Cuban families. Beds have been brought in, clothing obtained, and medicines furnished to the sick, but all due to private charity, as the Government is indifferent and provides nothing, not even medicines, although the ayuntamiento has assigned two physicians to the place and a hospital steward, who told me he was overworked and could not during the day distribute the medicines prescribed and required by all—medicines provided by private charity. Some attempt at a register and organization is now being made, although at first no statistics were kept. The sexes are separate, and the number of men, much less than that of the women and children, some 200, are kept in another part of the building. I was told by one of the physicians of a case where a man actually died from thirst. Weak and unable to help himself, he had called vainly for water for three days, and when given him he drank deeply and died in fifteen minutes. I saw one orphan family of ten little children, boys too weak to stand, emaciated, nudity and indifference to common decency everywhere, hungry, misery, and starvation, and the sad look of woeful resignation in the eyes of all.

I was informed that the American woman I was in search of would be found under such a bed, in such a corner of the room. I found her in a bed, which she had occupied only two days, having rested on the bare floor over six weeks and sheltered herself under the bed of another woman. She was but "one more unfortunate," who had become ill and diseased, thrown into the streets, picked up starving, and sent to the "fosos," all the city hospitals being full to overflowing. Here she has existed for six weeks, nearly starved, but is now improving. She has no family or friends, simply "one more unfortunate," and did not care to give her real name or any particulars of her life beyond that she was born in New York and had been in this city six years.

The attention of private charity is being drawn to the miserable condition of these poor, defenseless "reconcentrados," and I learn that they are now being gradually better cared for. I am told that the condition of those who are still reconcentrated in the country towns is simply inconceivable, and that the Government is indifferent to all this misery, considering extermination by starvation a just punishment and a fitting war measure against this people for the crime of insurrection and efforts to obtain their independence.

I am, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

Mr. Woodford to Mr. Sherman.

No. 65.] LEGATION OF THE UNITED STATES,
Madrid, November 13, 1897.

SIR: In my dispatch to you, No. 61, dated November 8 instant, I acknowledged receipt of your telegraphic dispatch dated November 6. I have since then indirectly caused the Spanish Government to know that our Government would regard an immediate change in the treatment of the noncombatant Cubans as the most effective guarantee of the change in the policy of Spain that can just now be given.

Yesterday afternoon I called by appointment on Señor Moret, minister for the colonies, to discuss the Solomon tobacco case. The papers from Havana have not yet been received by him. But he is favorably disposed, and arranged further interview two days after the papers shall have been received.

I have to-day telegraphed you in cipher as follows:

Secretary SHERMAN, *Washington:*

Yesterday afternoon had an interview with minister for the colonies about Solomon tobacco case. Hope favorable action. I have availed myself of the opportunity for general conversation on Cuban affairs. Spanish Government have instructed General Blanco to conduct war in humane and Christian methods. Concentrado camps are to be broken up. Blanco will communicate substance of each bando to Spanish minister at Washington, who will keep you informed. Decrees granting autonomy will be signed by the Queen between November 23 and 25. Official synopsis of decrees will be furnished on the day after signature, and I will telegraph same to you. To facilitate my work here, please keep this dispatch secret until decrees are published. Full report by next mail.

Señor Moret speaks excellent English, and when our interview about the tobacco case was ended I availed myself of the opportunity to have a full talk with him.

I told him that my Government discerned in the Spanish answer of October 23 hopeful indication of change in the policy of Spain, although the scope and effect of the Spanish programme remained still to be seen; that an immediate change in the treatment of the noncombatant Cubans would be an effective guarantee; that this is not a change dependent upon legislation or decree, and that the President accepted with the utmost gratification the pledge of the Spanish Government to conduct the war henceforth in humane and Christian methods.

Señor Moret at once replied that no one could be more anxious than himself to have the war conducted in humane and Christian methods; that the Spanish Government had instructed Marshal Blanco most fully in this regard, and that he was certain that Marshal Blanco would fully and loyally carry out the purpose and instructions of his Government. He added that before he had come into power he had publicly expressed his views about the conduct of the war in a speech at Zaragoza, and that he should not be as secretary in the room in which we then were unless his hands were free to see that his views about the humane conduct of the war could be carried out.

I then suggested that we should talk with each other plainly and fully, without diplomatic compliments and each man saying to the other just what two private citizens would say when discussing matters too serious to be veiled or concealed by courteous expressions. He assented, saying that he should be glad to have just such conversation with me.

I then remarked that should the Spanish Government feel it their duty to continue to insist upon their present view (as stated in their answer of October 23) that the Cuban insurrection is practically maintained by the sympathy and aid received from the people and territory of the United States, I hoped that he and his Government would clearly understand that the President believed that the United States Government had done more than its full duty, and must and would insist upon this attitude to the end or completion of any diplomatic correspondence that may take place, and that if thoroughly cordial relations are to be established and maintained between our two Governments it must be upon the basis of humane methods in the conduct of the Cuban war, on the just protection of American interests in Cuba, and on the practical establishment of such reforms in the administration of Cuba as would justify the expectation of permanent and prosperous peace.

He replied in substance that the Spanish Government must insist upon what they felt to be a just enforcement by the United States of our duties of neutrality, but that we could rely upon humane methods of warfare and the early and effective establishment of such an autonomy in Cuba as would enable the Cubans to govern themselves as wisely as they could in matters relating to their internal affairs.

Señor Moret told me that he would see that Marshal Blanco was instructed to keep Minister de Lôme informed by telegraph of the substance of each bando that he should issue with regard to the methods of conducting the war, and that Minister de Lôme would keep you constantly informed as to the same.

I then asked the Spanish minister when the decrees granting autonomy would probably be signed by the Queen and published. He replied that they were long and minute in their details; that they were being considered carefully, and would be ready for the signature of the Queen between November 23 and 25; that they would be published in the Official Gazette on the day after signature, and would then be furnished to me for transmission to my Government.

Upon my telling him that I should be glad to have a summary for transmission to the President in time to aid him in the preparation of his annual message to Congress, he told me that he would have a summary prepared, which I could translate and telegraph to the President on the day after the decrees were signed.

I then said to Señor Moret that if the changes promised in the conduct of the war were carried out promptly and thoroughly, and if the autonomy when decreed should be such as would give the Cubans actual and honest self-government in local affairs, I would earnestly advise my Government to refrain from interference in Cuba for a reasonable time so that the effect of what Spain is now trying to do might be clearly seen. Of course I added that this was only my individual assurance, but that I knew that the President is sincerely anxious to maintain true friendship with Spain, while he must do his duty in protecting just American interests.

Señor Moret then asked me if I thought it would be possible to negotiate a commercial treaty between Spain and the United States which should open the ports of Cuba and the United States to practically free reciprocal commerce. I replied that the "first corner to be turned is to secure peace, so that there shall be commerce worth having, and that then I believed that my Government would gladly do all

that we could to promote large and profitable commercial relations between Cuba and the United States; but that this is a matter to be hereafter considered."

I have tried to give the substance of this most important conversation. It was so direct, so free from all diplomatic form and methods and so unreserved, that I venture to suggest that this letter be not placed upon the official files of your Department, until time and events shall demonstrate the result.

I have the honor, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 66.] LEGATION OF THE UNITED STATES,
Madrid, November 15, 1897.

SIR: Yesterday, November 14, the Spanish minister of the colonies sent me copy of telegram received by him yesterday morning from Marshal Blanco, notifying the Spanish Government that he had signed a bando reestablishing the normal life of the country people, and had organized protective committees for the "reconcentrados" who could not at once obtain the general benefits secured to the country population.

I telegraphed you immediately in cipher as follows:

NOVEMBER 14, 1897.

Secretary SHERMAN, *Washington:*

Spanish Government has just notified me that bando has been signed by General Blanco reestablishing normal life of country people, with necessary precautions and organizing protective committees for reconcentrados who can not at once obtain general benefits secured to country population. Daily food and medical assistance are also regulated at the charge of the State.

WOODFORD.

I called promptly at the office of the Spanish minister to express the gratification of yourself and the President at the prompt action of the Spanish Government.

The Spanish ministry have confirmed their purpose of publishing decrees, signed by the Queen Regent, and granting autonomy to Cuba, not later than November 25th instant.

I have, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 71.] LEGATION OF THE UNITED STATES,
Madrid, November 20, 1897.

SIR: I have the honor to acknowledge the receipt this day of your dispatch No. 61, dated November 8th, instant, inclosing for my information copy of the Department's note of the 6th instant to the Spanish minister at Washington, calling attention to the suffering inflicted upon the rural population of Cuba who have been forcibly concentrated in the towns; also inclosing copy of a dispatch from our consul at Matanzas relating to the same subject.

I have steadily and repeatedly called the attention of the Spanish Government to this subject. The present ministry assure me that they are doing their best to change the methods of warfare in Cuba and to ameliorate the horrible conditions against which our Government has believed it to be our duty to protest so strongly and constantly.

The Spanish Government assure me that these conditions will be improved promptly. You hear from Cuba each day and know just what is being done. I am prepared to act as promptly and as energetically as you may desire, and trust that if at any time very prompt action is required you will telegraph me to that effect.

Very respectfully, yours,

STEWART L. WOODFORD.

Mr. Sherman to Mr. Woodford.

No. 72.] DEPARTMENT OF STATE,
Washington, November 20, 1897.

SIR: Your telegram dated October 26, conveyed to me a very full and clear summary of the reply of the Government of Spain to the representations which my instructions of the 16th July last directed you to make to it concerning the situation in the island of Cuba, the relation of this country and Government thereto, the views of this Administration touching the policy necessary to be followed in that regard, and the earnest desire of the United States to render effective assistance toward a speedy, just, and honorable termination of the devastating war.

While a detailed and formal reply to the note so addressed to you on October 23 by His Excellency Don Pio Gullon, the new minister of state, naturally demanded that extended consideration due to its importance which could only be given with the full text thereof in view, your summary of its purport afforded a sufficient basis for the provisional response which I telegraphed to you on the 6th instant, supplementing your own acknowledgment as reported in your cable dispatch of November 1. I therein took pleasure in saying that this Government discerned in the Spanish reply hopeful indication of a change in the policy of Spain toward the Cuban situation; that the scope and effect of the reforms to be decreed, which it appeared were to be supplemented in all the most important particulars by enactments of the Cortes, remained to be seen; that as evidence of sincerity in the direction of reforms an immediate alteration in the treatment of noncombatant Cubans would be an effective guarantee; that the pledge of Spain to conduct the war henceforth humanely involved no change dependent upon legislation or decree, and that the recent substitution of commanders in the island admitted of the instant abandonment of the policy of depopulation, concentration, and destruction that had brought death and suffering to the innocent and aroused the sentiment of humanity throughout the world.

Within a few days past I have received the text of Señor Gullon's note of October 23, as well as the remarkable and earnest declarations of the principles and purposes of the Liberal party now in power as contained in the manifesto issued by its honored chief, Señor Sagasta, on the 24th of last June, to which Señor Gullon appeals in evidence of the

consistent and sincere purpose of reform which animates the new government of Spain. At the same time the most encouraging signs come to me, alike from the Peninsula, from Cuba, and from the honored representative of Spain at this capital, of the singleness and earnestness of purpose wherewith the home Government and its responsible agents in Cuba are laboring to bring about an instant change in the order of things in that island which has so long distressed this Government and the generous and sympathetic people of the United States. From the ground of abstract policy and announced programme the declared purposes of the enlightened men to whom the destinies of Spain have been confided are passing to the domain of realization. Therefore, in responding to the Spanish note, it behooves me to regard the questions it involves, not merely in the light of assertion and argument, but in the presence of attendant facts, in order that I may render due justice to the sentiments and course of Spain in this conjuncture.

The reply of Señor Gullon deals not directly with my instruction to you of the 16th of July last, but with the purport thereof as communicated by you to the late minister of state, the Duke of Tetuan, at San Sebastian, first in oral conference and later by your note of September 23, in which you textually embodied the material parts of my instruction. That you have well performed your task, that in your conferences with the representatives of the Spanish Crown you have wisely dwelt upon the truly elevated purposes of friendliness toward Spain and the sovereign instincts of humanity that prompted the utterances of this Government, is evident from the frank reception accorded to your communications, as shown by the reply now before me. The President, conscious of the responsible mission which a great free people has imposed upon him, and of the moral obligations he has assumed before his countrymen and before the world to follow only the paths of rectitude and justice in directing the relations of our State with its fellows, charges you to reaffirm, if need be, on any fitting occasion, his earnest declaration of desire for peace and good will between the United States and Spain.

It is gratifying to note that the Spanish Government appreciates at its just value the vital interest this Government and people have and feel in the prompt cessation of the Cuban struggle which, as his excellency observes, although it be for Spain more painful and costly than for any other State, is also of importance and prejudicial to the American nation alike, because the disasters of such a civil strife are so nearly felt and because of the losses occasioned to our commerce, our industries, and the property of our citizens by an indefinite continuance of a contest of this character. It is to be remembered that the instructions under which you acted were penned while the destinies of Spain and Cuba were controlled by a Government which, during nearly two years and a half, had been engaged in the fruitless endeavor to reduce the revolted Cubans to subjection by sheer force of arms, not by the legitimate resorts of war as it is understood in our day, or indeed by the means defined by all publicists since international law sprang into being, but by methods destructive to every rational interest of Spain and Cuba and injurious to every association that links both to the outside world. Its aim appears to be, not the conservation of the fairest dependency of Spain under conditions of contentment and prosperity, but to conquer the peace of the desert and the tomb.

It behooved me then to rest the case of the United States, not alone upon the sentiments of humanity, but upon the material considerations importing irremediable injury to paramount national interests, should that disastrous state continue, considerations which as history shows have constrained the suffering on-lookers to mediation, and even intervention, when longer forbearance has ceased to be a virtue. Our action rested no less upon moral right than upon the all-controlling sentiment of humanity. Our forbearance was testified by thus approaching anew the same Peninsular Government which had repelled our kindly overtures in the past. Our repeated offer was, indeed, tendered to that Government on the eve of its quitting power, and even then it was fervently hoped that it might be heeded in the spirit of sincere friendship which prompted it, and might gain in weight and acceptability by the circumstances that an added year of war in Cuba had demonstrated the futility of the policy theretofore decreed by the Spanish Government, and that it was proffered by a new Administration which had taken office in this country under conditions imposing upon the Executive the onerous responsibility of adopting a definite policy toward Spain and toward the Cuban war.

It is a gratifying augury that the consideration of our fresh proposals should have fallen to a government which by its liberal antecedents, its views and convictions in regard to the conduct of the war formed while in opposition to the late Administration, and its uttered pledges of amelioration and reform in the mutual interest of Cuba and of Spain, was so well fitted to understand the true motives of our conduct and the earnestly impartial friendliness that prompted our course. Under such circumstances it was not for a moment apprehended that the just grounds of our representations to Spain would be misconstrued or controverted. The record of the Liberal party and the stand taken by its leaders, with the indorsement of its rank and file, were an assurance that such would not be the case. The event has justified the accuracy and wisdom of our forecast.

This Government, on the other hand, appreciates to the full the embarrassments which must necessarily surround an administration new to office, assuming the complex functions of government at an hour of grave national peril, inheriting from its predecessor the disastrous legacy of an internal conflict, the conditions of which had been acerbated by the harsh and futile conduct of the war hitherto. It understands that the reversal of all that has been done is no sudden growth, to spring up in a single night; that the fair structure of a just and prosperous peace for Cuba is to be raised with thoughtful care and untiring devotion, if Spain is to succeed in the accomplishment of the tremendous task upon which she has entered. It comprehends that the plan, however broadly outlined, must be wrought out in progressive detail; that upon assured foundations, upon the rock of equity and not upon the shifting sands of selfish interest, must be builded, stone by stone, the enduring fabric of regenerated Cuba. It sees this broadly outlined plan in the declarations of the present Spanish note which announces that, in fulfillment of the resolute purpose to draw closer, with ties of true affection, the bonds which unite the motherland with its provinces beyond the seas, it is determined to put into immediate practice the political system sketched by the present president of the council of ministers in his manifesto of June 24; that this involves joining to military operations, uninterrupted, energetic, and

active as circumstances may demand, but ever humanitarian and careful to respect all private rights as far as may be possible, political action frankly leading to the autonomy of the colony in such wise that under the guaranty of Spain shall arise the new administrative entity which is to govern itself in all affairs peculiar to itself by means of an insular council and parliament; that such institution of true self-government shall give to the Cubans their own local government, whereby they shall be at one and the same time the initiators and regulators of their own life while remaining within the integral nationality of Spain, and that to realize these ends of peace with liberty and self-government the mother country will not fail to lend, in due season, the moral and material means in aid of the Antillean provinces by cooperating toward the reestablishment of property, the development of the island's inexhaustible sources of wealth, and by specially promoting public works and material interests which shall bring prosperity in the train of restored peace.

In taking this advanced position, the Government of Spain has entered upon a pathway from which no backward step is possible. Its scope and magnitude may not be limited by the necessarily general and comprehensive character of the formula whereby it is announced. The outcome must be complete and lasting if the effort now put forth is to be crowned with full success, and if the love and veneration of an ever-faithful and happy people is to reward the sacrifices and endeavors of Spain. No less is due to Cuba, no less is possible for Spain herself.

The first acts of the new Government of Spain lie in the laudable paths it has laid out for its own guidance. The policy of devastation and extermination that has so long shocked the universal sentiment of humanity has already been signally reversed, and I am informed by the Spanish minister in this capital of the measures proclaimed by the new commander in chief of the Spanish arms in Cuba, whereby immediate relief is to be extended to the unhappy reconcentrados, fresh zones of cultivation are to be opened to them, employment upon the estates permitted, transportation furnished them, and protective boards at once organized for their succor and care.

I am likewise advised that by a recent decree of the Governor-General the resumption of agricultural operations and the harvesting of crops shall be promoted and efficiently protected by all possible means, civil as well as military. I learn that the grinding of cane and the renewal of industrial operations in the interior districts is to be encouraged, especially in respect to those impoverished estates which, through the destruction of crops, the prohibition of labor, the deportation of their tenants, the withdrawal of military protection, and the enforced cessation of their revenues, have incurred increasing arrears of taxation. I hear, with profound gratification, that the new commander has proffered broad amnesty to participants in the insurrection, and that the scope of this clemency is to be even further enlarged to cover those convicted of political offenses. It is reported by you that within a few days the Madrid Government will promulgate a scheme of home rule for Cuba. Being necessarily in ignorance of the details proposed, I await the outcome with encouragement and hope, although, of course, unable to commit this Government in advance to the plan itself, the scope and effects of which remain to be learned.

In these things I cheerfully realize that the new Government of Spain has already given, in the first few weeks of its existence, earnest of the

sincerity of its professions and evidence of its conviction that past methods are and must needs be futile to force a peace by subjugation without concessions adequate to remedy admitted evils, and that such methods must inevitably fail to win for Spain the fidelity of a contented people. With such convictions unhesitatingly expressed, and with such a herculean task before her so humanely and so auspiciously begun, Spain may reasonably look to the United States to maintain an attitude of benevolent expectancy until the near future shall have shown whether the indispensable condition of a righteous peace, just alike to the Cubans and to Spain, as well as equitable to American interests, so intimately bound up in the welfare of the island, is realizable. It is the sincere hope and desire of the President that such a condition of lasting benefit to all concerned may soon be brought about. He would most gladly share in the belief expressed in the liberal manifesto of June 24th that the speedy and energetic application of the principles and governmental measures therein advocated will be powerful to stay the course of the evils that have afflicted Spain and to bring her near to the pacification of her colonies.

Having made these declarations touching the proclaimed policy of the Liberal party toward Cuba and the measures already adopted and to be forthwith devised to render that policy effective, the minister of state takes up that part of your note of September 23 which states that the President feels it his duty to make the strongest possible effort to contribute effectively toward peace, and his excellency remarks that your note makes no suggestion of the means of which the President might avail himself to attain that end, besides noting your silence as to the important measures on several occasions indicated by the Spanish Government. Your omission to treat of these points is sufficiently explained in your concluding statements that the President has no desire to embarrass that Government by formulating precise proposals as to the manner in which the assistance of the United States can be effectively rendered, and that all that is asked or expected is that some safe way may be provided for action which the United States may undertake, with justice and self-respect, so that the settlement shall be a lasting one, honorable and advantageous to Cuba and equitable to the United States, to which ends this Government offers its most kindly offices. For the realization of this friendly offer you invited an early statement of some proposal under which this tender of good offices may become effective, or, in lieu thereof, satisfactory assurances that peace in Cuba will, by the efforts of Spain, be promptly secured.

The assurances tendered on behalf of the Liberal Government of Spain lie in the line of this latter alternative. His excellency's note is silent as to the manner and form in which the Government of the United States might exert good offices. His excellency limits himself to suggesting coincident but separate action by the two Governments, each in its domestic sphere, whereby, as he says:

> Spain shall continue to put forth armed efforts, at the same time decreeing the political concessions which she may deem prudent and adequate, while the United States exerts within its borders the energy and vigilance necessary to absolutely prevent the procurement of the resources of which from the beginning the Cuban insurrection has availed itself as from an inexhaustible arsenal.

And thereupon his excellency proceeds to discuss at some length the supposed shortcomings of the United States as to the manner of fulfill-

ing the neutrality laws in the territory of the Union and as to the scope and sufficiency of those laws.

This labored arraignment could scarcely fail to be received with mingled pain and sorrow by a Government which, like ours, inspired by the highest sense of friendly duty, has for the last two years and more endured almost insupportable domestic burdens, poured forth its treasure by millons, and employed its armed resources for the full enforcement of its laws and for the prevention and repression of attempted or actual violation thereof by persons within its jurisdiction. The Spanish reply appears to be unaware or heedless of the magnitude of the task which this Government has performed and is still performing with the single purpose of doing its whole duty in the premises. To give a proof of this I need but cite the work of our Navy toward the enforcement of the municipal obligations of neutrality. Since June, 1895, our ships of war have without intermission patrolled the Florida coast. At various times the *Raleigh*, *Cincinnati*, *Amphitrite*, *Maine*, *Montgomery*, *Newark*, *Dolphin*, *Marblehead*, *Vesuvius*, *Wilmington*, *Helena*, *Nashville*, *Annapolis*, and *Detroit* have been employed on this service.

Starting with one ship having Key West as its headquarters, the number on continuous duty was gradually increased to four, without counting additional service performed as special occasion demanded at other seaboard points. At the present time a vessel with headquarters at Pensacola patrols the coast from the northwest as far south as Tampa, another with headquarters at Key West patrols the coast from Tampa around to Miami on the east side, and a third with headquarters at Jacksonville patrols the Atlantic coast from Miami to Georgia. The action of these regularly stationed ships is at all times concerted. Their commanders are ordered to communicate directly with one another, with the United States district attorneys in Florida, with the custom-house officials in that State, and with the commanding officers of the several revenue cutters likewise on duty in that quarter. Acting upon the information thus received, they take such immediate action as they may deem advisable or necessary in order to prevent the violation of the neutrality laws.

In addition to this stated detail on the Florida coasts, vessels belonging to the North Atlantic Station have been sent at different times to the various Atlantic ports north of Georgia at the request of the Spanish minister and the Department of State or upon receipt of information from the Department of Justice or the Treasury Department concerning reported filibustering expeditions. Many hundreds of official letters and telegrams record the orders given to these vessels and the action had by their commanders. It may be asserted, in short, that every vessel of the Navy which could practically be employed in the shallow waters of the Florida coast has been detailed for this work, while for a time two revenue cutters were transferred to the Navy Department to assist, besides the efficient cooperation of the regularly stationed cutters under the orders of the Treasury Department.

No less degree of activity has marked the operations of the Treasury Department and the Department of Justice. Every means at lawful command have been employed by them in cooperation to enforce the laws of the United States. Alertness in every regard has been peremptorily enjoined upon all officials, high and low, and has been sedulously practiced by them.

In the light of these undisputable facts, and with this honorable record spread before him, the President is constrained to the conviction that nothing can be more unwarrantable than the imputation of the Government of Spain that this Government has in any wise failed to faithfully observe and enforce its duties and obligations as a friendly nation. In this relation it may be proper, if not indeed imperative, to inquire what those obligations are.

It is to be borne in mind that Spain insists that a state of war does not exist between that Government and the people of Cuba; that it is engaged in suppressing domestic insurrection that does not give it the right, which it so strenuously denies itself, to insist that a third nation shall award to either party to the struggle the rights of a belligerent or exact from either party the obligations attaching to a condition of belligerency. It can not be denied that the United States Government, whenever there has been brought to its attention the fact or allegation that a suspected military expedition has been set on foot or is about to start from our territories in aid of the insurgents, has promptly used its civil, judicial, and naval forces in prevention and suppression thereof. So far has this extended and so efficient has the United States been in this regard that, acting upon information from the Spanish minister or from the various agencies in the employ of the Spanish legation, vessels have been seized and detained in some instances when investigation showed that they were engaged in a wholly innocent and legitimate traffic. By using its naval and revenue marine in repeated instances to suppress such expeditions, the United States has fulfilled every obligation of a friendly nation. Inasmuch as Spain does not concede, and never has conceded, that a state of war exists in Cuba, the rights and duties of the United States are such as devolve upon a friendly nation toward another in the case of an insurrection which does not arise to the dignity of recognized war.

As you are aware, these duties have been the subject of not infrequent diplomatic discussion between the two Governments, and of adjudications in the courts of the United States, as well during the previous ten years' struggle as in the course of the present conflict. The position of the United States was very fully presented by Mr. Fish in his note of April 18, 1874, to Admiral Polo de Bernabe. (Foreign Relations of the United States, 1875; pp. 1178 et seq.)

> What one power in such case may not knowingly permit to be done toward another power, without violating its international duties, is defined with sufficient accuracy in the statute of 1818, known as the neutrality law of the United States.
>
> It may not consent to the enlistment within its territorial jurisdiction of naval and military forces intended for the service of the insurrection.
>
> It may not knowingly permit the fitting out and arming or the increasing or augmenting the force of any ship or vessel within its territorial jurisdiction, with intent that such ship or vessel shall be employed in the service of the insurrection.
>
> It may not knowingly permit the setting on foot of military expeditions or enterprises to be carried on from its territory against the power with which the insurrection is contending.

Except in the single instance to be hereafter noticed, his excellency the minister of state does not undertake to point out any infraction of these tenets of international obligation so clearly stated by Mr. Fish. Did any further instance exist the attention of this Government would have been called to it.

With equal clearness, Mr. Fish has stated in the same note the things which a friendly government may do and permit under the circumstances set forth.

> But a friendly government violates no duty of good neighborhood in allowing the free sale of arms and munitions of war to all persons, to insurgents as well as to the regularly constituted authorities, and such arms and munitions, by whichever party purchased, may be carried in its vessels on the high seas without liability to question by any other party. In like manner its vessels may freely carry unarmed passengers, even though known to be insurgents, without thereby rendering the government which permits it liable to a charge of violating its international duties. But if such passengers, on the contrary, should be armed and proceed to the scene of the insurrection as an organized body, which might be capable of levying war, they constitute a hostile expedition which may not be knowingly permitted without a violation of international obligation.

Little can be added to this succinct statement of Mr. Fish. It has been repeatedly affirmed by decisions of our courts, notably by the Supreme Court of the United States. In the case of Wiborg *v.* The United States, 163 U. S. Reports, p. 632, Mr. Chief Justice Fuller repeats, with approval, the charge of the trial court, in which it is said (p. 653):

> It was not a crime or offense against the United States under the neutrality laws of this country for individuals to leave the country with intent to enlist in foreign military service, nor was it an offense against the United States to transport persons out of this country and to land them in foreign countries, when such persons had an intent to enlist in foreign armies; that it was not an offense against the laws of the United States to transport arms, ammunition, and munitions of war from this country to any foreign country, whether they were to be used in war or not, and that it was not an offense against the laws of the United States to transport persons intending to enlist in foreign armies and munitions of war on the same trip. But (he said) that if the persons referred to had combined and organized in this country to go to Cuba and there make war on the Government, and intended when they reached Cuba to join the insurgent army and thus enlist in its service, and the arms were taken along for their use, that would constitute a military expedition, and the transporting of such a body from this country for such a purpose would be an offense against the statute.

These principles sufficiently define the neutral duties of the United States, which have been faithfully observed at great expense and with much care by this Government. If any such military expeditions have been knowingly permitted to depart, that fact is not called to the attention of this Government by the Spanish note. This Government is aware of none such.

The only instance of an alleged culpable expedition mentioned in the note of his excellency the minister of state—if indeed it may be termed a military expedition or enterprise within the prohibition of the statute—is that of the *Silver Heels*, which is described as having "left New York in spite of the previous notification of His Majesty's legation at Washington and before the eyes of the Federal authorities." This case was instantly investigated by the superior authority, even before any oral complaint in that regard had reached this Government from the Spanish legation. From the accompanying copies of the statements furnished to the Department of Justice by the United States marshal and his deputy you will perceive that this vessel would undoubtedly have been apprehended but for the officious control of the Spanish agents whose instructions were obeyed in the matter.

A large part of the reply of his excellency the minister of state is devoted to the discussion of a hypothetical change of attitude toward the combatants involving the recognition of their belligerency. As

this Government, with the largest attainable knowledge of all facts and circumstances pertinent to the case, has not yet determined upon that course, I do not see that any useful purpose could be subserved by argument upon the stated premises. Neither do I discern the utility of discussing the circumstances under which a case might arise for considering and acting upon the thesis advanced by his excellency on the authority of the argument before the tribunal of Geneva that it is the duty of a nation to amend its laws if inadequate for the fulfillment of its international obligations of neutrality, or to offer any comment thereon further than to observe that the inadequacy of our neutrality laws is not admitted, nor is it proved by Spain in the light of the precedent to which appeal is had, inasmuch as the doctrine of Geneva was only applicable and applied to the case of a public war between recognized belligerents, a case which Spain does not concede to exist in the present instance.

Whatever just and humane measures may attain to a contented and recuperative peace in Cuba can not but win our admiration, and any progress toward its attainment can not but be benevolently viewed. In this path of kindly expectancy, and inspired now as always by the high purpose of fulfilling every rightful obligation of friendship, the United States proposes to persevere so long as the event shall invite and justify that course. I can not better close this instruction than by repeating and affirming the words with which you concluded your note of September 23, "that peace in Cuba is necessary to the welfare of the people of the United States, and that the only desire of my Government is for peace and for that sure prosperity which can only come with peace."

Respectfully yours, JOHN SHERMAN.

[Inclosure.]

STATEMENT OF JOHN H. M'CARTHY, UNITED STATES MARSHAL, IN RE "SILVER HEELS" CASE.

On the 16th of October, 1897, about 3 o'clock p. m., a telegram was received from the Department of Justice notifying me of an intended "filibustering expedition to Cuba reported preparing to leave the port of New York," upon receipt of which my deputy, Lewis L. Kennedy, consulted with the United States attorney, and upon his suggestion saw Mr. Thornhill, of the Pinkerton Detective Agency, who undertook, with the knowledge and on behalf of Dr. Congosto, Spanish consul at Philadelphia, to furnish me with information concerning the movements and purposes of the schooner. It was stated that the schooner probably would not move until night, as they were obliged to wait for a portion of the cargo to reach New York by the Bridgeport boat, and then be transferred to the schooner. It was further stated by Mr. Thornhill that they had reason to believe that the *Silver Heels* was to take an additional cargo and probably some men out at sea, and that her course in leaving New York would naturally be from Pier 39 through East River, Buttermilk Channel, and the Narrows.

At about 10.30 p. m. a warrant was placed in my hands for John Doe and Richard Roe, captain or master, and mate, respectively, of the schooner *Silver Heels*. My deputy stated to me that he had suggested proceeding at once to the schooner with a sufficient force of men and making the arrest, but that the consul and Mr. Thornhill had objected to that course on the ground that there would be no means of ascertaining the identity of the captain and mate, and that, as they said, the captain and mate would, in all probability, deny their identity and possibly represent some members of the crew as the officers of the schooner. I at once saw Mr. Thornhill and advised the course originally suggested, but as he and the consul urged so strongly that we make the arrest in midstream, where the identity of the officers in command

must be apparent, and upon his undertaking to furnish me with information and keep me informed as to the movements of the schooner, I acceded to their request. My party, including myself and eleven deputies, proceeded at once to the revenue cutter *Chandler*, then lying at her berth at the Barge Office, where we were shortly joined by Mr. Thornhill and a party of perhaps half a dozen detectives from his office.

At my suggestion, my deputy, Kennedy, saw Mr. Thornhill in regard to obtaining some immediate information as to the movements of the schooner, and upon being positively assured upon that point we awaited word of her leaving. At about 12.45 word was received that the schooner had just left her dock and had headed downstream. The cutter started from her dock at once to meet the schooner, and, failing to do so, proceeded to a point opposite Pier 39, where no trace of the schooner could be seen. After steaming a short distance up the river, the cutter turned about and headed for the harbor via the Buttermilk Channel. Search was continued until abreast of Staten Island, when, upon a statement of Mr. Thornhill that he considered further search useless, and upon the assurance of the captain of the revenue cutter that the schooner could outsail the cutter, and as no vessel was in sight, and having no definite information that the vessel had gone in that direction, we returned, stopping on the way at the place where I was informed the steam tug *Wise* (which was reported to have the schooner in tow) is accustomed to dock. The *Wise* was not there at the time. This was about 3 a. m. From there we proceeded up the East River again to Pier 39. After ineffectual efforts to obtain information as to the arrival and departure of the schooner *Silver Heels*, and upon the statement of Mr. Thornhill that further search was useless, we returned to the Barge Office, arriving there about 4 a. m.

STATEMENT OF DEPUTY LEWIS L. KENNEDY.

At about 3 o'clock in the afternoon of October 16 a telegram was received at the marshal's office notifying me of the reported information of a filibustering expedition to Cuba preparing to leave the port of New York, and requesting me to consult with the district attorney and the collector. I saw the district attorney, and he advised me to go down and see Pinkerton. He had received a telegram to substantially the same effect at about the same time. I went down and saw the Pinkertons, who were the recognized agents of the Spanish Government and acting under the direction of the consul. I found the superintendent or assistant superintendent, Mr. Thornhill, who was at that time speaking with Dr. Congosto, the Spanish consul from Philadelphia. Mr. Thornhill stated that he had an appointment with the collector of the port at about 3.30, I believe, in relation to that business, the *Silver Heels*, and from there he was going to the office of the counsel for the Spanish consul, and he would come directly up to my office and see the marshal and district attorney, and we could then make such arrangements as were proper.

Dr. Congosto was introduced to me as Spanish consul at Philadelphia. I offered to see Mr. Arthur Baldasano y Topete, Spanish consul at New York, in order to find out if he had any suggestions to make in the matter; but Mr. Thornhill and Dr. Congosto said there was no use in doing that, for he did not figure in the matter. Upon Mr. Thornhill's assurance that he would see the collector and the counsel for the Spanish consul and report as soon as practicable, or within an hour, to the United States attorney, I left them. Mr. Thornhill reported to the United States attorney about as he had promised, and I saw him and heard from him by telephone several times during the course of the afternoon and evening. Nothing definite was done until about 10.30 p. m., when Mr. Thornhill and Dr. Congosto and a gentleman who, I understand, was from the office of the counsel for the Spanish consul came to the United States attorney and swore to a complaint, upon which a warrant was issued by Commissioner Shields directing the marshal to arrest John Doe and Richard Roe, captain or master and mate, respectively, of the schooner *Silver Heels*. I did not know their real names and had no means of ascertaining them.

Upon the receipt of the warrant I suggested to the Spanish consul and to Mr. Thornhill that I proceed at once by land with a sufficient force of men to the dock where the vessel lay—Pier 39, East River—and that one or two from the party of officers board the vessel and ascertain who the captain and mate were and arrest them and bring them before the commissioner. The consul and Mr. Thornhill opposed this suggestion strenuously, on the ground that such an action would defeat the purpose for which the warrant was issued. They stated that they had reason to believe that the captain and mate would deny their identity, and that we could not make the required arrest; that they believed they would give us the names of one or two of the members of the crew as captain and mate. They were so urgent in this respect that we yielded. The consul and the superintendent, Mr. Thornhill, undertook to

give us all the information upon which we were to act. They said that the revenue cutter *Chandler* was then being held in readiness at the Barge Office, under steam, awaiting our arrival. We immediately went down to the cutter, taking twelve men, including myself and the United States marshal. Upon reaching the boat, Mr. Thornhill would not consider the proposition to steam up the river and board the schooner from the cutter, which was made to him, he stating that it could not be done for same reason that it was not practicable to go by land, and, further, from the fact that as soon as the revenue cutter got in sight of the schooner that she would know what she was there for, because the cutter was so well known that her purpose could hardly be mistaken.

At the suggestion of the consul our purpose was to steam out into the stream and intercept the *Silver Heels* before she reached Governors Island, and upon inquiry of Mr. Thornhill as to his facilities for communication between the schooner and the cutter, he informed me that he was in immediate communication. He told me he had three or four of his men covering the schooner, as he called it, and three telephones in the immediate vicinity of the schooner, some one of which, as he stated, must be available at the time the schooner moved. His men were to telephone him direct the first move the schooner made. He said the schooner could not make a move without his knowing it. Shortly after our reaching the cutter, the Spanish consul, Dr. Congosto, came aboard and stayed there for some time, and after a stay of perhaps half an hour, left the cutter. After waiting aboard the cutter for some time we asked Mr. Thornhill again if he was in immediate communication with the schooner. He said yes, he was, and that the schooner could not make a move without his knowing it at once. He said: "We can not afford to have any mistake about it, for it means a great deal to us. My plans are complete for following every move" (or words to that effect).

At about 12.45 a. m. Mr. Thornhill, who had been on the pier alongside the cutter for a few moments, came aboard again with the statement that he had just received word that the schooner had left. We immediately left the dock, and while steaming out into the stream to intercept the schooner he told me that a messenger had just come down from the office, which is at 57 Broadway (the office of the Pinkerton Detective Agency), and distant perhaps one-third or one-half a mile from the dock where the cutter was; he said also that one of the men who had been watching the schooner had telephoned the office and the messenger had come down to the cutter from there. The cutter immediately steamed out, and failing to see the schooner, steamed up the river toward pier 39. On reaching there, we found no traces of her, and after proceeding a distance beyond the pier, we turned back and headed down, searching the piers on the way. The cutter then went through Buttermilk Channel, which I was informed by Mr. Thornhill was the course the schooner proposed taking. Seeing nothing of the vessel, we proceeded down the bay as far, it was stated, as Bay Ridge, Long Island, and the captain of the cutter stated that with the wind and tide and the then favorable conditions the schooner could make 12 knots an hour to the cutter's 8, and the schooner under those conditions was independent of the tug and could sail faster without than with it.

I omitted to state that the schooner was supposed to be in tow of the tug *P. H. Wise*. After a thorough search of the harbor, and upon the advice of Mr. Thornhill, and his statement that he considered it useless to go farther, we returned to New York, stopping on the way back at the Brooklyn side near the Erie Basin, and ascertained from a couple of our men that the *Wise* was not then at her accustomed berth. From Brooklyn we proceeded once more to pier 39, at which place no definite information as to the schooner could be had, the watchman on one pier stating that a schooner had left there some time in the evening and headed up toward Hell Gate. We then proceeded to the barge office, where we arrived at about 4 a. m

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Mr. Sherman to Mr. Woodford.

No. 75.] DEPARTMENT OF STATE,
Washington, November 23, 1897.

SIR: Having further reference to instruction No. 72, of the 20th instant, and particularly to the inclosures therewith, I transmit for your information copy of a letter, dated the 19th instant, from the Secretary of the Treasury communicating a report of the surveyor of the port of New York touching the alleged filibustering expedition of the

schooner *Silver Heels*. This is entirely confirmatory of the statements previously made showing that the men detailed at Pier 39, East River, to watch the *Silver Heels* were employed by the Spanish consul and acted under his advice and supervision.

Respectfully, yours, JOHN SHERMAN.

[Inclosure.]

Mr. Gage to Mr. Sherman.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., November 19, 1897.

SIR: I have the honor to transmit herewith a copy of a letter dated the 16th instant, from the collector of customs at New York, and of its inclosure, consisting of a report by the surveyor of customs at New York relative to the action taken October 21, 1897, at the port mentioned, to detain the schooner *Silver Heels*, and stating particularly that the men detailed at Pier 39, East River, were representatives of the Pinkerton Detective Agency, who were employed by the Spanish consul at New York and acted under his direction.

The surveyor reports that the expedition throughout was under the full charge and direction of the United States marshal, who informed the collector that he had had an extended conference with the United States attorney as to details.

A letter similar to this has been addressed to the Navy Department and to the Department of Justice.

Respectfully, yours,

L. J. GAGE,
Secretary.

[Subinclosure No. 1.]

OFFICE OF THE COLLECTOR OF CUSTOMS,
Port of New York, November 16, 1897.

HON. LYMAN J. GAGE,
Secretary of the Treasury, Washington, D. C.

SIR: In a personal conversation with you on Wednesday last you expressed a desire for a further report in regard to the *Silver Heels* matter, and also wished me to ascertain definitely for you who was assigned to watch the expedition at Pier 39, East River, New York City.

In pursuance of your request I have had the matter investigated, and beg to call your attention to the further report (inclosed) made to me by the honorable surveyor of the port, and to the fact stated therein that the men detailed at Pier 39, East River, were representatives of Pinkerton's Detective Agency, who were employed by the Spanish consul at this port and acted under his direction.

Very respectfully, yours,

G. R. BIDWELL, *Collector.*

[Subinclosure No. 2.]

OFFICE OF THE SURVEYOR OF CUSTOMS,
Port of New York, November 13, 1897.

THE COLLECTOR OF THE PORT.

SIR: In addition to my report of the 21st ultimo, in the matter of the filibustering expedition for Cuba from Pier 39, New York, and at your request, I beg to submit for your further information:

As previously stated, Assistant Secretary Spaulding's telegram of advice and instruction was received at 2.30 p. m., and I at once directed the captain of the *Chandler* to hold both crew and cutter in readiness for immediate use. Immediately thereafter was visited by Mr. Augustus Noble Hand, who informed me that he was a member of the firm of Curtis, Mallet-Prevost & Colt, 30 Broad street, for whom he appeared as counsel in behalf of the Spanish consul. With him were Mr. David C. Thornhill and H. W. Bearce, who informed me that they both were assistant super-

intendents of the Pinkerton National Detective Agency, 57 Broadway. Mr. Hand, representing the Spanish consul, stated to me that he did not desire the vessel detained at dock, but seized after departure therefrom, and the inference I drew from this conversation, as related to this action, was that it required a combination of men and arms to constitute a filibustering expedition, and they wished to emphasize the situation by permitting actual departure with the two united and upon the water.

Mr. Hand and Mr. Thornhill stated to me that they proposed that the detective agency have the watching of the pier, and they would advise United States marshal promptly of the departure of the sloop. They seem most anxious that this part of the affair be left entirely to them, and it impressed me at the time that they felt first that there would be less chance of a failure if their own men were assigned to this particular duty, and second, that they feared their plan of allowing the vessel to leave the dock might be interfered with if this detail was in charge of a customs officer. I made the suggestion that the vessel could no doubt be detained at the dock, and that we might seek advice on this point from the United States district attorney. Mr. Hand objected to this, and stated unqualifiedly that they desired the vessel to be taken after she had left her berth, further stating that the details of the affair would be arranged with the United States district attorney and United States marshal. They took their departure, and I did not again see them until I met them upon the cutter at midnight, in company with the marshal and his deputies. I was subsequently advised by the United States district attorney by telephone to hold the cutter in readiness for the marshal, with whom he would arrange all the details of the affair. He further informed me that the sloop, no doubt having a coast license, could not be seized, and that we could only follow her.

I have since been informed by Mr. Bearce, of the detective agency, that it was arranged that Mr. Thornhill, one of the marshal's men, and himself were detailed to arrest the captain and the mate. I was not informed as to the names of the detectives who were detailed to watch the pier and the sloop, and have since been advised that they have no record of who the men were, they being known only to Mr. Thornhill, who was directly in charge, and he has since been transferred to Boston, in charge of the agency there.

As to the manner of transmitting the information to the Barge Office as to the departure of sloop and tug, I beg to refer to my report of October 21. The expedition throughout was under the full charge and direction of the United States marshal, who informed me that he had had an extended conference with the United States district attorney as to details. As to their character I have no information except as evidenced by their subsequent action, and what was conveyed to me by Mr. Bearce, as before stated.

Respectfully, yours, S. C. Craft, *Surveyor.*

Mr. Woodford to Mr. Sherman.

No. 76.] Legation of the United States,
Madrid, November 23, 1897.

Sir: Yesterday, November 22d, instant, I telegraphed you in cipher as follows:

Secretary Sherman, *Washington:*

Spanish cabinet hope to finish autonomy decrees this afternoon. Their only difficulty is with tariff regulations. I think they will reach solution and publish decrees on or before November 25.

Woodford.

The cabinet finished discussion of proposed decrees granting autonomy, excepting the provisions relating to tariff regulations, yesterday afternoon. Another meeting is to be held this afternoon, and I hope that agreement will be reached thereat. Will telegraph you again to-morrow.

I have, etc.,

Stewart L. Woodford.

Mr. Woodford to Mr. Sherman.

No. 77.] LEGATION OF THE UNITED STATES,
Madrid, November 24, 1897.

SIR: I have the honor to acknowledge the receipt, on November 23, instant, of the Department's dispatch to me, No. 64, of the 11th instant, inclosing copy of dispatch from the United States consul-general at Havana, No. 675, and dated October 20, ultimo, showing the distressing effects of concentration of noncombatants in the capital city of Habana.

I trust that the evils of this inhumane military policy have before now been mitigated by the present Captain-General of Cuba. The Spanish ministry assure me that they have ordered that the war be now conducted according to the codes of civilized warfare, but I will promptly and urgently renew the protest of our Government whenever you think it desirable.

I have, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 80.] LEGATION OF THE UNITED STATES,
Madrid, November 26, 1897.

SIR: Yesterday afternoon, November 25, the Queen Regent signed the three decrees extending the provisions of the Spanish constitution over Cuba, fixing the electoral laws of Cuba, and establishing the new system of autonomy therein. With great courtesy the Spanish ministry handed me a synopsis of the third decree establishing autonomy. What added to this courtesy was that a member of the cabinet brought it to me.

I have to-day telegraphed you in cipher as follows:

Queen signed three decrees November 25. First two decrees confer on Spaniards resident in Antilles all rights enjoyed by peninsular Spaniards and extend electoral law of Spain to Cuba and Porto Rico. These two decrees are permitted by Spanish constitution and do not require to be ratified by Cortes. Third decree, granting autonomy, will be published November 27. This must be ratified by Cortes. Full synopsis of this decree was furnished me Thursday. Same will be called to Spanish minister at Washington with permission to show you. Synopsis of powers of Cuban parliament is as follows:

The executive power, together with the chambers, can consider and vote on all subjects which may affect the domestic order of the island and its local interests without any limitation whatever. Matters of state (foreign relations), war, and marine only are excepted from their jurisdiction, in which the Governor-General acts by his own authority and as the delegate of the central Government. In addition to the legislative power of the insular chambers they will first receive the oath of the governor to preserve faithfully the liberties and privileges of the colony. Second, they will exact responsibility from the colonial secretaries. Third, they will have the right to apply to the central Government, through the governor, in order to propose to it the modification of the laws in force of a national character, in order to invite it to present new projects of law or to take measures of an executive character which may be in the interest of the colony.

Besides its legislative powers over all local matters, the insular parliament has the power, first, to prescribe regulations upon the preparation of the electoral lists, upon the method of procedure for the election, upon the qualifications of the electors and the manner of exercising the suffrage, provided that its regulations do not affect the right of citizens to vote freely; second, to dictate regulations relative to the compositions of the courts of justice, facilitating their organization with natives of the coun-

try or with lawyers who may have practiced in the courts of the colony; third, to make up the insular budget, as well for expenses as for revenue, without limitation of any kind, and to determine the revenues from which Cuba shall cover its proportionate part of the national budget. This national budget, or expenses of sovereignty, will be voted by the national parliament, with the assistance of the Cuban senators and deputies; fourth, to initiate or take part in the negotiations of the National Government for making treaties of commerce which may affect Cuban interests; fifth, to accept or reject treaties of commerce which the National Government may have made when the Cuban government has not taken part in these negotiations; sixth, to form the colonial tariff, acting in the determination of the articles of mutual commerce between the Peninsula and the colonies in accord with the government of the metropolis. These articles will be determined in a list formed by and between both governments.

In all these subjects, which may be of common interest to Cuba and to the Peninsula, the Government before presenting a project of law, or the chambers before voting it, will hear the opinion of the central Government, to whom the proposed law will be communicated for this purpose, the correspondence which may for this purpose have taken place being published afterwards.

The conflicts of jurisdiction which may occur between the different municipal, provincial, and insular assemblies, or between the latter and the executive power, and which by reason of their character may not have been referred to the central Government, shall be submitted to the courts of justice.

Will send by next mail duplicate printed copies of all three decrees.

The synopsis of the powers of the Cuban parliament, telegraphed you as above, is a careful translation from the official synopsis furnished me by the Spanish Government.

To-morrow I hope to mail to you duplicate copies of all three decrees as printed in the Official Gazette of the Government.

I have the honor, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 81.] LEGATION OF THE UNITED STATES,
Madrid, November 27, 1897.

SIR: Herewith I send you duplicate copies of each of the three decrees signed by Her Majesty the Queen Regent on November 25 instant, and which extend the provisions of the Spanish constitution over Cuba, fix the electoral laws of Cuba, and establish the new system of autonomy therein.

The first two were published on November 26 in the Gaceta de Madrid, and the third in same paper on this 27th day of November.

Last evening and before its publication the Spanish minister of foreign affairs sent me copy of the decree establishing the new system of autonomy in Cuba. I have had pleasure in acknowledging to-day very cordially his marked courtesy in this matter.

I have, etc.,

STEWART L. WOODFORD.

[Gazette of Madrid, Friday, November 26, 1897.]

[Translation.]

OFFICIAL—PRESIDENCY OF THE COUNCIL OF MINISTERS.

STATEMENT.

MADAM: At the time when an autonomic constitution is given to the islands of Cuba and Puerto Rico, which intrusts to their own initiative the management and government of their local interests, it is of paramount importance to strengthen constitutional unity, as the staunchest basis on which the integrity of our territory rests.

This aim of all the liberal parties, recognized in principle by the decree of April 2, 1881, has, however, failed of accomplishment in the form to which the people of the Antilles are entitled. They frequently complain of and deplore irritating inequalities which are of themselves sufficient to hamper, if not totally to preclude, the enjoyment of constitutional liberty. Indeed, these liberties, as they are disclosed in the fundamental code, consist of declarations of rights and guarantees that are subsequently sanctioned and developed in a series of organic laws, complements of the constitution, as provided in its fourteenth article, which devolves on special laws "the rules which must secure to the Spaniards reciprocal respect for the rights herein granted, and at the same time determine the civil responsibility and the penalty to which officers of all classes who infringe the rights set forth in Title I must be held liable.

It follows that if, through arbitrary provisions for which no remedy exists, through penalties imposed in the orders of governors-general, or through the omissions of laws of procedure, the citizen may be restrained, molested, or even deported to distant parts of the territory, he finds it impossible to exercise his right to speak, think, and write, or to enjoy freedom of teaching and religious toleration, or to avail himself of the right of meeting and associating.

And yet the whole foundation of modern law rests on the regular and orderly exercise of these rights; therefore, wherever it is limited equality before the law ceases and with it constitutional unity. Then arise these perverted feelings which are carried to the extent of attacking the integrity of the territory. The geographical bond with all its attractions and allurements can not cause that other aspiration to be forgotten, which, while it grows out of the same human instinct, is deeper and more essential.

It is therefore good policy, at all events it is an act of strict justice, to do all that is in the power of the Government, to the end that the constitution be at once extended in its entirety to the territory of the Antilles, that every vestige of inequality may be removed, and that our legislation be thoroughly revised, so that there can be no Spaniard who, through confusion or error, may lack the protection of the law.

This is certainly the intent of article 89 of the constitution. The provision by which it leaves to the discretion of the governments the time and manner in which the laws are to be applied to the islands of Cuba and Puerto Rico does more than grant the authority; it imposes on the Government the duty to publish this decree at the very time when it submits to Your Majesty the other measure which is about to give to our brethren in the Antilles—the right to govern themselves. The full value of that measure would not be appreciated if suspicion and distrust, closely followed by arbitrariness, should prevail in the regions of the central power.

Inasmuch as we, in the Peninsula, have come to the belief that all executive functions can be discharged within the constitution of the State and under the laws enacted for its execution; inasmuch as instances of resort to force, against which, however, the law of public order is deemed adequate, are not lacking here, we should show ourselves to be illogical, and, consequently, lose the authority requisite for forceful government, if we did not proclaim, as the foremost and most significant part of the transformation effected in our colonial régime, that constitutional unity which is the bond that unites all Spaniards, and under which the free local government of those valued territories will restore confidence in the mother country, and thus will unmistakable evidence be given of the sincerity with which she seeks to render her sovereignty beloved.

Resting on the foregoing reasons, the Government has the honor to submit the appended draft of a decree to Your Majesty's approval.

At the royal feet of Your Majesty.

PRAXEDES MATEO SAGASTA.

MADRID, *November 25, 1897.*

ROYAL DECREE.

In accordance with the opinion of my council of ministers and by virtue of the authority conferred on my Government by article 89 of the constitution, in the name of My August Son, King Alfonso XIII, and as Queen Regent of the Kingdom, I hereby decree as follows:

ARTICLE 1. The Spaniards residing in the Antilles shall enjoy, on equal terms with the residents of the Peninsula, the rights granted in Title I of the constitution of the Monarchy and the guarantees whereby their exercise is secured by the laws of the Kingdom.

To this end, and conformably to article 89 of the constitution, the laws by which its provisions are supplemented, and especially that of criminal prosecution, that of compulsory expropriation, that of public instruction, that of the press, and of meeting and association, and the code of military justice, shall go into full effect in the islands of Cuba and Puerto Rico, so that article 14 of the constitution may be executed in its entirety.

ART. 2. In time of war the law of public order shall be enforced in the Antilles with the limitation and in the manner prescribed in article 17 of the constitution.

ART. 3. The ministry of the colonies, after hearing the council of state, shall revise the legislation of the Antilles and the proclamations published by the governors-general since the promulgation of the constitution, and shall thereafter publish the results of such revision, to the end that henceforth there may be neither on the part of the executive, nor on that of the judiciary, any possibility, through error or neglect, either of citing or enforcing provisions that are at variance with the letter or spirit of the constitution of the Spanish Monarchy.

MARIA CRISTINA.

The president of the council of ministers:

PRAXEDES MATEO SAGASTA.

Done at the Palace, November 25, 1897.

STATEMENT.

MADAM: The complement of the decree that places the Spaniards on an equal footing as regards the use and enjoyment of their constitutional rights and the indispensable preparation for the organization of local government in the Antilles is the enforcement in those territories of the law of electoral suffrage that is in force in the Peninsula.

To effect this the Government might have confined itself to the reproduction, pure and simple, of that law; but the difficulty of so doing will be apparent when it is remembered that in order to give the greatest security to the electoral right the Cortes of the Kingdom, proceeding with forethought and in their desire to avoid impairing, through seemingly unimportant reglementary provisions, rights that have much value in public life, sought to include in the law even the last and most minute regulations that govern its execution.

For this purpose there are in it two kinds of provisions—one that comprises the definition of the right and the guarantee of the casting of the vote, the other that establishes the conditions, so to speak, prepafatory to those purposes. Hence the necessity of discriminating between these two parts of the law.

The first undoubtedly possesses a character that yields in importance to constitutional provisions only, and therefore it must, like these, protect itself from the changes and modifications to which legislation is frequently exposed.

It merely behooves the Government to say that since we have considered it good and proper for the Peninsula, it is an obligation that can not be evaded, to extend it and apply it to our colonies.

The same is not the case, however, as regards the mode of procedure.

So far as it possesses that character in the exercise of suffrage, in the taking of the census, in the manner of casting the vote, in the preliminaries of the election, in the organization of the colleges, even in the qualifications of the electors, there are such different points of view, according to the traditions, the geography, and the component parts of a people, that it would be more than illogical, nay, would lead to a result diametrically opposed to that which is had in view, to shape the electoral procedure of the Antilles in the peninsular mold, especially when the creation of self-government and of parliamentary organisms that are to be the expression of the will of the people demand that the regulation of what relates to the exercise and security of the electoral right be intrusted to them.

In view of these weighty considerations, the Government has thought that after separating all that refers to the definition and recognition of the right of suffrage from what might be called the constitution of the islands of Cuba and Puerto Rico, in order that, in any case, it may be modified by a law, it ought to intrust all the regulations, which will be many in number and complicated in their development, to the insular parliament, feeling certain that no one possesses to a greater extent the conditions necessary for success in adapting them to the habits and character of the population.

The flexibility thus acquired by the electoral procedure will undoubtedly enable it to identify itself with the conditions of those inhabitants, and to render the exercise

of suffrage practical and fruitful, as no one can have more interest in its success than those who are to be governed by it.

On the basis of these considerations, the Government has the honor to submit to the approval of Your Majesty the accompanying draft of a decree.

At Your Majesty's royal feet.

PRAXEDES MATEO SAGASTA.

MADRID, *November 25, 1897.*

ROYAL DECREE.

In accordance with the opinion of my council of ministers, and in virtue of the power conferred upon my Government by article 89 of the constitution of the monarchy, in the name of my august son, King Alfonso XIII, and as Queen Regent of the Kingdom, I decree as follows:

ARTICLE I. The electoral law of June 26, 1890, shall be promulgated and observed in the islands of Cuba and Porto Rico, with the modifications that have been introduced in the text that follows this decree, with a view to its adaptation to the conditions of those territories.

ART. II. The regulations and other necessary provisions for the execution of the present decree, which the Government shall before the Cortes, shall be prepared by the ministry of the colonies.

MARIA CRISTINA.

The president of the council of ministers:

PRAXEDES MATEO SAGASTA.

Done at the Palace this 25th day of November, 1897.

Adaptation of the Electoral Law of June 26, 1890, to the islands of Cuba and Porto Rico.

TITLE I.—GENERAL PROVISIONS FOR ELECTIONS.

CHAPTER I.—*Of the right to vote.*

ARTICLE I. All male Spaniards over 25 years of age that shall be in the full enjoyment of their civil rights, and inhabitants of a municipal district in which they shall have resided at least two years, shall be voters in the islands of Cuba and Puerto Rico.

Soldiers and sailors serving in the army or navy shall not be allowed to vote while so serving.

The same suspension is ordered as regards those serving under similar circumstances in other armed bodies depending on the State, province, or municipality.

ART. II. The following persons shall not be voters:

(1) Those who, by an unappealable sentence, have been condemned to perpetual deprivation of political rights and public offices, although they may have been pardoned, unless they have previously obtained personal rehabilitation by means of a law.

(2) Those who, by an unappealable sentence, have been condemned to imprisonment, unless they have obtained rehabilitation at least two years before their enrollment in the census.

(3) Those who, having been condemned to other penalties by an unappealable sentence, shall not furnish evidence that they have served out those penalties.

(4) Bankrupts, not habilitated according to law, and who do not furnish documentary evidence that they have met all their obligations.

(5) Debtors to public funds, as second taxpayers.

(6) Those who are inmates of charitable institutions, or who are administratively authorized, at their request, to ask for public charity.

CHAPTER II.—*Of the electoral census.*

ART. 3. In order to exercise the right of suffrage, it is necessary that the person be inscribed in the electoral census; that is to say, the register containing the names and the paternal and maternal surnames, where they exist, of the Spanish citizens who have a right to vote.

The census is permanent, and shall be amended only by the annual revision.

ART. 4. The taking, revision, custody, and inspection of the census shall be under the charge, in accordance with their respective powers, of the central board established by the law of June 26, 1890, concerning provincial boards and of municipal boards, which shall be styled the electoral census boards.

The provincial boards shall sit in the capitals of each province, and the municipal boards shall sit in each municipality. They shall all be of a permanent character.

The provincial boards shall be presided over by the judges of the superior court (audencia) of such province as may be designated by the president of the superior district court to which that audencia belongs; and the municipal boards (shall be presided over) by the judges of first instance, or, in their absence, by public officers selected for that purpose by the president of the superior court of the province.

The number of the members of the provincial boards shall be fifteen, and the presence of nine members shall be requisite for deliberation or for taking action.

The following persons shall be members of the provincial boards:

(1) The president and the vice-president of the deputation concerned.

(2) The senior ex-president of the same deputation residing in the province.

(3) Four taxpayers chosen by lot from among those paying the first assessment of the land tax, who are residents of the province.

(4) Four taxpayers chosen by lot from among those paying the first assessment of the industrial tax, who are residents of the province.

(5) Four residents of the province, furnishing proof by means of official documents, of their professional and academic character.

The substitutes for the taxpayers shall be eight persons residing in the province and paying the largest assessments of the land tax, and eight persons residing in the province and paying the largest assessments of the industrial tax, and the substitutes of the residents having official titles shall be persons possessing the same qualifications as are required of them. They shall all be chosen by lot.

The choice by lot of the taxpayers, professional men, and their substitutes shall be made publicly before the superior court of each province by the presiding judge of that court.

The following persons shall be members of the municepal boards:

(1) The alcalde (mayor) and the syndic of the city council.

(2) The municipal judge and the municipal attorney.

(3) Ex-alcades residing in the principal district.

(4) Four of the chief payers of the land tax, and four of the chief payers of the industrial tax, residing in the municipal district.

(5) Four residents of the municipal district, furnishing proof, by means of official documents, of their professional and academic character.

The taxpayers and professional men shall be chosen by lot by the president of the municipal board, at a public meeting, before the city council, in the manner prescribed for the provincial boards.

The substitutes shall be chosen at the same time and in the same manner.

The municipal boards shall not deliberate nor take any action unless at least twelve members are present.

The clerks of the superior courts shall be the secretaries of the provincial boards, and the clerks of the courts of first instance, or, in their absence, the clerks of the municipal courts, shall be the secretaries of the municipal boards.

The secretaries shall have neither a voice nor a vote, and shall be assisted by the employees of the respective secretariats.

The respective presidents shall convene the members and such substitutes as they may deem necessary for all the sessions the boards may hold. If, in spite of this, a sufficient number are not present, the session shall be held on the following day, after the substitutes residing in the capital have been summoned, in addition to the members present.

CHAPTER III.—*Of voting.*

ART. 5. In every electoral precinct there shall be a board charged with the supervision of the voting, consisting of a president and the supervisors (interventores) appointed by the census board and by the candidates who have a right to nominate them, and who make use of that right.

This census board shall be the provincial board in the case of elections of deputies to the Cortes and of representatives or provincial deputies to the Cortes, and of representatives, and the municipal board when an election of councilmen (concejales) is to be held.

ART. 6. In every summons for a general or partial election a single day shall be designated for the voting, which day shall always be Sunday.

The voting shall take place simultaneously in all the precincts on the day fixed, beginning punctually at 8 o'clock in the morning and continuing uninterruptedly until 4 o'clock in the afternoon, when it shall be declared finally closed, and the counting of the votes shall begin.

ART. 7. The voting shall be secret, by ballot, and shall be conducted in the manner prescribed by the regulations.

ART. 8. There shall in no case be an armed force at the door of the electoral college, nor shall any such force enter it, except in the case of disturbance of the public peace and upon the requisition of the President.

TITLE II.—SPECIAL PROVISIONS FOR THE ELECTIONS.

CHAPTER I.—*Of the election of senators.*

ART. 9. Spaniards possessing the qualifications required by article 22 of the constitution of the monarchy are eligible to the office of senator, provided they are not included in any of the cases of disability or incompatibility fixed by law.

ART. 10. Elections of senators shall be held in accordance with the provisions of the laws of February 8, 1877, and of January —, 1879.

The senators, after they have been admitted by the senate, represent the nation individually and collectively.

CHAPTER II.—*Of the election of deputies to the Cortes.*

ART. 11. All male Spaniards of the secular order, not less than 25 years of age, in the enjoyment of all civil rights, are eligible to the office of deputy to the Cortes, provided they are not included in any of the cases of disability or incompatibility fixed by law.

ART. 12. The deputies to the Cortes shall be elected directly by the electors of the electoral districts, subject to this law and the regulations; but after they have been elected, and admitted by Congress, they represent the nation individually and collectively.

ART. 13. Those provisions of the electoral law of the peninsula of June 26, 1890, which relate specially to the election of deputies to the Cortes and the discharge of their duties, apply to the deputies to the Cortes from the islands of Cuba and Puerto Rico. Hence, the articles in question are inserted as an appendix to the present law, in the form in which they are to be observed in accordance with this law.

CHAPTER III.—*Of the election of counselors of administration, representatives, provincial deputies, and councilmen.*

ART. 14. Those Spaniards may be counselors of administration and representatives who possess the qualifications required for those offices by the constitution of the islands of Cuba and Puerto Rico.

ART. 15. Spaniards having the qualifications required for deputies to the Cortes, and who are natives of the province, or who have resided four years consecutively in the province, may be provincial deputies.

ART. 16. Those electors may be elected members of ayuntamientos (councilmen) in municipal districts containing not more than 100 inhabitants, who, in addition to having resided at least four years in the municipality, pay a direct tax included in the first two-thirds of the local lists of persons paying a land tax, and an industrial and commercial subsidy; and in municipal districts containing less than 1,000 and more than 400 inhabitants, those paying taxes included in the first four-fifths of the said lists. In municipal districts containing not more than 400 inhabitants all the electors shall be eligible.

All those paying a tax equal to the lowest tax required to be paid in each municipal district in order to be eligible under the preceding paragraph shall likewise be included in the number of eligibles.

Those residents who pay any assessment of tax and furnish proof by means of official documents of their professional or academic character shall likewise be eligible.

Those persons who furnish proof that they are subjected to a rebate (reduction) in the incomes which they derive from general, provincial, or municipal funds shall likewise be eligible, provided the amount of the rebate is included in the qualification (proporcion) previously fixed for eligibles in towns of 1,000 and 400 inhabitants, respectively.

The assessment (tax) shall be calculated by adding together the taxes paid by the taxpayers, in and outside of the town, as a direct tax and for municipal taxes (charges). In calculating the taxes of the electors and the eligibles the following

property shall be considered as theirs: In the case of husbands, the property of their wives, so long as the conjugal relationship exists; in the case of fathers, such property of their children as they administer legally; in the case of sons, their own property, the usufruct of which they do not enjoy for any reason.

ART. 17. Those persons who are included in any of the cases of disability or incompatibility established by the respective laws can not be elected to any of the offices mentioned in the three preceding articles.

ART. 18. Those persons designated in article 25 of the electoral law of the Peninsula relating to senators shall be electors of counselors of administration. The provisions of chapter 4 of that law shall be applied to the drawing up of the lists of electors and to the election of the counselors of administration in the manner prescribed by the regulations.

ART. 19. In the districts in which one representative, one provincial deputy, or one councilman (concejal) is to be elected no elector can legally give his vote to more than one person; when more than one, up to four, are to be elected, each elector shall have the right to vote for one less than the number of those who are to be elected in his own district; for two less (than the number of those who are to be elected) if more than four are to be elected, and for three less when more than eight are to be elected.

The other provisions relative to electoral procedure shall be such as are enacted in the respective organic laws and in the regulations.

TITLE III.—PENAL SANCTION.

CHAPTER I.—*Of offenses.*

ART. 20. Any forgery of documents relating to the provisions of this law, in any of the ways mentioned in article 310 of the penal code of Cuba and Porto Rico, shall constitute the crime of forgery in electoral matters, which shall be punished with the penalties provided in the said article, or in the following article, according to the status of the persons who are responsible.

Any intentional omission in the documents referred to in the preceding paragraph which may affect the result of the election shall constitute a similar offense, and shall be punished with the same penalties.

ART. 21. The courts shall, nevertheless, lessen the penalties one or two degrees, imposing them upon such person as they may think proper, according to the special circumstances of the case, the scandal or alarm that it has occasioned, and whenever there shall appear to be no connection with other offenses made punishable by the code.

ART. 22. For the purposes of this law, the census and authorized copies thereof, records, lists, certificates, and whatever may emanate from the person who is intrusted by law with the execution thereof, the object of which is to facilitate or insure the exercise of the electoral right or its result, or to guarantee the regularity of the procedure, shall be considered official documents.

ART. 23. The penalties of imprisonment and of a fine of from 500 to 5,000 pesetas, when the general provisions of the penal code do not fix a higher penalty, shall be imposed upon public officers who, by failing to faithfully and strictly fulfill the obligations imposed by this law or by the provisions that may be adopted for its execution, are accessory to any of the following acts or omissions:

(1) To any failure to prepare with accuracy the lists of electors, whether preliminary or definitive, or to exhibit the same publicly during the proper time and in the proper place.

(2) To any alteration of the day, hour, or place in which any public business is to be done, or to the method of its designations leading to error.

(3) To any fraudulent manipulations in matters relating to the preparation of the census, the organization of electoral boards or colleges, the voting, the resolutions or ballotings, and the nomination of candidates.

(4) To the improper and inaccurate preparation of records or documents relating to the election, or to their not being signed in the proper manner by all who should do so, or to the proper dispositions not being made of electoral records or documents.

(5) To changing or altering in the ballot which the elector deposits in the exercise of his right, or to its being hidden from public view before it is deposited in the box.

(6) To the placing of impediment or difficulty in the way of electors, candidates, or notaries in the examination of the box before voting begins, and, when the ballots are examined, in the examination of the ballots taken from the box.

(7) To the preparation of an intentionally inaccurate list, such as to obscure the truth of the names of the voters at any election.

(8) To an inaccurate counting of votes in resolutions relative to the taking or rectification of the census, or to electoral matters, and also to the inaccurate reading of ballots.

(9) To violating the secrecy of the vote or of the election with a view to influencing its results.

(10) To the issuance of an unlawful proclamation against any person.

(11) To the making of untrue statements in the verbal declaration that is to be made on the occasion of an election, or to the prevention or impeding in any way of a proper knowledge of the truth concerning the election.

(12) To the postponement of any election without grave and sufficient cause.

ART. 24. Private individuals who are directly accessory to the commission of any of the offenses enumerated in the preceding article shall be punished with the penalty of imprisonment in its minimum degree when the penal code does not impose a more serious penalty on those who are guilty of commission or omission.

ART. 25. Every act, omission, or manifestation contrary to this law or to the general provisions adopted for its execution that is not included in the foregoing articles and whose object is to restrain or exert pressure upon electors, to induce them to exercise their right, or to relinquish it against their will, shall constitute the crime of coercing voters, and if there is no more serious penalty provided for it in the penal code it shall be punished by a fine of from 125 to 2,500 pesetas.

ART. 26. The following persons shall also be considered as committing the crime of coercing voters, although the intention of restraining or exerting pressure upon the electors may not be obvious or apparent, and shall accordingly be subject to the penalties prescribed in the foregoing article:

(1) Civil, military, or ecclesiastical authorities who advise or recommend voters to give or refuse their vote to a determinate person, and those who by the use of official means or agents, or the authorization of stamps, envelopes, seals, or notes that may have that character, recommend or advise against certain candidates.

(2) Public officers who promote or take part in the issue of Government records relating to denunciations, fines, arrears of accounts, lands, forests, granaries, or any other branch of the administration from the time when notice is given until the election is terminated.

(3) Officers, from the minister of the Crown down, who make appointments, removals, transfers, or suspensions of employees, agents, or clerks in any branch of the general, provincial, or municipal administration in the period between the giving of notice and the termination of the general balloting, when such acts are not based on legitimate reasons and affects in any way the precinct, college, district, judicial circuit, or province in which the election is held.

The cause of the removal, transfer, or suspension shall be accurately stated in the order, which shall be published in the Gazette of Madrid or in those of Havana or Puerto Rico, if it emanates from the central administration, and in the official bulletin of the respective province if it emanates from the provincial or municipal administration. If these formalities are omitted it shall be considered as having been made without cause.

Royal decrees or orders relating to the civil governors of the provinces and to military officers shall be excepted from the above requirements. Removals, transfers, or suspensions decided upon, but of which the interested parties have not been notified before the electoral period, can not be made during said period, except in the exceptional cases and in the exceptional manner specified in this number.

ART. 27. The following persons shall be liable to the penalties provided in article 25, unless more serious ones are imposed by the penal code:

(1) Those who, by means of a promise, present, or remuneration, solicit, directly or indirectly, the vote of any elector in favor of or against any candidate.

(2) Those who incite voters to intoxication in order to obtain or secure their adhesion.

(3) Any person who votes twice or more times at an election, who takes another name in order to vote, or who votes when incapacitated or when his exercise of such right is suspended.

(4) Whoever knowingly consents, without a protest, when he might make one, to the casting of a vote in the cases mentioned in the foregoing number.

(5) Whoever prevents or delays the admission, attention to, and decision concerning protests or complaints of voters, or who does not afford protection to those who make them.

(6) Whoever omits the announcements and notifications required by law, or who does not issue or cause to be issued, as speedily as the law directs, a certificate of election when application is made therefor.

(7) Whoever in any other, not provided for in this law, impedes or molests an elector in the exercise of his rights or the performance of his duty.

(8) Whoever maliciously raises or maintains, without good reason, doubts in regard to the identity of a person or the legality of his rights.

ART. 28. Public officers who cause a voter to leave his domicile or residence, or remain away from the same, even under pretext of the requirements of the public service, on the day of the election, or on a day which he may be able and may desire to vote; or those who detain him, depriving him in similar cases of his liberty, shall be liable, besides the penalties mentioned in the second paragraph of article 210 and in article 221 of the penal code, respectively, to the penalty of absolute, permanent disqualification.

ART. 29. Those who impede or hinder the free entrance and exit of the voters to and from the place in which they are to exercise their right, their approach to the voting tables, the presence of notaries, candidates, or electors in the places in which the election is to take place, in such a way as to render it impossible or difficult for them to perform their duties or exercise their right, and to verify the regularity of such elections, shall be liable, if they are public officers, to the penalty of imprisonment in its minimum degree and to a fine of 500 to 2,500 pesetas; and if they are private individuals, to the penalty of imprisonment in its minimum degree, unless other and more severe penalties are provided by the penal code, in which case the latter penalties shall be enforced.

ART. 30. Public officers who do not deliver or who maliciously delay the delivery of documents required by special commissioners shall be punished as being guilty of the misdemeanor of serious disobedience to the authorities, without prejudice to the disciplinary responsibility which they incur at the same time.

ART. 31. Offenses provided for in the penal code, which are connected with matters relating to elections, shall be punished when the special provisions of the preceding articles are not applicable, with the penalties provided by the same code, and also with a fine of 125 to 1,250 pesetas, in case a penalty of this class is not applicable to them.

ART. 32. The following penalties shall apply to all the offenses directly connected with the provisions of this law, whether they are provided by this or by another law: That of special disqualification, temporary or permanent, for the right of suffrage, if the guilty person is a public officer, and that of suspension from the same right if he is a private individual.

In the case of the repetition of an offense of this class the disqualification for public officers shall be absolute for all time, and for private individuals shall be absolute for a temporary period, in addition to the penalties provided.

CHAPTER II.—*Of infractions.*

ART. 33. Any failure to fulfill the obligations and formalities which this law or the provisions that shall be adopted for its execution impose upon all persons who take part in an official capacity in electoral proceedings shall be punished by a fine of from 25 to 1,000 pesetas, in case it does not constitute a crime.

Officers who, for any reason that can not be shown to be one rendering it absolutely impossible for them to do so, shall fail to perform any of the duties made incumbent upon them by this law or the regulations for its execution shall be required to pay the fine for which provision is made above, the imposition of which shall be ordered by the census board before which the duty should have been performed, due regard being had to the provisions of article 42.

The president of the provisional and municipal boards shall incur the same responsibility if, when they should receive one of the documents provided for in any of the provisions of this law or of the regulations, they shall fail to order, on their own responsibility, that it be immediately collected by a special officer at the expense of the person whose duty it was to send it.

Those who in such cases shall fail to notify the central board that they have performed this duty shall be punished in a like manner.

ART. 34. The following persons shall, moreover, be punished in the manner provided by the foregoing article:

(1) Those who are present at elections and who, in some way that does not constitute a crime, disturb order, or are lacking in proper respect.

(2) Those who, not having a right to enter the electoral colleges or the ballot boards, shall not leave the place at the first intimation from the president.

(3) Those who shall enter an electoral college, section, or board with arms, sticks, canes, or umbrellas, not being officers or not being physically impeded.

(4) Notaries who, being about to perform the duties of their office, do not give previous notice of their intention to the presiding officer of the function.

(5) Officers and individuals owing to whom the proper party fails to receive, within the time fixed and in the manner provided in the law, any communication, notice, instrument, or document that should be transmitted, without prejudice to the provisions of No. 4 of article 23.

(6) Members of the census boards and their substitutes who, without just cause, shall fail to attend the sessions to which they shall have been summoned without furnishing a proper excuse.

The following shall be deemed sufficient causes for not attending the sessions:

(1) Absence from the place at which the sessions are held.

(2) Important matters connected with the public service.

(3) Matters connected with one's personal health or the health of one's family, or private business that can not be deferred.

(4) Causes in virtue of which the president or members of the central board fail to attend the meeting of that board.

CHAPTER III.—*Provisions common to the two foregoing chapters.*

ART. 35. For the purposes of this law the following persons shall be considered as public officers: Those appointed by the Government, and those who, by virtue of their office, perform any duty connected with the elections, and also the president and members of the electoral census board, and the presidents and supervisors of the ballot bureaus and boards.

ART. 36. The ordinary courts shall alone be competent to take cognizance of electoral offenses, whatever may be the personal status of the guilty parties.

For the purposes of the provisions of this title it shall be understood that the offenses specially provided for in this law are electoral offenses, and also those which, being provided for in the penal code, relate to electoral matters properly so called.

ART. 37. When any offense shall be committed in the college or electoral board the president shall order the arrest of the presumptive criminals, and shall place them at the disposal of the judicial authorities.

A penal action growing out of offenses specially electoral shall be public, and may be brought for even two months after the expiration of the term of the office conferred by the election.

For the bringing of such action no deposit or security shall be required.

Judges and courts shall proceed according to the rules governing criminal trials.

ART. 38. No authorization shall be required to bring any officer to trial.

Cases in which, by a sentence from which there is no appeal, exemption shall be granted from responsibility for due obedience, shall be referred without delay to the court that is competent to take action against the person who gave the order which has been obeyed. The term referred to in the foregoing article shall remain in abeyance with respect to the magistrate or person obeyed from the time when proceedings were first taken until the day on which the competent court shall have received the unappealable sentence in which shall be declared the exemption from responsibility of the person who has obeyed.

When the magistrate who gave the order is a minister of the Crown, or when his responsibility shall have been shown in any manner, the court taking cognizance of the case shall refer it without delay to the Congress of Deputies, when the sentence in which exemption from responsibility is declared is unappealable or the antecedents resulting therefrom indicate the responsibility of the minister.

ART. 39. The general and special provisions of the penal code shall in all cases be applicable to the offenses provided for in this law, when said provisions have reference to offenses as having been consummated, frustrated, and tentative to participation therein by the various persons who are the objects of the proceeding, to the circumstances modifying the responsibility, and to the consequent graduation and enforcement of the penalties.

ART. 40. The court to which belongs the execution of unappealable decisions shall order their publication in the official bulletin of the province in which the offense shall have been committed, and shall send a copy of that newspaper to the central board.

ART. 41. No attention shall be paid by the minister of the colonies (nor shall any report thereon be made by the court or the council of state) to any application for pardon on account of electoral offenses, unless it shall previously appear that the petitioners have served at least one-half of the time for which they were sentenced to personal penalties, and have paid the full amount of the fines and costs. The authorities and members of corporations, whatever their status may be, who shall violate this provision by causing the petition for pardon to be laid before the King for decision, shall incur the responsibility provided in article 369 of the penal code.

The Government shall notify the central census board whenever a pardon is granted.

ART. 42. The punishment for infractions shall belong:

(1) To the presidents of the function or session in which they are committed.

(2) To the municipal or provincial census boards in which they are connected, respectively; with the acts of which said boards or their presidents are to take cognizance.

The municipal boards shall not, however, order any punishment in the case of superior boards, but if they understand that the provincial board has committed any infraction, they shall immediately notify the central board, that it may reach a proper decision in the matter.

When the judges fail to send to the census boards the documents which are necessary for the preparation or correction of the census, according to the regulations, said boards shall so inform the presiding judge of the proper superior court, that he may inflict the punishment, and shall send a report thereof to the central board.

(3) To the central board, the rest.

The imposition of fines shall take place in pursuance of a written decision, in which the grounds therefor shall be stated. Those imposed in pursuance of the provisions of paragraph 1 of this article or by the municipal board may be appealed from before the provincial board within two days following the notification, which board shall confine itself to affirming or annulling the decision.

The rescissory decisions of the provincial board and those of that board in the exercise of its own powers may be appealed from within the same term to the central board, which may increase, diminish, and approve, or remit the fine within the limit of its powers.

ART. 43. Presidents of electoral colleges or of boards for counting votes, municipal boards and the presidents thereof, shall not impose a fine exceeding 100 pesetas (francs).

Presidents of provincial boards, and those boards, may impose a fine to the amount of 500 pesetas.

The central board and its president may impose a fine to the amount of 1,000 pesetas.

ART. 44. The payment of these fines shall be made in special paper, which the department of public finance shall issue for the purpose, and shall deliver on account to the provincial deputations, collecting thereon a duty of 20 per cent of its value. The remainder of its value shall be paid into the proper provincial treasury.

If, six days after the decision shall have been pronounced, the fine shall not have been paid, compulsion shall be used for its collection.

In case the person fined is insolvent, he shall suffer imprisonment at the rate of one day for each 5 pesetas of the fine, but this term shall not exceed 10 days when the fine shall have been imposed by the municipal board, its president, or the president of the bureau; it shall not exceed 20 days if the fine shall have been imposed by the provincial board, its president, or by the boards for counting votes; and it shall not exceed 30 days if the fine shall have been imposed by the central board or its president.

TRANSIENT PROVISIONS.

First. Within the three days following the publication of this law in the gazettes of Havana and Puerto Rico, a board shall be formed in each one of the capitals of the island, which shall be called the insular board for the electorial census. It shall be composed of the Governor-General, who shall be its president; of the governmental divisions of the superior courts of Havana and Puerto Rico, respectively; of two members, chosen by the Governor-General from among the most influential residents, to represent in the board the political parties of the island, and of the secretary of the general government, the latter to have the right of discussion, but no vote, and he shall perform the duties of secretary. Moreover, the civil governor of Havana shall be a member of the insular board for the electorial census of the island of Cuba.

The powers of these boards shall be:

(1) To inspect and direct all services connected with the preparation and preservation of the census.

(2) To preserve the printed copies of the final lists which shall have been taken from the provincial registers.

(3) To communicate, through the president, with all public authorities and officers.

(4) To receive and decide all complaints that are addressed to them.

(5) To exercise disciplinary jurisdiction over all persons taking part, officially, in electorial operations, imposing fines to the amount of 1,000 pesetas, which, the case arising, shall be collected by their order, by judges of first instance.

(6) To settle questions that may arise in connection with the execution of this law and its regulations, adapting the provisions of both to the condition of the island so as to secure independence and a genuine vote.

The insular board of Cuba shall, moreover, issue such orders as it may think proper for the holding of elections in those districts in which the state of the insurrection shall not permit the taking of the electorial census in time, or to hold such elections according to the provisions of this law and the regulations for its execution. For this purpose each of the districts in question shall appoint delegates who, together with seven of the largest taxpayers on agricultural and manufacturing property, and seven capacities (?) shall proceed to hold the election, according to such instruction as may be communicated to them by the insular board.

Second. In execution of the provisions of article 4 of this law, before the 26th day of December next, the presiding judges of the superior courts shall appoint the magistrates who are to preside over the provincial electoral census boards, and the officers who are to preside over the municipal boards in those localities in which there are no judges of first instance.

Third. In order that the elections may be held as speedily as possible, and the new political and administrative officers may perform their functions in the islands of Cuba and Puerto Rico, the following shall be the mode of procedure:

On the 1st day of January, 1898, at 8 o'clock a. m., the president of the municipal electoral census board, having been appointed by the superior court of the province, shall proceed, in the hall of sessions of the municipal district, and in public session, to organize said municipal board in the manner provided in Art. 4 of this law.

The alcalde shall then state the result of the last census, and shall deliver to the president of the board a duplicate list, in alphabetical order, and with correlative numbering of all the inhabitants above 25 years of age whose names appear in said census, in which shall be stated their ages, residences, and occupations, and whether they are able to read and write. All the sheets belonging to this list shall be signed by the alcalde and the secretary of the municipal board.

The president on his own responsibility shall immediately cause one of the copies of this list to be posted in the usual place for municipal edicts and proclamations, and shall at the same time make known by a proclamation or through the crier that, on the 5th of the aforesaid month of January, at 8 p. m., the municipal census board shall meet in public session in the hall of sessions of the municipal board.

Before the said 5th day of January the judges of first instance shall send to the presidents of the respective municipal census boards a certified list of the judicial decisions which affect the electoral capacity of the inhabitants of each municipal district, and the municipal judges shall send a list, likewise certified, of the aforesaid inhabitants who shall have died since the date of the last quinquennial census.

On the 5th day of January the municipal board shall organize, in public session, at the time and in the place aforesaid, and the president shall lay on the table the list of residents prepared by the alcalde, the last census, and the certificates sent in by the judges.

The board shall hear all representations that shall be made concerning enrollments, exclusions, and corrections. For claims with regard to enrollment it shall be sufficient to furnish evidence by means of two witnesses that the person whose enrollment in the list is desired possesses the requisites that are legally required to make him an elector.

The public session being terminated, the junta shall proceed to the preparation of the following lists:

1. A list of all the inhabitants who possess the right to vote, according to the census list.

2. A list of those who have died since said list was prepared according to the data furnished by the respective municipal judges.

3. A list of those who are disqualified.

These lists shall be published as provided for in the first paragraph of this resolution, for the three following days, during which time an appeal may be taken to the provincial board.

In the same session the municipal board shall order the division of the voters of the municipal district into sections if their number shall exceed 500, assigning to each section a number approximately equal, according to the conditions of each locality.

This having been done, a copy shall be made in duplicate from the first list in alphabetical order of the names of the voters of each municipal district, divided into sections, and these copies shall constitute the final lists. On the 9th of January one of them shall be transmitted, together with a certificate of the order for the division of the municipal district into sections, and of the complaints which have been pre-

sented, to the provincial census board, which shall adopt such decisions as it may think proper, making the proper modifications for the case arising, and shall cause to be printed in the Boletin the lists of the voters of the province before the 20th of January.

A printed copy of the list for each municipal district, authorized by the president and secretary of the provincial board, shall be transmitted, certified, the leaves being all under seal, to the respective president of the municipal board, who shall inform the board, and who shall cause to be posted in a public place for three days, a copy of that document, which shall be placed in the archives. The president and secretary of the junta shall be responsible for the absolute correctness of this copy.

Similar copies shall also be transmitted by the president of the provisional board to the authorities that are declared by the regulations to be entitled to receive them.

There shall be no appeal from the decisions adopted by the provincial boards in virtue of this temporary provision, excepting a complaint to the insular board.

The day previous to that appointed for the first elections to be held after the promulgation of this law the municipal census boards shall meet and order the enrollment in the electoral lists of those who have applied for it up to that date who have the testimony of two witnesses to show that they possess the conditions which this law requires in order that they may vote.

Those enrolled by virtue of these orders or by the decisions of the insular board shall exercise their right in the section in which they are domiciled.

Fourth. Until a new division shall have been made in the electoral districts for deputies to the Cortes in the territory of the islands of Cuba and Puerto Rico, the one now existing shall remain in force.

The insular electoral census boards shall divide the territory of the islands into districts and sections for the election of representatives, pursuant to the royal decree of this date.

Approved by Her Majesty.

SAGASTA.

MADRID, *November 25, 1897.*

Articles of the electoral law of the Peninsula of June 25, 1890, in the form in which they are to be enforced, according to article 13 of the law of Cuba and Puerto Rico.

ART. 4. The following are indispensable requirements for admission as a deputy to the Congress:

1. To possess the qualifications required by article 29 of the constitution on the day on which the election in the electoral district is held.

2. To have been elected and declared elected in an electoral district, or in the Congress, in accordance with the provisions of this law and those of the regulations of that body.

3. Not to be disqualified by any reason of personal incapacity for holding the office on the day on which the election is held.

4. Not to be included in any of the cases established by the law concerning disqualifications.

ART. 5. Disqualified for admission as deputies, although validly elected, are:

1. Those found to be included in any of the cases mentioned in article 2 of this law.

The rehabilitation mentioned in No. 2 of article 2 of this law must be secured for the eligibility of a deputy at least two years previous to his election.

2. Contractors for works or public services paid for out of the general funds of the province or municipality; those who, as the result of such contracts, have claims pending in their own interest against the administration and in the sureties and partners of such contractors. This incapacity is to be understood as relating solely to the district or section in which the works or public service is performed.

3. Those who fill, or have filled within a year, in the district or section in which the election is held, any office, charge, or commission, by appointment of the Government, or who have exercised authority in a popular election, among whom are included presidents of deputations, and deputies who, during the previous year, have been members of provincial commissions.

Excepted from this are the ministers of the Crown and officers of the central administration of the islands and of the Peninsula.

The disqualifications referred to in No. 3 are confined to the votes cast in the district or section or within the limit of the authority or functions with which the deputy has been invested.

ART. 6. When a deputy shall become disqualified after admission to the Congress from any of the causes enumerated in Article 5, his incapacity shall be declared and he shall immediately forfeit his office.

ART. 7. Those who already hold the office of deputy to the Cortes shall not be admitted to the same Congress by virtue of a partial election unless they have resigned the same before notice has been given to the district of such partial election.

ART. 8. The office of deputy to the Cortes is gratuitous and voluntary, and may be resigned before and after taking the oath of office; but no resignation shall be admissible without the previous approval by the Congress of the deputy's certificate of election.

ART. 22. In districts in which a deputy is to be elected no elector shall have the right to vote for more than one person; when more than one and as many as four are to be elected he shall have the right to vote for one less than the number to be elected; for two less if more than four are to be elected, and for three less if more than eight are to be elected.

ART. 37. The following candidates shall have the right to appoint supervisors for the electoral bureaus of the precincts comprising the district or section:

1. Ex-deputies to the Cortes, who have represented the same district or any other on the island.

2. Those who have been candidates in the same district in former elections and obtained at least one-fifth of all the votes cast.

3. Ex-senators elected by the island to which the district or section belongs.

4. Candidates for the office of deputy to the Cortes, proposed by means of tickets signed by electors of the respective district or section, or by notarial instruments, in the preparation of which a competent officer has taken part, the number of such electors being equal to at least one-twentieth of the entire number of those included in the final list of the district or section.

ART. 73. Only in pursuance of a resolution of Congress shall it be possible to proceed to a partial election for deputy in one or more districts, or because the post of representative of such district or districts has become vacant.

ART. 74. For the districts which, according to this law, are to elect three or more deputies, it shall be understood that there is a vacancy in their representation in the Cortes only when, for any reason, at least two deputies fail to act as such.

ART. 75. The royal decree convoking the electoral colleges of one or more districts for the partial election of deputies to the Cortes shall be published in the Gaceta de Madrid within eight days, reckoned from the date of the communication of the resolution of Congress. In the said royal decree the day shall be fixed on which the election shall take place, and that date shall not be fixed before twenty or after thirty days, reckoned from the day of the convocation. The royal decree shall be simultaneously published in the gazettes of Havana and Puerto Rico, according to circumstances, the proper order being communicated for that purpose by telegraph to the respective governors-general of the two Antilles.

ART. 76. The partial election shall take place on the day appointed, according to the procedure and in the form prescribed by this law for general elections.

ART. 77. Congress, exercising the prerogative belonging to it according to article 34 of the constitution, shall examine and judge of the legality of the elections according to the procedure provided by its regulations, and shall admit as deputies those who are found to have been legally elected and proclaimed in the districts, if they possess the capacity necessary to enable them to discharge the duties of the office, and are not disqualified in any of the ways defined by law.

ART. 78. In the case of an election in which the votes for each candidate are equal in number, if only one of the candidates who have received the same number of votes shall possess legal fitness to be deputy he shall at once be proclaimed and admitted, provided that the election is approved.

He who is shown to be legally elected shall likewise be at once admitted and proclaimed by Congress if there shall be, in the certificate of election, protests which seem justified against the votes cast for the other one or more candidates having an equal number of votes.

If there are no such differences, that one of the candidates having an equal number of votes shall be proclaimed deputy who—

(1) Has most frequently filled the office;
(2) Who has filled it for the longest time;
(3) Who is the oldest in years.

ART. 79. The certificates of the ballot-board having been sent to the central board, agreeably to the provisions of article 69, shall be delivered by the latter, as they come into his possession, at the office of the secretary of Congress, at whose disposal that board shall, in all cases, hold the other documents relating to certificates of election.

ART. 80. The deputies elect or presumptive, who have proclaimed by the examining boards (ballot boards) at general elections, shall present their respective creden-

tials within two months, reckoning from the day of the meeting of the Cortes. For those proclaimed elected at partial elections the time shall be reckoned from the day of their proclamation by the examining board (ballot board). It shall be understood that he who does not present his credentials within the period fixed by this article resigns his office, and, consequently, a vacancy in the district or college concerned shall be declared after Congress shall have decided concerning the legality of the election.

ART. 81. If the same individual shall be found to have been elected by two or more districts at the same time, he shall make choice before Congress of one of them within eight days after the last of his certificates of election shall have been approved, if he shall then have been admitted as a deputy, or within thirty days if otherwise.

In default of a choice within either term, the district that belongs to him shall be decided by lot in Congress, and a vacancy shall be declared with respect to the others.

ART. 82. The electors and the candidates who have taken part or been concerned in an election may have recourse to Congress at any time before the approval of the respective certificates of election with such complaints as they may desire to present with regard to the validity or result of such election, or with regard to the legal qualifications of the deputy-elect previous to his having been admitted.

ART. 83. When, in order to be able to appreciate and judge of the legality of an election concerning which complaint is made before Congress, it shall be thought necessary to make some negotiations in the locality where such election was held, the president of the chamber shall give and directly communicate orders to the judicial magistrate of the territory whom he may think proper to commission for the purpose, and the commissioned magistrate shall consult with the said president in the performance of his duty without any necessity for the intervention of the Government.

ART. 84. After an election has been approved by Congress and the deputy elected by it has been admitted, no complaint shall be received, nor shall any subsequent discussion be permitted respecting the validity of the said election, or regarding the legal fitness of the deputy, unless on account of incapacity that has occurred since his admission.

Approved by Her Majesty.

SAGASTA.

MADRID, *November 25, 1897.*

[From the Gaceta de Madrid, Saturday, November 27, 1897.]

OFFICIAL.—PRESIDENT OF THE COUNCIL OF MINISTERS.

STATEMENT.

MADAM: In endeavoring to solve the problem of introducing colonial autonomy into the islands of Cuba and Puerto Rico, which task, together with that of the pacification of the territory of Cuba, constitutes the engagements which the Government has contracted with the nation, the ministers think that detailed explanations and comments on the complex matters embraced in the plan should give way to a temperate but full statement of its fundamental character, or of the spheres of action to which it extends and of the consequences which, in their opinion, must be the result of the régime which they propose to Your Majesty for the government of the Spanish Antilles.

Criticism and analysis will speedily elucidate all that relates to the details; the essential ideas and the inspiration of the decree have their appropriate place here and at this time only.

This is the more necessary since the first and most essential condition of success in reforms of this kind is absolute sincerity of purpose. With this sincerity the Government has examined the best form of an autonomic constitution for the islands of Cuba and Puerto Rico, and it hopes clearly to demonstrate, in these observations, that the intention and the results have gone hand in hand.

It was proposed, in the first place, clearly to establish the principle, to develop it in its entirety, and to surround it with every guaranty of success, because, when it is sought to intrust the direction of affairs to peoples that have reached the age of virility, either no mention of autonomy should be made to them or it should be given to them complete, with the conviction that they are started on the right road with the restrictions or shackles which are born of distrust and suspicion.

Either the defense of nationality is confided to repression and force or it is turned over to a reconciliation of affection and tradition with interest, and this reconciliation is strengthened according as it is developed by the advantages of a system of government that teaches and gives evidence to the colonies that under no other will it be possible for them to attain a higher degree of welfare, security, and greatness.

This being the case, it was a condition essential to the attainment of the purpose had in view to seek for that principle a practical form and one that was intelligible to the people that had to be governed by it, and the Government found this in the programme of that insular party, considerable in numbers, but still more important by reason of its intelligence and perseverance, the predictions of which party have, for twenty years past, made the people of Cuba familiar with the spirit, the procedure, and the great importance of the serious innovation which they are called upon to introduce into their political and social life.

It is asserted by the foregoing that the project is in nowise theoretical, and that it is not an imitation or copy of other colonial constitutions which have been justly regarded as models in the matter, for although the Government has carefully considered what those instruments teach it realizes that the institutions of peoples which, in their history and their race, differ so much from that of Cuba, can not take root where they have neither precedent nor atmosphere, nor that preparation which is the outgrowth of education and belief.

The problem having been thus defined, inasmuch as the question was to give an autonomic constitution to a Spanish territory peopled by a Spanish race and civilized by Europe, there was no longer any doubt as to the decision to be reached; autonomy had to be developed according to the ideas and the programme which bears that name in the Antilles, without eliminating anything of its contents, and especially without altering its spirit, but rather by completing and harmonizing it and giving it greater guaranties of stability, as should be done by the government of a mother country which feels itself called to establish such a programme, from a conviction of its advantages, from a desire to carry peace and tranquillity to those highly prized territories, and from a consciousness of its own responsibility, not only to the colonies, but also to its own vast interests which time has connected and woven together in the impenetrable net of years.

Being thus sure of the form which best fitted its design, the Government found it easy to distinguish the three aspects offered by the establishment of an autonomic constitution. In the first place, the sacred interests or the mother country, which, being alarmed and distrustful on account of the course pursued by many of her sons, and wounded by the ingratitude of those who put more trust in the selfishness of the speculator than they do in brotherly affection, desires above all things that the change for which she is prepared should draw closer and strengthen the bond of sovereignty, and that in the midst of a blessed peace the interests of all her sons, which are not at variance with each other, although they may be at times different, should be harmonized and developed by the free consent of all.

Next are to be considered the aspirations, the needs, and the desires of our colonial population, which is anxious to be treated like an unfortunate daughter instead of being crushed like an enemy, which is obedient to the call of affection, and ready to rebel like Spaniards against the brutal imposition of exterminating force. These people expect from the mother country a form in which their initiative may be molded and a mode of procedure that may authorize them to manage their own interests.

And finally, this vast and interesting mass of relations created of interests developed in that long past which nobody, still less a government, is at liberty to disregard or forget, and whose preservation and development involve the fulfillment of the destiny of our race in America, and the glory of the Spanish flag in lands that were discovered and civilized by our ancestors.

These three orders of ideas find their answer in the fundamental provisions of the draft submitted to Your Majesty for approval. To the first, that is, to the point of view of the mother country, belong the questions of sovereignty which have been confided to the highest authorities of the Spanish nation. The representation and authority of the King, who is the nation itself, the command of the army and navy, the administration of justice, diplomatic understanding with America, the constant and beneficent relations between the colony and the mother country, the pardoning power, and the upholding and defense of the constitution are intrusted to the Governor-General as the King's representative, and under the direction of the council of ministers. Nothing that is essential has been forgotten; the authority of the central power is in nowise diminished or abated.

The insular aspect is, in its turn, developed in a manner as full and complete as could be desired by those who are most exacting, in central, provincial, and munici-

pal autonomy; in the application without reserve or equivocation of the parliamentary system; in the powers of the insular chambers and in the creation of a responsible government, at the head of which, and forming the supreme bond of nationality as regards the executive power, again appears the Governor-General, who, on the one hand, presides through responsible ministers over the development of colonial life, and, on the other, associates and connects it with the general life of the nation.

And that third aspect, in which is recapitulated the history of the relations between the Antilles and the mother country, and within which their commerce, their credit, and their wealth must also be developed, is defined in a series of provisions of a permanent character, which connects the two executive powers—the insular and the national, and at times their chambers—in such a manner that at every moment they lend each other mutual aid, and assist each other in developing the common interests.

And all this manifold and complex, though not complicated, system is sanctioned and rendered practical by a series of guaranties of associations of constant understandings and public discussions which will absolutely prevent, so far as it is allowable for man to predict that which is to come, unyielding dilemmas, insurmountable difficulties, and collisions between the colonies and the mother country.

This is a point of so great importance that the Government would certainly have subordinated all other questions to it if such subordination had been necessary, which it can not be, nor is there any reason to fear it, since the bases of the new régime are established upon harmony of interests, scrupulous respect for the rights of others, and the desire in the mother country unremittingly to aid the development, prosperity, and peaceful aggrandizement of her beautiful Antilles, which desire the Government does not doubt will be fully shared there.

This does not mean that no questions will arise in which the two spheres of action will be confounded, and that there will be no legitimate doubts as to which is the predominant interest in them, or that there will not be, after the doubts, more or less of passionate discussion. In no colony enjoying autonomy has this failed to happen; in none has the case arisen in which the central government was always and systematically in accord with the acts of the colonial government. Long is the list of the legislative enactments of Canada which have been vetoed by the British Government, and curious and exceedingly interesting is the list of judicial decisions which have defined the diverse jurisdictions of their local assemblies, either among themselves or with their governors. This has been the case notwithstanding the fact that the great decentralization, the antecedents of Canadian history, and freedom of trade greatly simplify the relations between the two countries.

The excellence of the system, however, lies in the fact that when such cases arise, and especially when they are frequent, the balance of power both within the colonial constitution and in the relations of the colony to the mother country is such that a remedy is always to be had, that a basis of understanding is never lacking, and that a common ground is always to be found on which interests are either harmonized or their antagonism is settled or the will of the people bows to the decision of the courts.

If, therefore, the rights which are recognized by the constitution as belonging to the citizens are violated or their interests are disregarded by the town boards and deputations which are, in their turn, within the system, entirely autonomous, the courts of justice will defend and uphold them. If corporations go beyond their powers, or if, on the other hand, the executive power undertakes to impair what the constitution of the Kingdom or the provisions of this decree declare to be powers belonging to the town boards or the provincinal corporations, the accused party has the right to appeal to the courts of the island, and as a last resort to the supreme court, whose duty it will be to settle disputes of jurisdiction between the Governor-General and the colonial parliament, whoever may have given rise to such disputes. Both will have the same rights to complain and to seek legal redress for their wrongs.

Thus, whatever difficulties may arise from the establishment of a system, or be the outgrowth of its exercise, will be decided by the courts, which have been, since ancient Rome down to modern England, the most progressive source of right, and which have afforded the most flexible procedure for the harmonization of the growing demands of real life and the slow process of legislation.

Thus the autonomic constitution which the Government proposes for the islands of Cuba and Puerto Rico is not exotic or copied, nor is it an imitation. It is an organization *sui generis*, conceived and upheld by the natives of the Spanish Antilles, gladly inscribed by the liberal party in their programme in order that the nation might know what it had to expect from that party when it should come into power, and characterized by a feature which no colonial régime has thus far presented, viz, that the Antilles can be wholly autonomous, in the fullest sense of the word, and at the same time have their representatives and form part of the national parliament.

So that, while the representatives of the insular people direct from their local chambers the special interests of their country, others elected by the same people aid and cooperate in the Cortes in the making of those laws in whose mould are formed and unified the different elements of Spanish nationality. And this is not a small or paltry advantage; still less does it furnish ground for surprise, as some might, perhaps, think, because this present of the deputies from the Antillas in the Cortes is a close bond of the nationality which is raised above all the unities which live in its bosom, now sought as one of the greatest political steps in advance of our day by the autonomous English colonies which are anxious to take part in an Imperial Parliament in the supreme function of legislators and directors of the great British Empire.

This form, therefore, which is characteristic of the system now adopted by Spain, while it gives it its own meaning, signifies, if not a step in advance, such as those engendered by the present time, an advantage which circumstances offer us as a just compensation for the immense disasters which our colonial history recounts.

The Government frankly acknowledges that for the success of its work public discussion in Parliament would have been better, together with the analysis of public opinion in the press, on the lecture platform, and in books; but it is not its fault, as it was not that of the previous Government, if the pressure of circumstances compels it to do without this precious guaranty. Yet if the party which now serves the interests of the Crown and the country in the Government did not hesitate a moment to approve, in its day, the initiative taken by the conservative party, or in voting for the appropriation which it asked from the Cortes, it has a right, now that the weight of circumstances is still heavier than it was then, to hope that public opinion will approve to-day the course pursued by it, and that the Cortes will do so to-morrow.

For this reason it does not hesitate to face the responsibility, and it intends to put into immediate action and practice the solutions which are implied in the present decree with the same sincerity with which it has prepared it, thus removing the suspicion of any indecision in its course or of reservation in its promises. If the régime shall be found wanting in practice for lack of good faith in anybody it will never be—and we are proud to proclaim this—the fault of the men who are actuated above all things by the noble desire to pacify their country.

The Government thinks that it has thus said everything necessary to make known the genesis, the inspiration, and the character of the plan which, establishing in Cuba and Puerto Rico an autonomic régime, it now submits to Your Majesty.

To those who are familiar with the constitution of the Monarchy, the plan will certainly not present any great difficulties, for the Government has, as far as possible, taken for its guide the organic system of that instrument, the division of its titles, and even its wording. The modifications of the constitutional articles are accessory and circumstantial; the additions respond to its specialty and seek to secure the efficiency of its provisions and the facility of their execution.

Doubtless something will remain to be done, and some reforms will be needed; this will be shown simultaneously by the defense of its provisions and the criticisms made thereon, and gradually the good grounds upon which both are based will be ascertained; this will render it possible to incorporate what is good in the plan and to reject what does not harmonize with its fundamental ideas when the time comes for it to receive the sanction of the Cortes.

Let it be understood, nevertheless, that the Government will not eliminate from it, nor will it consent that anything be eliminated that goes to form colonial liberties, guarantees, and privileges, because, being prepared to complete its work or to throw light upon doubts, it does not intend that when it presents its plan for parliamentary sanction the concessions made shall suffer any impairment, nor can it consent to do so if it has a majority in the chambers.

But though all that the Government considers necessary to explain in the general lines of the decree has been set forth in the foregoing, it still deems it indispensable, for reasons which will readily be understood, to fix the sense of the articles which refer to autonomy with regard to the tariff and which refer to the debt which burdens the Cuban treasury.

The export trade from the Peninsula to Cuba, which amounts to about $30,000,000 per annum, and which, moreover, furnishes ground for important combinations for navigation on the high seas, has hitherto been subjected to an exceptional régime which is absolutely incompatible with the principle of colonial autonomy.

This implies the power to regulate the conditions of its import and export trade and to have free control of its custom-houses. To refuse these privileges to Cuba or Puerto Rico would be tantamount to nullifying the value of the principles laid down; to endeavor to defeat their object would be incompatible with the dignity of the nation. What it behooves the Government to do, after recognizing the principle in its

entirety, is to endeavor to cause the transition to take place without violence or injury to the interests which have been developed under the old system, and for this purpose to pave the way to an understanding with the governments of the Antilles.

The most earnest advocates of autonomy have never denied the willingness of those countries to recognize, in behalf of genuinely national industry and commerce, a margin that should secure that market to them.

This assurance has always been given by their representatives in the Cortes, and is still given by their representatives in the Cortes, and is still given by all parties in the island of Cuba, according to statements which the Government considers irrecusable. Complaints arose, not from the existence of discriminating duties, but from the fact that those duties were too high, and that this prevented the Antilles from securing the markets which they needed for their rich and abundant productions, and from the lack of reciprocity. Thus, as no insurmountable difficulties exist, there is ground for saying that an understanding is more than possible; that it is certain, especially when it is considered that the exports from the Peninsula to Cuba consist of about fifty articles of the four hundred that are specified in the tariff, and that of these fifty many, owing to their special character, and owing to the customs and tastes of the Cubans, will never have reason to fear the competition of foreign articles.

The manufacturers and shipowners of the Peninsula have no cause for alarm owing to the establishment of a system of autonomy, which, while it modifies the conditions on which the tariff is based, does not alter the essential bases of the economic relations between Spain and the Antilles. There will doubtless be some difficulties to be harmonized, or it will be necessary to settle the inevitable differences accompanying any change of the mercantile régime; it will be necessary to combine both tariffs in some way; but neither are the interests of Cuba opposed to those of the Peninsula, nor is it in anyone's interest to diminish the commercial relations existing between the two countries.

If, then, the insular government were already established, and if with it it had been possible to agree upon a system of mercantile relations, this question would not have assumed proportions which it does not possess; nor would there be any cause for predicting ruin and disaster; the facts would put suppositions to silence. Notwithstanding this, the Government has thought that in order to quiet alarm it was proper for it to anticipate events, and that instead of leaving the settlement of the question to the natural working of the new constitution, it was proper to fix without further delay the bases of our future mercantile relations. In doing this, and with a view to removing all cause of distrust, it has gone so far as to fix a maximum for the differential duties that are to be obtained by Peninsular goods, offering, as was right and just, the same rates to insular productions.

The basis of the understanding having been fixed and determined, the principle of autonomy having been guaranteed, the equality of powers having been established in an unquestionable manner in the procedure that is to be observed, and the spirit which actuates those islanders being known, the negotiation will be easy and its results will be advantageous to both parties.

As to the debt which burdens the Cuban treasury, either directly or owing to the guarantee which it has given to that of the Peninsula, and which the latter bears analogously, the justice of dividing it in an equitable manner when the termination of the war shall render it possible to fix its definitive amount is not to be doubted for a moment.

This debt, let us hope, will not be so enormous as to amount to an insupportable burden upon the energy of the nation, nor is the nation so lacking in resources that it needs to feel alarm at the prospect before it. A country which during the past few months has given such strong evidence of virility and social discipline; a territory like that of Cuba, which, even in the midst of its political convulsions and of war scarcely interrupted for thirty years, has produced so great wealth by cultivating only a small part of its fertile soil, and which has done this by its own strength alone, with few institutions of credit, struggling against sugar on which a bounty is paid, the American market being closed to its manufactured tobacco, and at the same time changing slave labor into free labor, may calmly contemplate the payment of its obligations and inspire its creditors with confidence.

Consequently, in the opinion of the Government, it is important to think from this time forward of the manner in which the debt is to be paid, rather than of its division, applying the economic methods of our day to the great wealth which the soil of Cuba secures to agriculturists and which the bowels of the earth secure to miners, and taking advantage of the extraordinary facilities offered to the commerce of the world by the insular form and the geographical situation of what has rightly been called the "Pearl of the Antilles."

If no legislation can yet be enacted concerning these things, it is proper to bear

them in mind very carefully and to pay much attention to them, since it has occurred to others who certainly can not be charged with being visionary or forming illusions—it has occurred to them, I say, to take advantage of this great germ of wealth, not, indeed, for the benefit of Spain or to uphold her sovereignty; when they do this, it would be folly not to follow their example and not to convert into a redemption of the past and a guaranty of the future what has perhaps been an incentive to war and the origin in a great measure of the evils which we are now so eagerly seeking to remedy.

Basing its action on these considerations, the Government has the honor to submit the inclosed draft of a decree to Your Majesty for approval.

Madam, at Your Majesty's royal feet,

PRÁXEDES MATEO SAGASTA.

MADRID, *November 25, 1897.*

ROYAL DECREE.

By the advice and consent of my council of ministers; in the name of my august son, King Alfonso XIII, and as Queen Regent of the Kingdom, I decree as follows:

TITLE I.—*Of the government and administration of the islands of Cuba and Puerto Rico.*

ARTICLE I. The islands of Cuba and Puerto Rico shall hereafter be governed and administered in accordance with the following provisions:

Explanatory note.

To facilitate the understanding of this decree and to prevent confusion as regards the legal value of the terms therein used, the following definitions must be remembered:

Executive central power: The King with his council of ministers.

Spanish Parliament: The Cortes with the King.

Spanish Chambers: The Congress and the Senate.

Central Government: The council of ministers of the Kingdom.

Colonial parliament: The two chambers with the Governor-General.

Colonial chambers: The council of administration and the chamber of representatives.

Colonial legislative assemblies: The council of administration and the chamber of representatives.

Governor-General in council: The Governor-General, with his secretaries.

Instructions of the Governor-General: Those which he received when he was appointed to his post.

Statute: Colonial provision of a legislative character.

Colonial statutes: The colonial legislation.

Legislation or general laws: The legislation or laws of the Kingdom.

ART. 2. The government of each one of the islands shall be composed of an insular parliament, divided into two chambers, and of a Governor-General representing the mother country, who, in the name of the latter, shall exercise supreme authority.

TITLE II.—*Of the insular chambers.*

ART. 3. The insular chambers, together with the Governor-General, shall have power to legislate concerning colonial affairs in the manner and on the terms provided by law.

ART. 4. The islands shall be represented by two bodies, whose powers shall be equal, viz: The chamber of representatives and the council of administration.

ART. 5. The council shall be composed of 35 members, of whom 18 shall be elected in the manner prescribed in the electoral law, and the remaining 17 shall be designated by the King, and in his name by the Governor-General, from among those possessing the requirements enumerated in the following articles:

ART. 6. To be entitled to a seat in the council of administration it shall be necessary to be a Spaniard; to have attained the age of 35 years; to have been born in the island, or to have resided there uninterruptedly for four years; not to be under criminal prosecution; to be in the full enjoyment of one's political rights; not to have one's property embargoed; to have had for two or more years an income of one's own amounting to $4,000, and to have no part in contracts with the central government or with that of the island.

Stockholders in joint-stock companies shall not be considered as having a contract with the government, although the society to which they belong may have one.

ART. 7. Those who, in addition to the requirements mentioned in the foregoing article, possess any one of the following, may be elected or designated as members of the council of administration:

(1) Being or having been a senator of the Kingdom, or having the requirements specified in Title III of the constitution for the discharge of the duty of that office.

(2) Having discharged for two years the duties of one of the offices mentioned below:

That of presiding judge of the superior court of Havana, or of the govrenment attorney attached to that court; that of rector of the University of Havana; that of a member of the old council of administration; president of the chamber of commerce of the capital; president of the Economic Society of Friends of the Country, of Havana; president of the Club of Landholders; president of the Tobacco Manufacturers' Union; president of the League of Merchants, Manufacturers, and Agriculturists of Cuba; dean of the Illustrious College of Lawyers, of the capital; alcalde of Havana; president of its provincial deputation for two terms of two years each, or president of a provincial deputation for three such terms; dean of any of the cathedral cabildos.

(3) The following persons may likewise be elected or designated: Land owners whose names appear in the list of the 50 largest taxpayers on land held by them, or in that of the first 50 for trade, professions, industry, and arts.

ART. 8. The appointment of the members of the council whom the Crown may designate shall take place by special decrees, in which the ground on which the appointment is based shall always be stated.

The members of the council thus appointed shall hold their office during life.

One-half of the elective members of the council shall be renewed every five years, and all shall be renewed whenever the Governor-General shall dissolve the council of administration.

ART. 9. The requirements necessary to be appointed or elected councilor of administration may be changed by a law of the Kingdom at the request or in accordance with the suggestion of the insular chambers.

ART. 10. Members of the council of administration shall accept no office and no title or decoration while the sessions last, but both the local and the central government may confer upon them, within their respective office or categories, such commissions as the public service may require.

The office of secretary of the government shall be excepted from the provisions contained in the foregoing paragraphs.

TITLE IV.—*Of the chamber of representatives.*

ART. 11. The chamber of representatives shall be composed of the persons named by the electoral boards in the manner provided by law and in the proportion of one to every 25,000 inhabitants.

ART. 12. In order to be elected a representative it is necessary to be a Spaniard, not in clerical orders, of full age, to be in the enjoyment of all one's civil rights, to have been born in the island of Cuba, or to have resided there for four years, and not to be under a criminal prosecution.

ART. 13. Representatives shall be elected for five years, and may be reelected indefinitely.

The insular chamber shall decide with what functions the office of representative is incompatible, and shall determine in what cases a representative may be reelected.

ART. 14. Representatives upon whom the central or local government shall confer a pension, an office, a promotion out of the regular course, a commission with salary, honors or decorations, shall cease to hold their office, without the necessity of any declaration if, within the fifteen days immediately following their appointment, they do not inform the chamber that they decline to accept the favor conferred.

What is contained in the foregoing paragraph does not include representatives who are appointed government secretaries.

TITLE V.—*Of the manner in which the insular chambers are to perform their functions, and of the relations between them both.*

ART. 15. The chambers shall meet every year. It shall be the duty of the King, and in his name of the Governor-General, to convoke or suspend them, to close their sessions, and to dissolve separately or simultaneously the chamber of representatives and the council of administration, with the obligation to convoke them again or to renew them within three months.

ART. 16. Each one of the colegislative bodies shall draw up its own regulations and shall examine both the qualifications of the persons who compose them and the legality of their election.

Until the chamber of representatives and the council of administration shall have approved their regulations, they shall be governed by the regulations of the congress of deputies or by those of the senate, respectively.

ART. 17. Both chambers shall choose their president, vice-presidents, and secretaries.

ART. 18. One of the two legislative bodies shall not be in session unless the other is also.

The case is excepted in which the council of administration shall perform judicial functions.

ART. 19. The insular chambers shall not deliberate together or in presence of the Governor-General.

Their sessions shall be public, although in cases in which secrecy is required each one may hold a secret session.

ART. 20. It shall be the duty of the Governor-General, through the governmental secretaries, just as it shall be that of each one of the two chambers, to initiate and propose the colonial statutes.

ART. 21. The colonial statutes concerning taxes and public credit shall be first laid before the chamber of representatives.

ART. 22. Resolutions in each one of the colegislative bodies shall be taken by a plurality of votes; but in order to pass enactments of a legislative character, the presence of one-half plus one of the total number of members composing it shall be required. The presence of one-third of the members shall, however, be sufficient for deliberation.

ART. 23. In order that a resolution may be understood to have been passed by the insular parliament, it shall be necessary for it to have been approved both by the chamber of representatives and by the council of administration.

ART. 24. The colonial statutes, when approved in the manner provided in the foregoing article, shall be laid before the Governor-General by the officers of the respective chambers for his sanction and promulgation.

ART. 25. The members of the council of administration and those of the chamber of representatives shall be inviolable as regards their opinions and votes in the discharge of the duties of their office.

ART. 26. The members of the council of administration shall not be prosecuted or arrested without a previous resolution of the council, unless when they are taken in flagrante delicto or when the council is not in session; but in all cases a report shall be made to that body as speedily as possible, in order that it may reach a proper determination. The representatives shall, moreover, not be prosecuted or arrested during the sessions of the chamber without its permission, unless they are taken in flagrante delicto; but in this case, and in that of their being prosecuted or arrested when the chambers are closed, a report shall be made as speedily as possible to the chamber of representatives, for its information and decision.

The superior court of Havana shall take cognizance of criminal cases against members of the council and representatives, in such cases and in such manner as the colonial statutes provide.

ART. 27. The guarantees provided in the foregoing article shall not be applicable to cases in which a member of the council or a representative shall declare that he is the author of articles, books, pamphlets, or printed matter of any kind in which soldiers are incited to sedition, or in which the Governor-General is insulted or slandered, or an attack is made upon the national integrity.

ART. 28. The relations between the two chambers shall be regulated, until further orders, by the law concerning the relations between both colegislative bodies bearing date of July 19, 1837.

ART. 29. In addition to holding the colonial legislative power, it shall be the duty of the insular chambers:

(1) To administer to the Governor-General the oath that he will uphold the constitution and the laws which guarantee the autonomy of the colony.

(2) To make effective the responsibility of the governmental secretaries, who, when accused by the chamber of representatives, shall be tried by the council of administration.

(3) To address the central Government through the Governor-General in order to propose to it the abrogation or modification of the laws of the Kingdom which are in force, to request it to present drafts of laws concerning determinate matters, or to request it to adopt resolutions of an executive character on subjects which interest the colony.

ART. 30. In all cases in which, in the opinion of the Governor-General, the national interests may be affected by the colonial statutes, the presentation of drafts of ministerial initiative shall be preceded by their communication to the central Government.

If the project shall be the outgrowth of parliamentary initiative, the colonial government shall ask for the postponement of the discussion until the central Government shall have expressed its opinion.

In both cases the correspondence that has passed between the two governments shall be communicated to the chambers and shall be published in the Gazette.

ART. 31. Conflicts of jurisdiction between the different municipal assemblies, provincial and insular, or with the executive power, which owing to their nature shall not be referred to the central Government, shall be submitted to the courts of justice, in accordance with the provisions of this decree.

TITLE VI.—*Of the powers of insular parliament.*

ART. 32. The insular chambers shall have power to legislate concerning all matters that have not been specially and determinately reserved to the Cortes of the Kingdom or the central Government, according to the present decree or to the provisions that may hereafter be adopted as provided in article 2 additional.

Consequently, the enumeration presuming no limitation of their powers, it shall be their duty to decide concerning all matters that belong to the ministries of grace and justice, government, finance and fomento, in its three divisions, public works, education, and agriculture.

It shall likewise be their duty to obtain special information with regard to all matters of a purely local nature which principally affect the colonial territory; and in this sense they may decide concerning administrative organization and division, whether territorial, provincial, municipal, or judicial; concerning public health, both on sea and land; concerning public credit, banks, and the monetary system.

These powers are to be understood as not interfering with those belonging, in connection with the same matters, according to law, to the colonial executive power.

ART. 33. It shall likewise be the duty of the insular parliament to prepare the regulations for the execution of those laws enacted by the Cortes of the Kingdom that shall be expressly confided to it. In this sense it specially belongs to it (and it may do so at its very first meeting) to decide concerning electoral procedure, the preparation of the census, the qualifications of electors, and the manner in which elections shall be held; but its decisions shall in nowise affect the rights of citizens as they are recognized by the electoral law.

ART. 34. Although the laws relating to the administration of justice and the organization of the courts are of a general character, and therefore obligatory upon the colony, the colonial parliament may, subject to them, adopt such rules or propose to the central Government such measures as may facilitate the entrance, retention, and promotion in the local courts of the natives of the island, or of those who practice the legal profession there. The Governor-General in council shall exercise the powers which, as regards the appointment of legal officers, subordinates, and assistants, and as regards other matters connected with the administration of justice, are now exercised by the ministry of the colonies so far as the island of Cuba is concerned.

ART. 35. It shall be an exclusive power of the insular parliament to prepare the local budget both of expenditures and receipts, and to prepare that of the receipts necessary to meet the portion of expense of the national budget which is payable by the island.

To this effect, the Governor-General shall lay before the chambers, before the month of January of each year, the budget for the following fiscal year, divided into two parts, the first of which shall contain a statement of the receipts necessary to meet the expenses of sovereignty; the second, the expenditures and receipts which properly belong to the colonial administration.

Neither of the chambers shall deliberate concerning the colonial budget without having definitely passed upon the portion relating to the expenses of sovereignty.

ART. 36. It shall be the duty of the Cortes of the Kingdom to decide what are to be considered, from their nature, as obligatory expenses inherent in sovereignty, and also to fix every three years the amount thereof and the receipts necessary to meet them, the Cortes having always the right to change this provision.

ART. 37. The negotiation of treaties of commerce affecting the island of Cuba, whether they are due to the initative of the insular government or to that of the central government, shall always be conducted by the latter, assisted in both cases by special delegates, duly authorized by the colonial government, the conformity of which treaties to what has been agreed upon shall be shown when they are laid before the Cortes of the Kingdom.

These treaties, if they shall be approved by the Cortes, shall be published as laws of the Kingdom, and as such they shall remain in force in the territory of the island.

ART. 38. Treaties of commerce in the negotiation of which the insular government shall not have taken part shall be communicated to it when they shall become laws of the Kingdom, in order that it may, within three months, declare whether it desires to adhere to their stipulations or not. In case of its desiring to adhere to them the Governor-General shall publish a statement to that effect in the Gazette as a colonial statute.

ART. 39. It shall further be the duty of the insular parliament to prepare the tariff and to designate the duties to be paid on goods, both when imported into the territory of the island and when exported therefrom.

ART. 40. By way of transition from the present régime to that for which provision is hereby made, and without prejudice to what may be agreed upon at the proper time by the two governments, commercial relations between the Peninsula and the island of Cuba shall be governed by the following provisions:

(1) No duty, whether of a fiscal character or not, and whether established for imports or exports, shall be differential to the detriment of insular or peninsular productions.

(2) A list of articles of direct national origin shall be prepared by both governments, for which articles there shall be established by common consent a differential duty on those similar to them of foreign origin.

In another similar list, prepared in the same manner, those productions of insular origin shall be determined which are to receive privileged treatment when imported into the Peninsula. The rate of the differential duties shall likewise be determined.

This differential duty shall in no case exceed, for both origins, 35 per cent.

If, in the preparation of both lists and in the fixing of the protective duties, there shall be an agreement between the two governments, the lists shall be considered definite and shall be adopted at once. If there shall be any disagreement, the point in dispute shall be submitted for decision to a commission of deputies of the Kingdom, consisting equally of natives of Cuba and of the Peninsula. This commission shall choose its president. If no agreement shall be reached concerning his appointment, the oldest officer shall preside. The president shall have a vote by virtue of his office.

(3) The tables of valuations for the articles enumerated in the two lists mentioned in the foregoing number shall be adopted by common consent, and shall be revised every two years, a hearing being granted to both parties. The modifications which it shall be proper to make, in view thereof, in the tariff, shall be at once carried out by the respective governments.

TITLE VII.

ART. 41. The supreme government of the colony shall be vested in a Governor-General, who shall be appointed by the King, on motion of the council of ministers. In this capacity he shall exercise, as a vice-royal patron, the powers inherent in the patronate of the Indies; he shall have the chief command of all the armed forces, both naval and military, in the island; he shall be the representative of the ministries of state, war, navy, and the colonies; all the authorities of the island shall be subordinate to him, and he shall be responsible for the preservation of order and of the safety of the colony.

The Governor-General, before assuming the duties of his office, shall make oath before the King that he will perform them faithfully and loyally.

ART. 42. The Governor-General, as the representative of the nation, shall perform by himself, and assisted by his secretaries, all the duties mentioned in the foregoing articles, and that may be incumbent upon him as the direct representative of the King in matters of a national character. It shall be the duty of the Governor-General, as the representative of the mother country:

(1) To designate freely the employees of his secretariat.

(2) To publish, execute, and cause to be executed on the island the laws, decrees, treaties, international conventions, and other instruments emanating from the legislative branch of the Government, and likewise the decrees, royal orders, and other instruments emanating from the executive branch that shall be communicated to him by the ministries, whose representative he is.

When, in his judgment, and that of the secretaries of his administration, the decisions of Her Majesty's Government might cause injury to the general interests of the nation, or to the special interests of the island, he shall suspend their publication and execution, making a report thereof and of the causes upon which his decision is based to the proper ministry.

(3) To exercise the pardoning power in the name of the King within the limits which shall have been specially marked out for him in his instructions, and to suspend the execution of capital punishment in cases in which the gravity of the circumstances may demand it, or the urgency of the case may not allow time to solicit and obtain pardon from Her Majesty, the opinion of the secretaries being heard in all cases.

(4) To suspend the guaranties named in articles 4, 5, 6, and 9, and paragraphs 1, 2, and 3 of article 13, of the constitution of the State, to enforce the laws relative to public order, and to take all such measures as he may deem necessary for the preservation of peace within, and of security outside of, the territory that is intrusted to him, the council of secretaries being previously heard.

(5) To take care that justice be speedily and properly administered in the colony, in which it shall always be administered in the name of the King.

(6) To communicate directly concerning matters of external policy with the representatives, diplomatic agents, and consuls of Spain in America.

Correspondence of this kind shall be communicated in its entirety and simultaneously to the minister of state.

ART. 43. It shall be the duty of the Governor-General, as the superior authority of the island and the head of its administration:

(1) To take care that the rights, powers, and privileges recognized or hereafter to be recognized as belonging to the colonial administration, be duly respected and upheld.

(2) To sanction and publish the enactments of the insular parliament, which shall be laid before him by the president and secretaries of the respective chambers.

When the Governor-General shall consider that an enactment of the insular parliament goes beyond the powers of that body, violates the rights of citizens which are recognized in Title I of the constitution, or the guarantees fixed by law for the exercise of those rights, or jeapordizes the interests of the colony or of the State, he shall send the enactment to the council of ministers, of the Kingdom, which, in a period not exceeding six months, shall approve it or return it to the Governor-General, with a statement of the reasons that it may have for objecting to its sanction and promulgation. The insular parliament, in view of these reasons, may again deliberate concerning the matter and modify the enactment, if it thinks proper, without the necessity of a special proposition.

If two months shall pass without the central Government's having expressed its opinion concerning an enactment of the chambers that shall have been transmitted to it by the Governor-General, that officer shall sanction and promulgate it.

(3) To appoint, suspend, and remove the employees of the colonial administration, on motion of the respective secretaries of the government, and in accordance with the laws.

(4) To appoint and remove freely the secretaries of the government.

ART. 44. No order of the Governor-General, issued in his capacity as representative and head of the colony, shall be carried out unless it is countersigned by a secretary of the government, who by this act alone, becomes responsible therefor.

ART. 45. The secretaries of the government shall be five:

Grace, justice, and of the interior.

Finance.

Public instruction.

Public works and means of communication.

Agriculture, industry, and commerce.

The secretary who shall be appointed by the Governor-General, shall be president. The Governor-General may likewise appoint a president without a determinate department.

The insular parliament shall have power to increase or diminish the number of the secretaries of the government, and also to determine what matters belong to the department of each.

ART. 46. The secretaries of the government may be members of the chamber of representatives or of the council of administration, and take part in the discussions of both bodies; but they shall only have a vote in that to which they belong.

ART. 47. The secretaries of the government shall be responsible for their acts to the insular chambers.

ART. 48. The Governor-General shall not modify or revoke his own orders when they shall have been sanctioned by the government, whether they are declaratory of rights, or have served as a basis for a judicial decision, or shall have reference to his own competency.

ART. 49. The Governor-General shall not delegate the powers of his office on absenting himself from the island without the express permission of the Government.

In cases of absence from the capital, which shall prevent him from transacting business, or of the impossibility of his doing so, he may designate a person or persons to act in his stead, if the government shall not previously have done so, or if, in his instructions, there is no provision made for the appointment of a substitute.

ART. 50. The supreme court shall take cognizance, without appeal, of all charges defined in the penal code that shall be made against the Governor-General.

The council of ministers shall take cognizance of any malfeasance in office committed by him.

ART. 51. The Governor-General, notwithstanding the provisions contained in the various articles of this decree, may act by himself and on his own responsibility, without granting a hearing to the secretaries of the government in the following cases:

(1) When the question is of the transmission to the government of the enactments of the insular chambers, especially when he considers that the rights guaranteed in Title I of the constitution of the monarchy or the guarntees provided by law for their exercise are violated by those enactments.

(2) When the law relative to public order is to be executed, especially if there is no time or any way to consult the central government.

(3) When the question is of the execution and fulfillment of laws of the Kingdom sanctioned by His Majesty, and operative in all the Spanish territory or that of its Government.

A law shall provide for the procedure and means of action that may be used in such cases by the Governor-General.

TITLE VIII.—*Of the municipal and provincial régime.*

ART. 52. Municipal organization shall be obligatory in every center of population containing more than 1,000 inhabitants. Localities containing a smaller population may organize services of a common character by special agreements.

Any municipal board that is legally constituted shall have power to legislate concerning public instruction, communication by land, river, or sea, concerning local health, the municipal budgets, and to appoint and remove its employees at will.

ART. 53. At the head of each Province there shall be a deputation, elected in the manner provided by the colonial statutes and composed of a number of members in proportion to its population.

ART. 54. The provincial deputations shall be autonomous in everything relating to the creation and dotation of establishments of public instruction and charitable institutions, provincial means of communication by land, river, or sea, the preparation of their budgets, and the appointment and removal of their employees.

ART. 55. Both the municipal boards and Provinces may freely provide for the receipts necessary to meet the expenditures of their budgets without any limitation other than that of making them harmonize with the general system of taxation of the island.

The means derived from the provincial budget shall be independent of those derived from the municipal budget.

ART. 56. The councilmen elected by the municipal districts shall be alcaldes and acting alcaldes.

ART. 57. The alcaldes shall perform the active duties of the municipal administration without any limitation whatever, as executors of the enactments of the municipal governments and as their representatives.

ART. 58. Both the councilmen and the provincial deputies shall be civilly responsible for any injuries that may be caused by their acts.

They may be held thus responsible before the ordinary courts.

ART. 59. The provisional deputations shall freely choose their presidents.

ART. 60. Elections for councilmen and provincial deputies shall be held in such a manner that the minorities may be legitimately represented therein.

ART. 61. The provincial and municipal law now in force in Cuba shall continue in force, so far as it is not at variance with the provisions of this decree, until the colonial parliament shall decide concerning these matters.

ART. 62. No colonial statute shall deprive the municipal boards or the deputations of the powers recognized in the foregoing articles as belonging to them.

TITLE IX.—*Of guarantees for the enforcement of the colonial constitution.*

ART. 63. Any citizen may apply to the courts when he thinks that his rights have been violated or his interests injured by the enactments of a municipal board or of a provincial deputation.

The Government attorney, if he shall be requested to do so by the agents of the colonial executive power, shall likewise prosecute before the courts any infractions of law or abuses of power that may have been committed by the municipal governments and the deputations.

ART. 64. In the cases referred to in the foregoing article the following courts shall be competent:

For complaints against the municipal boards, the superior court of the territory.

For complaints against the provincial deputations, the superior court of Havana.

These courts, when they have to decide cases of abuses of power by the aforesaid bodies, shall decide in full court. Appeal may be taken from the decisions of the territorial courts to the superior court of Havana, and from the decisions of this latter court to the supreme court of the Kingdom.

ART. 65. The privileges granted in article 62 to any citizen may be exercised collectively by means of a public action, an attorney or representative being appointed for that purpose.

ART. 66. Without prejudice to the powers granted to him in Title V, the Governor-General, when he shall think proper, may have recourse, in his capacity as head of the colonial executive power, to the superior court of Havana, to the end that that court may decide conflicts of jurisdiction between the colonial executive power and the legislative chambers.

ART. 67. If any question of jurisdiction shall arise between the insular parliament and the Governor-General in his capacity as representative of the central Government, which, on petition of the former, shall not be submitted to the council of ministers of the Kingdom, each of the two parties may submit it for decision to the supreme court of the Kingdom, which shall decide in full court and without appeal.

ART. 68. Decisions having reference to the cases provided for in the foregoing articles shall be published in the collection of colonial statutes, and shall form part of the laws of the island.

ART. 69. Any municipal enactment having for its object the contraction of municipal loans or debts shall have no executive force unless it shall be approved by a majority of the residents when a demand to this effect shall have been made by one-third of the members of the municipal board.

A special statute shall determine the amount of the loan, or of the debt which according to the number of residents of the municipal district shall be necessary, in order that the case may be referred to the vote of the residents.

ART. 70. All provisions of a legal character emanating from the colonial parliament or the courts shall be compiled under the name of colonial statutes in a legislative collection, the preparation and publication of which shall be intrusted to the Governor-General as head of the colonial executive power.

ADDITIONAL ARTICLES.

ARTICLE 1. Until colonial statutes shall have been published in due form the laws of the Kingdom shall be considered applicable to all matters that are to be acted upon by the insular government.

ART. 2. When the present constitution for the islands of Cuba and Puerto Rico shall have been approved by the Cortes of the Kingdom, it shall not be modified otherwise than by a law and at the request of the insular parliament.

ART. 3. The provisions of the present decree shall be enforced in their entirety in the island of Puerto Rico; but in order to adapt them to the population and the nomenclature of that island they shall be published in a special decree for Puerto Rico.

ART. 4. Contracts relative to public services common both to the Antilles and the Peninsula that are in course of execution shall continue in their present form until their termination, and shall be governed in all respects by the conditions of the contract. With regard to contracts that have not yet begun to be executed, but have been already agreed upon, the Governor-General shall consult the central Government or the colonial chambers, if necessary, and the definitive form in which they shall be concluded shall be determined by common consent between the two governments.

TRANSIENT ARTICLES.

ARTICLE 1. In order to accomplish with the greatest rapidity possible, and with the least interruption of the services, the transition from the present system to that which is created by this decree, the Governor-General, when he shall think that the proper time has arrived, shall, after consulting the central Government, appoint the Government secretaries to whom reference is made in article 45, and with them shall conduct the interior government of the island of Cuba until the insular chambers shall have been constituted.

The secretaries appointed shall cease to hold their offices when the Governor-General shall take his oath of office before the insular chambers, when they shall immediately be replaced by the governor with persons who, in his opinion, most fully represent the majorities of the chamber of representatives and of the council of administration.

ART. 2. The manner of meeting the expenditures occasioned by the debt which now burdens the Spanish and the Cuban treasury, and that which shall have been contracted until the time of the termination of the war, shall form the subject of a law wherein shall be determined the part payable by each of the two treasuries, and the special means of paying the interest thereon, and of the amortization thereof, and, if necessary, of paying the principal.

Until the Cortes of the Kingdom shall decide this point, there shall be no change in the conditions on which the aforesaid debts have been contracted, or in the payment of the interest and amortization, or in the guarantees of said debts, or in the manner in which the payments are now made.

When the apportionment shall have been made by the Cortes, it shall be for each one of the treasuries to make payment of the part assigned to it.

Engagements contracted with creditors under a pledge of the good faith of the Spanish nation shall in all cases be scrupulously respected.

Done at the Palace, this 25th day of November, 1897.

MARÍA CHRISTINA.

PRÁXEDES MATEO SAGASTA,
President of the Council of Ministers.

Mr. Woodford to Mr. Sherman.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, November 28, 1897.

Am just informed by Spanish cabinet that no American subject remains imprisoned in Cuba.

WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 88.] LEGATION OF THE UNITED STATES,
Madrid, December 4, 1897.

SIR: Referring to my dispatch No. 82, of November 29, 1897, and my cable of November 28, 1897, I have the honor to inform you that, confirming the information therein conveyed, I received yesterday a formal and courteous note from the Spanish minister of state, stating that the American citizen Luis Someillan had been released from prison, and that no citizen of the United States now remained imprisoned in the island of Cuba. I have acknowledged the receipt of the note. I inclose herein a copy of the note, with translation.

I have, etc.,

STEWART L. WOODFORD.

[Inclosure No. 1.—Translation.]

MINISTRY OF STATE,
Palace, December 2, 1897.

EXCELLENCY.

MY DEAR SIR: In further proof of the friendly sentiments of the Government of His Majesty toward that which your excellency so worthily represents at this court, it is very gratifying to me to inform you that, in compliance with the royal

decree of the 11th of November ultimo, the total pardon of the penalty imposed upon the North American citizen Luis Someillan has been granted.

At the same time I have the greatest pleasure in informing your Excellency that, as the governor-general of Cuba informs me by cable, no citizen of the United States remains in prison in said island.

I avail myself, etc.,

PIO GULLON.

To the MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

Mr. Woodford to Mr. Sherman.

No. 92.] LEGATION OF THE UNITED STATES,
Madrid, December 7, 1897.

SIR: I have to-day received your dispatch by telegraph in cipher, which I translate as follows:

WASHINGTON, *December 6, 1897.*

WOODFORD, *Minister, Madrid:*

The President's message sent in at noon to-day recognizes a change of policy needing reasonable time to develop effects, and without committing the United States to adoption or sanction awaits events of the near future; dwells on the cruel policy of late commander, which present Government is pledged to reverse, relieving the concentrados and conducting humane warfare; reviews the alternatives of action open to this Government, and concludes that the situation does not call for recognition of belligerency on the merits of the contest itself, especially under present altered conditions; for same reasons consideration of any form of present intervention is set aside; quotes largely from Grant's message of '75 as to performance of international duties of neutrality, and insists that this Government has fulfilled all obligations. A copy is given to minister of Spain, who will telegraph his Government full abstract.

SHERMAN.

I had full interview with secretary of state and secretary of colonies on Sunday evening; also with secretary of state last evening and this afternoon.

Sunday evening the secretaries suggested that I withhold my formal answer to the Spanish note of October 23 until after the receipt and publication of the President's message to Congress, and this I conceded cheerfully, believing that it is wise to harmonize my conduct with their wishes in all matters that are purely formal and unessential. The Spanish minister of state is greatly gratified with the generous tenor of the President's message, and to-day authorized me to express this gratification to my Government.

I have, etc.,

STEWART L. WOODFORD.

Mr. Sherman to Mr. Woodford.

No. 95.] DEPARTMENT OF STATE,
Washington, December 11, 1897.

SIR: I have to acknowledge the receipt, on the 9th instant, of your No. 81, of the 27th ultimo, transmitting duplicate copies of each of the decrees signed by Her Majesty the Queen Regent on November 25, of which the first extends the provisions of the Spanish constitution over Cuba and prescribes the electoral law of the island, while the second establishes the new system of autonomy therein.

An effort will be made to have these important papers translated in the Department with all possible dispatch. It is cheerfully recognized that you could not have undertaken this task with the limited force at your command except at the cost of delay, which would have impeded the needful early examination of these measures.

You will please transmit hither, to complete the record of the correspondence in the matter, copy and translation of the note of Señor Gullon sending you the decree in regard to autonomy, and copy of your reply acknowledging his marked courtesy in the matter.

Respectfully, yours,

JOHN SHERMAN.

Mr. Woodford to Mr. Sherman.

No. 95.] LEGATION OF THE UNITED STATES,
Madrid, December 15, 1897.

SIR: I have the honor to confirm my cipher telegram of this date, as follows:

SHERMAN, *Washington:*

Have not yet answered Spanish note of October 23. Have waited to study the effect of the President's message and Weyler's arrival and conduct at Madrid. Have you further suggestions or instructions since you have had the opportunity to study the text of the decrees? Now think it wise to serve our answer just before Christmas.

WOODFORD.

With great respect, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 97.] LEGATION OF THE UNITED STATES,
Madrid, December 17, 1897.

SIR: I have the honor to acknowledge the receipt to-day of a telegram in cipher, which I have translated as follows:

WOODFORD, *Minister, Madrid:*

Present our reply forthwith unless adverse reasons exist of which Department has no knowledge. In the latter case advise freely by cable.

DAY, *Acting.*

I have, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 98.] LEGATION OF THE UNITED STATES,
Madrid, December 23, 1897.

SIR: I have the honor to report that, under date of December 20, instant, I have replied to the note of the Spanish Government of October 23 last, which note was in answer to my note of September 23 last. I delivered this reply personally to Señor Gullon, the minister of foreign affairs. Inclosed I hand you full copy of the text of my answer, and have the honor to be,

Very respectfully, yours, STEWART L. WOODFORD.

[Inclosure.]

Mr. Woodford to Señor Gullon.

No. 43.] LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, December 20, 1897.

EXCELLENCY: In further reply to the note which your excellency addressed to me on the 23d of October last, I have now the honor to state that I communicated to my Government the full text thereof, together with copies of the manifesto issued by the Liberal party of Spain, through its honored chief, Señor Sagasta, on the 24th of June last, and to which manifesto your excellency referred in evidence of the consistent and sincere purposes of reform which animate the existing Government of His Majesty.

The President now instructs me to inform your excellency that the Government at Washington has given that extended consideration which their importance demands, not only to your note itself, but also to the remarkable and earnest declarations which such manifesto contains of the principles and purposes of the Liberal party, now intrusted with the Government of Spain. During the very time that these matters have been receiving the careful consideration of my Government the President has observed with peculiar satisfaction the encouraging signs which come to him alike from the Peninsula, from Cuba, and from the honored representative of Spain at Washington, of the singleness and earnestness of purpose wherewith His Majesty's Government and its responsible agents in Cuba are laboring to bring about an instant and permanent change in those conditions in that island which have so long distressed the Government and the people of the United States.

For these reasons my Government, in directing this response to the note of your excellency, recognizes its duty to consider the questions involved, not merely in the light of assertion and argument, but also in the presence of attendant facts, so that it may render due justice to the sentiments and course of Spain in this conjuncture.

The President is gratified to note that the Spanish Government appreciates at its just value the vital interest which the Government and people of the United States have and feel in the prompt cessation of the Cuban struggle. This struggle, as your excellency observes, although it be for Spain more painful and costly than for any other State, is also of importance and prejudicial to the American nation, alike because the disasters of such a civil strife are so nearly felt, and because of the losses occasioned to our commerce, our industries, and the property of our citizens by an indefinite continuance of a contest of this character. When I addressed my communication to your distinguished predecessor in office, on the 23d of September last, the destinies of Spain and of Cuba were controlled by a Government which, during nearly two years and a half, had been engaged in the fruitless endeavor to reduce the revolted Cubans to subjection by sheer force of arms and not by the legitimate resorts of war as understood in our day, or, indeed, by the means defined by all publicists since international law came into being.

The methods employed were destructive to every rational interest of Spain and Cuba, and injurious to every association that links both Spain and Cuba to the outside world. Its aim appeared to be, not the conservation of the fairest dependency of Spain under conditions of

contentment and prosperity, but to conquer the peace of the desert and the tomb. It behooved my Government at that time to rest the case of the United States, not alone upon the sentiments of humanity, but also upon the material considerations importing irremediable injury to paramount national interests should such disastrous state of things continue. The history of civilized nations shows that such sentiments and such considerations have constrained the suffering on-lookers to mediation, and even intervention, when longer forbearance has ceased to be a virtue. The action of my Government rested no less upon moral and legal right than upon the all-controlling sentiment of humanity. Its friendly forbearance was testified by thus approaching anew that same Peninsular Government which has repelled our kindly overtures in the past. It was even then fervently hoped that this repeated offer might be heeded in the spirit of sincere friendship which prompted it, and might gain in weight and in acceptability by the circumstances that an added year of ineffectual war in Cuba had demonstrated the futility of the policy theretofore decreed by the Spanish Government, and that it was proffered by a new Administration, which had taken office in the United States under conditions imposing upon the Executive the onerous responsibility of adopting a definite policy toward Spain and toward the Cuban war.

It is a gratifying augury that the consideration of our fresh proposals should have fallen to a Government which by its liberal antecedents, by its views and convictions in regard to the conduct of the war formed and expressed while in opposition and out of power, and by its declared pledges of amelioration and reform in the mutual interest of Cuba and of Spain, was so well fitted to understand the true motives of our conduct and the earnestly impartial friendliness that prompted our course. Under such circumstances it has not been for a moment apprehended that the just grounds of our representations to Spain could be misconstrued or controverted. The record of the Liberal party and the stand taken by its leaders, with the indorsement of its rank and file, were an assurance that such would not be the case, and the President is gratified that the event has justified the accuracy and wisdom of this forecast.

The Government of the United States appreciates fully all the embarrassments which must necessarily surround an administration new to office, assuming the complex functions of government at an hour of grave national peril, and inheriting from its predecessor the disastrous legacy of an internal conflict the conditions of which had been embittered by the harsh and futile methods in which the war had been conducted. The President understands that the reversal of all that had been done is no sudden growth to spring up in a single night, and that the fair structure of a just and permanent and prosperous peace for Cuba is to be raised with thoughtful care and untiring devotion if Spain is to succeed in the accomplishment of the tremendous task upon which she has entered. He comprehends that the plan, however broadly outlined, must be wrought out in progressive detail, and that upon assured foundations—upon the rock of equity and not upon the shifting sands of selfish interest—must be builded, stone by stone, the enduring fabric of regenerated Cuba.

He sees this broadly outlined plan in the declarations of the present Spanish note, which announces that, in fulfillment of the resolute purpose to draw closer with the ties of true affection the bonds which

unite the motherland with its provinces beyond the seas, it has been determined to put into immediate practice the political system sketched by the present president of the council of ministers in his manifesto of June 24; that this involves joining to military operations, uninterrupted, energetic, and active as circumstances may demand, but ever humanitarian and careful to respect all private rights as far as may be possible, political action frankly leading to the autonomy of the colony in such wise that under the guaranty of Spain shall arise the new administrative entity which is to govern itself in all affairs peculiar to itself by means of an insular council and parliament; that such institution of true self-government shall give to the Cubans their own local government whereby they shall be at one and the same time the initiators and regulators of their own life while remaining within the integral nationality of Spain; and that to realize these ends of peace with liberty and self-government the mother country will not fail to lend in due season the moral and material means in aid of the Antillean provinces by cooperating toward the reestablishment of property, the development of the island's inexhaustible sources of wealth, and by specially promoting public works and material interests which shall bring prosperity in the train of restored peace.

In taking this advanced position the Government of Spain has entered upon a pathway from which no backward step is possible. Its scope and magnitude may not be limited by the necessarily general and comprehensive character of the formula whereby it is announced. The outcome must be complete and lasting if the effort now put forth is to be crowned with full success and if the love and veneration of an ever faithful and happy people are to reward the sacrifices and endeavors of Spain. No less is due to Cuba, no less is possible for Spain herself.

The first acts of the new Government of Spain lie in the laudable paths it has laid out for its own guidance. The policy of devastation and extermination that so long shocked the universal sentiment of humanity has already been signally reversed, and the President has been informed by the Spanish minister at Washington of the measures proclaimed by the new commander in chief of the Spanish arms in Cuba, whereby immediate relief is extended to the unhappy reconcentrados, fresh zones of cultivation are opened to them, employment upon the estates permitted, transportation furnished them, and protective boards organized for their succor and care. He is likewise advised that by a recent decree of the Governor-General the resumption of agricultural operations and the harvesting of crops shall be promoted and efficiently protected by all possible means, civil as well as military. He learns that the grinding of cane and the renewal of industrial operations in the interior districts is to be continually and effectively encouraged, especially in respect to those impoverished estates which, through the destruction of crops, the prohibition of labor, the deportation of their tenants, the withdrawal of military protection, and the enforced cessation of their revenues, have incurred increased areas of taxation. He hears with profound gratification that the new commander has proffered broad amnesty to participants in the insurrection and that the scope of this clemency is to be even further enlarged to cover those convicted of political offenses.

The Madrid Government has promulgated its scheme of home rule for Cuba. The President awaits the outcome with encouragement and hope, without committing his Government to the details of the plan

itself, the scope and effects of which must remain to be judged by their realization. In all these things the President cheerfully realizes that the new Government of Spain has already given earnest of the sincerity of its professions and evidence of its conviction that past methods are and must needs be futile to enforce a peace by subjugation without concessions adequate to remedy admitted evils, and that such methods must inevitably fail to win for Spain the fidelity of a contented people. With such convictions unhesitatingly expressed, with such a herculean task before her, so humanely and so auspiciously begun, Spain may reasonably look to the United States to maintain an attitude of benevolent expectancy until the near future shall have shown whether the indispensable condition of a righteous peace, just alike to the Cubans and to Spain, as well as equitable to American interests so intimately bound up in the welfare of the island, is realized. It is the sincere hope and desire of the President that such a condition of lasting benefit to all concerned may soon be brought about. He would most gladly share in the belief expressed in the Liberal manifesto of June 24 that the speedy and energetic application of the principles and governmental measures therein advocated will be powerful to stay the course of the evils that have afflicted Spain and to bring her near to the pacification of her colonies.

After making these declarations touching the proclaimed policy of the Liberal Government of Spain toward Cuba and the measures already adopted and to be forthwith devised to render that policy effective, your excellency takes up that part of my note of September 23d last, which states that the President feels it his duty to make the strongest possible effort to contribute effectively toward peace, and your excellency remarks that my note makes no suggestion of the means of which the President might avail himself to attain that end. My omission of such suggestion is sufficiently explained in my concluding statements that the President had no desire to embarrass the Spanish Government by formulating precise proposals as to the manner in which the assistance of the United States could be effectively rendered, and that all that was asked or expected was that some safe way might be provided for action which the United States could undertake with justice and self-respect, so that the settlement should be a lasting one, honorable and advantageous to Cuba and equitable to the United States, to which ends my Government offered its most kindly offices. For the realization of this friendly offer I invited an early statement of some proposal under which that tender of good offices might become effective, or in lieu thereof satisfactory assurances that peace in Cuba would, by the efforts of Spain, be promptly secured.

The assurances tendered by your excellency on behalf of the Liberal Goverment of Spain lie in the line of this latter alternative.

Your excellency's note is silent as to the manner and form in which the Government of the United States might exert its good offices. Your excellency limits yourself to suggesting coincident but separate action by the two Governments, each in its domestic sphere, whereby, as your excellency says, "Spain shall continue to put forth armed efforts, at the same time decreeing the political concessions which she may deem prudent and adequate, while the United States exerts within its borders the energy and vigilance necessary to absolutely prevent the procurement of the resources of which from the beginning the Cuban insurrection has availed itself as from the inexhaustible

arsenal." And thereupon your excellency proceeds to discuss at some length the supposed shortcomings of the United States as to the manner of fulfilling the neutrality laws in the territory of the Union, and as to the scope and sufficiency of those laws. This labored arraignment could scarcely fail to be received with mingled pain and sorrow by a Government which, like that of the United States, inspired by the highest sense of friendly duty, has for nearly three years endured almost insupportable domestic burdens, poured forth its treasure by millions, and employed its armed resources for the full enforcement of its laws and for the prevention and repression of attempted or actual violation thereof by persons within its jurisdiction.

Your excellency appears to be unaware of the magnitude of the task which my Government has performed and is still performing, with the single purpose of doing its whole duty in the premises. Since June, 1895, our ships of war have without intermission patrolled the Florida coast. At various times the *Raleigh*, *Cincinnati*, *Amphitrite*, *Maine*, *Montgomery*, *Newark*, *Dolphin*, *Marblehead*, *Vesuvius*, *Wilmington*, *Helena*, *Nashville*, *Annapolis*, and *Detroit* have been employed on this service. Starting with one ship having Key West as its headquarters, the number on continuous duty was gradually increased to four, without counting the additional service performed as special occasion demanded at other seaboard points. One vessel with headquarters at Pensacola patrols the coast from the northwest as far south as Tampa, another with headquarters at Key West patrols the coast from Tampa around Miami on the east side, and a third with headquarters at Jacksonville patrols the Atlantic coast from Miami to Georgia. The action of these regularly stationed ships is at all times concerted. Their commanders are ordered to communicate directly with one another, with the United States district attorneys in Florida, with the custom-house officials in that State, and with the commanding officers of the several revenue cutters likewise on duty in that quarter. Acting upon the information thus received, they take such immediate action as they may deem advisable or necessary in order to prevent the violation of the neutrality laws.

In addition to this stated detail on the Florida coast vessels belonging to the North Atlantic Station have been sent at different times to the various Atlantic ports north of Georgia at the request of the Spanish minister and the Department of State, or upon receipt of information from the Department of Justice or the Treasury Department concerning reported filibustering expeditions. Many hundreds of official letters and telegrams record the orders given to these vessels and the action had by their commanders. Every vessel of the American Navy which could practically be employed in the shallow waters of the Florida coast has been detailed for this work, while for a time two revenue cutters were transferred to the Navy Department to assist, besides the efficient and constant cooperation of the regularly stationed cutters under the orders of the Treasury Department.

No less degree of activity has marked the operations of the Treasury Department and the Department of Justice. Every means at lawful command has been employed by them in cooperation to enforce the laws of the United States. Alertness in every regard has been peremptorily enjoined upon all officials, high and low, and has been sedulously practiced by them.

In the light of these indisputable facts, and with this honorable record spread before him, the President is constrained to the conviction that nothing can be more unwarrantable than the imputation by the Government of Spain that the Government of the United States has in any wise failed to faithfully observe and enforce its duties and obligations as a friendly nation.

In this relation it may be proper, if not indeed imperative, to inquire what those obligations are.

It is to be borne in mind that Spain has so far insisted that a state of war does not exist between that Government and the people of Cuba, and that Spain is engaged in suppressing domestic insurrection, which does not give her the right which she so strenuously denies to herself, to insist that a third nation shall award to either party to the struggle the rights of a belligerent or exact from either party the obligations attaching to a condition of belligerency.

It can not be denied that the United States Government, whenever there has been brought to our attention the fact or allegation that a suspected military expedition has been set on foot or is about to start from our territories in aid of the insurgents, has promptly used our civil, judicial, and naval forces in prevention and suppression thereof. So far has this extended and so efficient has my Government been in this regard that, acting upon information from the Spanish minister, or from the various agencies in the employ of the Spanish legation, vessels have been seized and detained in some instances when subsequent investigation showed that they were engaged in a wholly innocent and legitimate traffic. By using our naval and revenue marine in repeated instances to suppress such expeditions, the United States has fulfilled every obligation of a friendly nation. Inasmuch as Spain does not concede, and never has conceded, that a state of war exists in Cuba, the rights and duties of the United States are such, and only such, as devolve upon one friendly nation toward another in the case of an insurrection which does not arise to the dignity of recognized war.

As your excellency is aware, these duties have been the subject of not infrequent diplomatic discussion between our two Governments, and of adjudications in the courts of the United States, as well during the previous ten years' struggle as in the course of the present conflict. The position of the United States was very fully presented by Mr. Fish in his note of April 18, 1874, to Admiral Polo de Bernabé (Foreign Relations of the United States, 1875, p. 1178 et seq.):

"What one power in such case may not knowingly permit to be done toward another power without violating its international duties is defined with sufficient accuracy in the statute of 1818, known as the neutrality law of the United States.

"It may not consent to the enlistment within its territorial jurisdiction of naval and military forces intended for the service of the insurrection.

"It may not knowingly permit the fitting out and arming, or the increasing or augmenting the force of any ship or vessel within its territorial jurisdiction, with the intent that such ship or vessel shall be employed in the service of the insurrection.

"It may not knowingly permit the setting on foot of military expeditions or enterprises to be carried on from its territory against the power with which the insurrection is contending."

Except in the single instance to be hereafter noticed, your excellency does not undertake to point out any infraction of these tenets of international obligation so clearly stated by Mr. Fish.

With equal clearness, Mr. Fish has stated in the same note the things which a friendly government may do and permit under the circumstances set forth:

"But a friendly government violates no duty of good neighborhood in allowing the free sale of arms and munitions of war to all persons—to insurgents as well as to the regularly constituted authorities—and such arms and munitions, by whichever party purchased, may be carried in its vessels on the high seas without liability to question by any other party. In like manner its vessels may freely carry unarmed passengers, even though known to be insurgents, without thereby rendering the government which permits it liable to a charge of violating its international duties. But if such passengers, on the contrary, should be armed and proceed to the scene of the insurrection as an organized body, which might be capable of levying war, they constitute a hostile expedition which may not be knowingly permitted without a violation of international obligations."

Little can be added to this succinct statement of Mr. Fish. It has been repeatedly affirmed by decisions of our courts, notably by the Supreme Court of the United States. In the case of Wiborg *v.* The United States, 163 U. S. Reports, page 632, Mr. Chief Justice Fuller repeats with approval the charge of the trial court, in which it is said (p. 653):

"It was not a crime or offense against the United States under the neutrality laws of this country for individuals to leave the country with intent to enlist in foreign military service, nor was it an offense against the United States to transport persons out of this country and to land them in foreign countries when such persons had an intent to enlist in foreign armies; that it was not an offense against the laws of the United States to transport arms, ammunition, and munitions of war from this country to any foreign country, whether they were to be used in war or not; and that it was not an offense against the laws of the United States to transport persons intending to enlist in foreign armies and munitions of war on the same trip. But (he said) 'if the persons referred to had combined and organized in this country to go to Cuba and there make war on the Government, and intended when they reached Cuba to join the insurgent army and thus enlist in its service, and the arms were taken along for their use, that would constitute a military expedition, and the transporting of such a body from this country for such a purpose would be an offense against the statute.'"

These principles sufficiently define the neutral duties of the United States, which have been faithfully observed at great expense and with much care by my Government. If any such military expeditions have been knowingly permitted to depart, that fact is not called to the attention of my Government by your excellency's note. My Government is aware of none such.

The only instance of an alleged culpable expedition mentioned in the note of your excellency, if, indeed, it may be termed a military expedition or enterprise within the prohibition of the statute, is that of the *Silver Heels*, which is described as having "left New York in spite of the previous notification of His Majesty's legation at Washington and before the eyes of the Federal authorities." This case was instantly

investigated by the superior authority even before any oral complaint in that regard had reached my Government from the Spanish legation. Prompt legal action was taken for the arrest and detention of the vessel. The Spanish consul at Philadelphia had come to New York, conferred with the United States authorities at that city, himself employed legal advice and private detectives, and was permitted to supervise and direct the methods of procedure. At his request, and against the judgment of the United States authorities, the vessel was not seized at her wharf, and thereafter succeeded in leaving her pier and getting to sea. The *Silver Heels* would have undoubtedly been apprehended but for the officious control of the Spanish agents, whose instructions were obeyed in the matter.

A large part of your excellency's note is devoted to the discussion of a hypothetical change of attitude toward the combatants, involving the recognition of their belligerency. As my Government, with the largest attainable knowledge of all facts and circumstances pertinent to the case, has not yet determined upon that course, I do not see that any useful purpose can be subserved by present argument upon the stated premises.

Neither do I discern the utility of discussing the circumstances under which a case might arise for considering and acting upon the thesis advanced by your excellency on the authority of the argument before the tribunal of Geneva, that it is the duty of a nation to amend its laws if inadequate for the fulfillment of its international obligations of neutrality or to offer any comment thereon. The inadequacy of our neutrality laws is not admitted, nor is it proved by Spain in the light of the precedent to which appeal is had, inasmuch as the doctrine of Geneva was only applicable and applied to the case of a public war between recognized belligerents, a case which Spain does not concede to exist in the present instance.

Whatever just and humane measures may attain to a contented and recuperative peace in Cuba can not but win our admiration, and any progress toward its attainment can not but be benevolently viewed. In this path of kindly expectancy, and inspired now as always by the high purpose of fulfilling every rightful obligation of friendship, the United States proposes to persevere so long as the event shall invite and justify that course.

I can not better close this reply to your excellency's note than by repeating and affirming the words with which I concluded my note to the Spanish Government of September 23 last, "That peace in Cuba is necessary to the welfare of the people of the United States, and that the only desire of my Government is for peace and for that sure prosperity which can only come with peace."

I avail myself of this opportunity to renew to your excellency the expression of my most distinguished consideration.

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 105.] LEGATION OF THE UNITED STATES,
Madrid, December 31, 1897.

SIR: I have the honor to acknowledge the receipt, on December 27 instant, of Department's dispatch 95, of December 11 instant, acknowl-

edging receipt by Department of my No. 81, of November 27 ultimo, transmitting duplicate copies of each of the three decrees signed by Her Majesty the Queen Regent on November 25 ultimo, and which extend the provisions of the Spanish constitution over Cuba, fix the electoral laws of Cuba, and establish the new system of autonomy therein.

There was no official correspondence between the Spanish minister of foreign affairs and myself in regard to his sending me copy of the decree establishing the new system of autonomy in Cuba. It was sent as a personal courtesy by him and was promptly acknowledged by a personal call. There is no correspondence in regard to this matter needed to complete the Department's records.

I have, etc.,

STEWART L. WOODFORD.

Relief of suffering in Cuba.

DEPARTMENT OF STATE,
Washington, January 8, 1898.

To the Public:

The undersigned, Secretary of State of the United States, had the honor on the 24th of December to make known to all charitably disposed people in this country the appeal of the President for aid, in the form of money or supplies, toward the speedy relief of the distressing destitution and suffering which exists among the people of Cuba.

The gratifying interest which his countrymen have shown in all parts of our land in that humane appeal has led the President to recognize the need of orderly and concerted effort under well-directed control, if timely assistance is to be given by the public to the sick and needy of Cuba. He has, therefore, appointed, with the cooperation of the American Red Cross, the New York Chamber of Commerce, and one of the leading representatives of the religious community, a Central Cuban Relief Committee, with headquarters in New York City, composed of the following members: Stephen E. Barton, chairman, second vice-president of the American National Red Cross; Charles A. Schieren, treasurer, a member of the New York Chamber of Commerce, and Louis Klopsch, proprietor of the Christian Herald.

It will be the office of the committee so organized not only to receive and forward to the United States consul-general at Habana such money and necessary supplies as may be contributed by the people of the United States, but to invoke, in its own name and through the three great interests it fitly represents, the concurrent effort of local relief boards throughout the United States and to invite the kindly aid of the transportation agencies of the country for the prompt conveyance of contributed supplies to the seaboard and their shipment thence to Cuba.

The consul-general at Havana is, in turn, assured of the effective cooperation of every available agency in the island of Cuba in order that life may be saved and suffering spared. The Spanish Government, welcoming the aid thus tendered, will facilitate the work, and to that end will admit into Cuba, free of duties and charges, all articles otherwise liable to tax when duly consigned to the consul-general.

By direction of the President, the undersigned appeals to the people in every city and town, to the municipal authorities thereof, to the local boards of trade and transportation, to corporations and others producing the necessities of life, and to all whose hearts are open to the cry of distress and affliction, to second the generous effort now being made, and by well-directed endeavor make its success truly responsive to the sentiments of charity that have ever characterized the American people.

JOHN SHERMAN,
Secretary of State.

Señor Dupuy de Lome to Mr. Day.

[Translation.]

LEGATION OF SPAIN AT WASHINGTON,
Washington, January 17, 1898.

MR. ASSISTANT SECRETARY: This morning I received a telegram from the secretary of the general government of the island of Cuba, informing me that it is not true that the custom-house at Havana has interposed obstacles to the landing of articles intended for the needy Cubans, but what did take place is, that there was designated for their storage a warehouse in Regla which it seems did not suit the consul, Mr. Lee, and on Friday another was designated which it is hoped will be to his liking.

I had intended to tell your excellency this in person, orally, but in view of the circumstance that the press, with better or worse design, is seeking to misrepresent the facts, I hasten to inform you.

I avail myself, etc.,

E. DUPUY DE LÔME.

Mr. Day to Señor Dupuy de Lome.

No. 346.] DEPARTMENT OF STATE,
Washington, January 18, 1898.

MR. MINISTER: I had the honor to receive this morning your note of yesterday's date, informing me of the circumstances in regard to the selection of a warehouse at Havana for the storage of the supplies sent from this country for the relief of the needy in Cuba. I trust that the arrangement now proposed will be entirely satisfactory, and that no further delay will intervene to prevent the immediate reception and distribution of these much needed contributions.

In view of your statements, I have taken the liberty of correcting the erroneous statements on the subject that have appeared in the press.

Be pleased to accept, etc.

WILLIAM R. DAY.

Mr. Woodford to Mr. Sherman.

No. 135.] LEGATION OF THE UNITED STATES,
Madrid, February 9, 1898.

SIR: On the afternoon of February 3 instant I received from the Spanish minister of foreign affairs a note, dated February 1 instant, being the official reply to my note to the Spanish Government, dated December 20, 1897. The translation was begun at once, but both translation and copying have been delayed by sickness in my office force.

Yesterday I received your telegram, in cipher, which I translate as follows:

Please telegraph substance of Spanish note of 1st February, which is presumed to be in answer to yours of December 20.

I have done the best I could with force at my disposal. Yesterday I telegraphed you, in cipher, as follows:

MADRID, *February 8, 1898.*

Secretary SHERMAN, *Washington:*

Note of Spanish Government February 1 in answer to mine December 20. Expresses satisfaction with our declaration as to new colonial policy. This satisfaction in great part neutralized by our censures against predecessors of present Government and still more by our confounding in same judgment the incredible misconduct of Cuban insurrectionists with conduct of regular army which, during three years, has demonstrated its discipline in obedient execution of orders. Present Spanish Government can not receive without protest severe criticisms formulated against their predecessors in power. Recriminations directed at home in political contests must not be judged in foreign countries in the same way, nor can foreign cabinet use them as the basis for argument nor as the foundation of opinion in its diplomatic relations, these being internal acts completely beyond the judgment or consideration of foreigners. Present ministers in proclaiming their doctrines can not admit that they were formulating accusations against their predecessors, who, whatever their opinions, were inspired by the purest patriotism. Spanish note of August 25 ought to have made clear to Washington Cabinet that Spanish troops have never given any cause for censure which could dim the luster of their history.

The idea which has slipped into the American note that Spain can reasonably count upon the United States maintaining present attitude only until an undetermined future shall prove whether indispensable conditions of peace have been realized is less justifiable and less explicable. Spanish Government does not admit the right of neighboring country to limit duration of struggle. Aspirations for peace and friendly observations are justified. Foreign intrusions and interferences are never and in no way justified. These might lead to the intervention which every country that respects itself must repel with force. Takes for guide and example the instructions by Secretary Seward to Minister Dayton at Paris, April 22, 1861. Quotes and adopts the words of Secretary Seward and expresses conviction of Spanish Government that the United States, where such words have been written, can not fix time for termination of Cuban insurrection. Can not conceive that the United States can change its former offers of good offices into insinuations of change of conduct when colonial policy of present ministry is being carried out with good results.

Spain having fulfilled, with scrupulous sincerity, those obligations which the most suspicious prejudice could suggest, no pretext remains for now discussing the duration of a conflict of exclusively internal character, even were the progress in subduing insurrection not so evident and hopes of early pacification not so well founded. The singular consideration with which the Spanish Government constantly receives the opinions of the United States is not sufficient to induce it to accept the theory of our note in regard to international duties in the case of intestine rebellions. Opposes at length the ideas set forth by Secretary Fish. Quotes from Calvo, Montesquier, and Jiose. Spanish Government does not analyze terms of our act of 1818, but uses that act as suggestion of means that can now be employed by the United States. Suggests new proclamation and severe application of existing regulations or their extension as was done by act of 1838.

Argues that there is no appearance of reason that could justify the recognition of belligerency.

Conclusions of Geneva arbitration were mentioned solely for analogy. Such duties as neutrality imposes friendship should suggest. Spanish Government recognize with sincere pleasure the vigilance exercised during recent months along the extensive American coasts and effective organization of naval forces, hindering illegal aid to revolting Cubans from Florida. These facts demonstrate the power of the Government of the United States to enforce the obligations of international friendship.

Can not observe with indifference continued operation in New York of an organization, composed in its majority of American citizens, who are not imbued with their recently acquired nationality, who abuse the laws of their new country and prejudice the cordial relations subsisting between the United States and Spain. Friendly nations do not tolerate organizations in their midst whose only mission consists in trying to violate the integrity of one of them. Spanish people and Spanish Government will resolutely maintain their legitimate and traditional sovereignty in Cuba. Hope that the United States will maintain benevolent attitude of expectation, and will cooperate by means already indicated, and others analogous thereto within its own frontiers, to the work of peace, justice, and autonomy. Thus the United States will dishearten completely the turbulent elements which still maintain the rebellion, and which only hope for success in ultimate conflict between our two respective countries. Cuba has its life and future united to Spain, and to conspire against their perpetual union reveals designs of destruction and involves inadmissible pretension. Peace necessary for Cuba, and advantageous to the United States, can be found only in the formula of colonial self-government and Spanish sovereignty.

The Government of the United States knows this and can contribute powerfully by working in harmony with what has been expressed. The United States will certainly do this, because in the United States justice is a religion, and because in the Republic of North America we respect the desire of the people to organize themselves as best suits them. The Cuban people have perfect right that nobody shall obstruct them or lend aid to a turbulent minority. Before autonomy was granted it might have been erroneously believed that this minority represented the common feeling of the masses. There is no such excuse now. The valuable elements of the island now desire peace under as broad autonomy as they can wish. The moral and material aid of revolutionary organizations working freely in the United States should cease absolutely and at once.

Quotes my note that peace in Cuba is not sudden creation to be built in a single night, but an enduring edifice to be founded on equity.

WOODFORD.

To enable you to judge of the accuracy of my synopsis, I inclose copy of the Spanish note. It is written out in long hand, as the only clerk who can transcribe the note in Spanish on the typewriter is ill. The copy sent was kindly written out by the naval and military attachés of the legation.

I am having additional copies of the full translation of the entire Spanish note prepared and hope to forward them to-morrow.

I withhold comment on the Spanish note until I can think the situation over more carefully.

Very respectfully yours, STEWART L. WOODFORD.

[Inclosure—Translation.]

Señor Gullon to Mr. Woodford.

MINISTRY OF STATE,
The Palace, February 1, 1898.

YOUR EXCELLENCY AND DEAR SIR: In your excellency's kind and well-weighed note dated December 20 last, to which I now have the honor to reply, there are many and very diverse statements, causing great and special gratification to H. M.'s Government, remarkable for their clearness and expressiveness. Among them the following deserve

special mention: Those recognizing the value and efficacy of the new principles applied to the colonial policy; those admitting the importance and conclusiveness of the information received at Washington from the peninsula and Cuba, tending to prove the sincerity of Spain's desire and exertions for the improvement of conditions and circumstances in that island; and the explicit terms in which your excellency is pleased to say that the prosperity of the cities and the country there is being prompted by the renewal, under the best auspices, of the suspended agricultural and industrial operations. The satisfaction, however, derived from these and other similar statements, giving eloquent expression to the recognition of the irreproachable (correct) procedure of Spain, is, to a great extent, destroyed or diminished by the blame cast upon the predecessors of the present Government, and still more so by the fact that the numerous and incredible excesses committed by the Cuban insurgents are confounded in the same category, with the conduct of the regular army, which for nearly three years has been giving proof of its valor and discipline in the defense of indisputable rights and in the obedient fulfillment of orders and plans emanating from other departments.

Whatever may be the political views of the men constituting the present Government of Spain, they can not, without protest, permit the severe condemnation passed upon those who preceded them in power, as they think that the struggles of parties, or even the recriminations which parties may launch at each other in their constantly recurring daily disputes, should not be judged in the same manner from a distance, nor can they consent to a foreign cabinet's making use of them as a basis for its arguments or as a foundation for its views in its diplomatic relations, as they are, on the contrary, domestic matters entirely foreign to the judgment or decision of other nations.

When the present ministers advocated their own doctrines in opposition to those of their antagonists; when, in the sessions of Parliament, they opposed the colonial policy and the procedure of other parties and recommended to their fellow-citizens as more conducive to their good their own views, principles, and purposes, they never meant to make, nor can they now admit that they did make, any accusations concerning the good intentions and purposes of their predecessors, who, whatever might be their plans and methods, were certainly actuated by the most zealous patriotism.

As regards the conduct of our army, the note of August 25, 1897, must have made it evident to the candid judgment of the Washington Cabinet that the Spanish troops have never given occasion for reproaches tarnishing, either in a greater or less degree, the brilliant splendor of their history, and that if any acts, judged from a distance and separately, have given rise to complaints and lamentations on the part of some sensitive and humanitarian spirits, they have proved, when investigated subsequently with proper coolness, to have been the inevitable consequence of war and a comparatively well-restricted object lesson of the calamities and disasters which have always accompanied war in all ages and in all countries, not excepting the United States, as was shown by references of strict historical accuracy in the document to which I have just alluded.

Another idea which is repugnant to the pleasing and conciliatory views to which I have previously alluded, is the one which slips out in your excellency's note to which I am replying, when you say that Spain

can only reasonably expect the United States to maintain its present attitude until it is proved by facts, within a more or less determined period, whether what your excellency calls the indispensable requisites to a peace both just to the mother country and the Great Antilla, and fair to the North American Republic, have been attained. The more deliberate, the more explicit, and the more positive the declarations with which your excellency asserts the disinterestedness and impartiality of your Government, the more positive and emphatic your declaration that the United States desires only the reign of peace, and the more expressive and earnest the congratulations with which you admit that the Spanish Government has drawn the plans and laid the foundations of a noble structure in Cuba, so much the less justifiable and so much the less intelligible is the hint to which I have referred.

The Spanish Government assuredly did not admit that reasons of proximity or damages caused by war to neighboring countries might give such countries a right to limit to a longer or shorter period the duration of a struggle disastrous to all, but much more so to the nations in whose midst it breaks out or is maintained, as your excellency voluntarily admits. My note of October 23, referring to this point in general terms, proved perfectly clear that, in view of the varied and close relations between modern nations, a disturbance arising in any of them may justify the adjoining nations in expressing their anxiety for peace and in offering friendly suggestions, but never and under no circumstances foreign intrusion or interference. Such interference would lead to an intervention which any nation possessing any self respect would have to repel by force, even if it were necessary to exhaust, in the defense of the integrity of its territory and of its independence, all, absolutely all, the resources at its disposal.

Spain would act upon these honorable principles—the only ones consistent with the national dignity—just as the United States nobly acted upon them when, in 1861, it feared that an attempt would be made to exert an influence by foreign intervention in the domestic struggle which it was then carrying on. The instructions to that effect sent by Mr. Seward, the Secretary of State, to Mr. Dayton, the minister in Paris, on the 22d April, 1861, will serve as a guide, and will constitute a notable example for all countries which, like Spain, value their honor above all else, even to (the execution of) the declared purpose to "struggle with the whole world" rather than yield to pressure from without. (Presidents' Messages and Documents, 1861–62, page 200.) When I say that the Government of Spain appropriates, on this occasion, Mr. Seward's lofty views, it will be sufficiently clear how deeply rooted in (the minds of) the ministry of which I form a part is the conviction that the United States, where such words have been written, will not fix a period for the termination of the present Cuban insurrection.

If such a limitation of the legitimate and immutable national sovereignty could not be permitted at any time, it must be expected less than ever when a fortunate concurrence of circumstances has enabled the present cabinet of Madrid, while voluntarily fulfilling its engagements and carrying out, when in power, the colonial policy which it advocated when in opposition, to execute the wishes of the loyal inhabitants of Cuba, and to comply with those suggestions which the United States Government has offered repeatedly and officially as the expression of its desire or as its advice as a friend. Under these circum-

stances, and when the genuineness and excellence of the radical reforms granted to Cuba, which reforms have constituted, as it were, a new and most equitable body of law, the maximum of powers and initiatives to which a free colony, the mistress of its own fate, can aspire, are candidly recognized; when, in the face of innumerable difficulties, these radical reforms have been carried into effect, and when an autonomous government of its own is to-day performing its functions in the Great Antilla; when the advantages of this immense change begin to make themselves felt, it is certainly not the time for the United States Government to substitute for its former offers of its good offices hints of a change of conduct in the event of more or less remote contingencies, and to base this notification of its change not only upon the contingency of a material success, a success as independent of right as of the conduct of the party advocating the right, but upon its own estimate of the success itself, an estimate made in accordance with the opinion of any one who, at a given time, may wish to decide upon it without any other guide (rules) than his own will, and without any more impartiality than is imposed upon him by his observations or surroundings.

[At a time] when the expressive congratulations of the Washington Cabinet have been earned by our innovations; when the civil struggle in the island of Cuba is adapting itself to the most modern and humane conditions and character consistent with an active state of war, as your excellency fully and nobly admits; when, in short, even [all] the obligations of a moral order that the most jealous prejudice can require have been fulfilled by Spain with the most scrupulous fidelity and of her own accord, there remains no reason or pretext for now discussing the duration of that struggle, which is of an exclusively domestic nature, nor for making the conduct of friendly nations dependent upon such duration, even if the progress made in overcoming the insurrection were not so evident, and if the hopes of a speedy pacification were not so well founded.

The remarkable consideration with which H. M.'s Government constantly entertains the views and doctrines of the United States Government does not suffice to induce it to accept, now or at any future period, the theory which Y. E. is pleased to propound with regard to international duties in the case of intestine rebellions, in repetition of the views expressed years ago by the illustrious Secretary of State, Mr. Fish. The Spanish Government can not consent to attach so little weight to international friendship as to render that relation between nations almost entirely destitute of mutual obligations, the duties which it imposes being regarded, in every case, as very inferior to those which are derived from neutrality.

This Government is of opinion, on the contrary, basing its views upon considerations of eternal ethics, that a true friend, both in the private order of private relations and in the public order of international relations, has more conventionalities to observe and more duties to fulfill than a neutral or indifferent person; and that the friendship which is founded upon international law obliges all States, to use the words of the famous South American publicist, Calvo, not only to prevent their own subjects from causing injury to a friendly country, but to exert themselves to prevent any plots, machinations, or combinations of any kind tending to disturb the security of those States with which they maintain relations of peace, friendship, and good

harmony from being planned in their territory. "International law does not merely oblige States to prevent their subjects from doing anything to the detriment of the dignity or interests of friendly nations or governments; it imposes upon them, in addition, the strict duty of opposing, within their own territory, all plots, machinations, or combinations of a character to disturb the security of countries with which they maintain relations of peace, friendship, and good harmony." (§ 1298, Vol. III, p. 156.) This is the meaning of international friendship as defined by Montesquieu, when he said that nations ought to do each other as much good as possible in peace and as little harm as possible in war. (Spirit of Laws, Vol. I, p. 3.) And it is the meaning given by Fiore in the following words: "Every State should refrain from ordering or authorizing, in its own territory, acts of any kind tending, directly or indirectly, to injure other States, even when it is not obliged to do so by laws or treaties." (Chapter II, § 598.)

It is upon this view of international friendship that the Spanish Government bases its opinions with regard to the extension of the obligations arising or derived from such friendship in the intercourse of civilized nations, and hence the request which it has addressed to the Washington Cabinet on numerous occasions, to prevent, with a firm hand, the departure of filibustering expeditions against Cuba, and to dissolve or prosecute the junta which is sitting publicly in New York, and which is the active and permanent center of attacks upon the Spanish nation, and which, from the territory of the Union, is organizing and maintaining hostilities against a country which is living in perfect peace with the United States.

H. M.'s Government could not, nor should it, analyze the language of the law of 1818, as it regards it as a law of a domestic or municipal character, the scope of which it appertains to the Federal Government alone to determine. All that it permitted itself to do, in the name of the friendship declared by the treaty of 1795, and which has been confirmed by practical demonstration through many years and many tests, was to suggest the means of rendering real and effectual those obligations which are derived from true friendship, such as the Spanish Government understands it, either by the publication of a proclamation of the same nature and as emphatic as those which illustrious predecessors of the illustrious President, Mr. McKinley, thought themselves called upon to publish under similar circumstances, or by the severe application of the regulations in force, or by their amendment or enlargement, as occurred in the act of March 10, 1838.

Nor could H. M.'s Government refer to the duties of neutrality, as it maintains with the same vigor as ever its well-founded assertion that there is no reason, nor even a semblance of reason, to justify a recognition of beligerency in the Cuban insurrection. All its remarks have been directed to the duties imposed by neighborhood and international friendship, and when it has mentioned the decision of the Geneva arbitration, it did so merely as a comparison; for, if diligence must be used in the discharge of the duties of neutrality, as was decided there, no less diligence should be required in the discharge of the duties of friendship; and if defects in the laws can not be offered as an excuse in the case of the former, it would be unreasonable to admit them in the case of the latter.

The undersigned and the Government of which he forms part take sincere pleasure in recognizing the fact, as they do with genuine gratitude, that the watchfulness exercised during the last few months along the extended coasts of America has been more effectual than formerly in preventing the departure of filibustering expeditions. He is also pleased to find a reason for gratitude to the Federal Government in the skillful organization which it has given to its naval forces, in order to prevent illegal aid being sent to the Cuban rebels from the coast of Florida. Both facts prove the power and the means at the disposal of the North American Government for the fulfillment, with due energy and promptness, of the obligations of international friendship.

We can not, however, notice with indifference, that there continues to be acting in New York an organization composed chiefly of naturalized North Americans who, notwithstanding, do not wish to imbibe (imbibe the spirit of) their recently acquired nationality nor the atmosphere of honor and friendship in which their Government breathes; who violate the laws of their new country and abuse the liberty granted them there by conspiring against the country in which they were born, thereby creating a state of hostility which disturbs the intimate and cordial relations which have so long been maintained between Spain and the United States. The principles upon which eternal law reposes, as much or more than law itself, demand the prompt suppression (disappearance) of that public center of conspiracy, from which every oversight is watched and every legal subterfuge is made use of to violate the so-called neutrality laws of the Republic of North America, for friendly nations have seldom or never been seen to tolerate in their midst organizations whose chief object, or, rather, whose only mission consists in plotting against the integrity of the territory of another friendly nation.

The Spanish people and Government, relying upon their rights, and with the firm resolution to maintain their legitimate and traditional sovereignty in the island of Cuba at every hazard, without sparing their exertions or limiting their perseverance, hope that the United States will not only continue to observe the kindly expectancy to which your excellency refers, but that she will also cooperate by the means already mentioned and other similar ones within her own borders in the work of peace, justice, and autonomy which Spain is now carrying out with so much self-denial and perseverance, and that the United States will thus prove by more and more open and effectual acts the friendship which actuates her relations (to Spain), by which course she will completely discourage the seditious and restless elements which are still sustaining the rebellion in the Great Antilla, and which are only awaiting the result of a possible collision between our two respective countries, which are called by self-interest and affection to be on good terms and to assist each other in the noble enterprises of peace, and not to wound and destroy each other in the cruel struggles of war.

The island of Cuba, as Mr. Olney freely admitted in an official note, has its life and its future bound to those of its mother country, Spain, and the act of conspiring against the perpetual union of the Pearl of the Antilles and the historical discoverer of the American continent not only reveals destructive purposes, but also involves a hopeless attempt. Cuba free, autonomous, ruled by a government of her own and by the laws which she makes for herself, subject to the immutable sovereignty of Spain, and forming an integral part of Spain, presents the only solu-

tion of pending problems that is just to the colony and the mother country, the denouement longed for by the great majority of their respective inhabitants and the most equitable for other States. It is only in this formula of colonial self-government and Spanish sovereignty that peace, which is so necessary to the Peninsula and to Cuba and so advantageous to the United States, can be found. The Government of the Union knows this and can contribute powerfully to the attainment of the end in view by acting in accordance with what I have had the honor to say to your excellency. It will certainly do this, because justice is revered in the United States, and because the North American Republic, in conformity with its traditional principles of respect for the wish of countries to organize themselves as may best suit them, must finally admit, by acts and by declarations, that the Cuban people have a perfect right not to be disturbed by any one, and not to have any power, near or distant, oppose their honorable and peaceful wishes, by lending aid to a turbulent minority who subordinate the interests of the immense majority of their countrymen to their own selfish purposes.

So long as the Spanish Antilles did not enjoy the right to govern themselves autonomically it might have been thought, though wrong, that this minority represented the general views of the masses, and in the case of such a hypothetical error there would be some excuse, if not justification, for a certain amount of tolerance; but now, when the state of affairs has been cleared up, and when it has been made evident by the introduction of autonomy that the most estimable inhabitants of the island desire peace under this system, which is as liberal as they could wish, this moral and physical compulsion, exerted by revolutionary organizations which are laboring freely in the United States for an absurd, unattainable separation, contrary to right and to the interests of all, ought to cease entirely and without loss of time. Its continuation would be a violation of the liberty which is the very essence of the social and political system of North America.

It is impossible to see in the noble work of peace which has been nobly and generously undertaken in Cuba, as your excellency very truly remarks, a sudden creation which can arise in a single night; it must be regarded as a lasting and noble structure, which, to use your excellency's eloquent words, would be founded upon the rock of justice, not upon the moving sands of self-interest, and which, for its more rapid development, requires the cooperation of friends and the most scrupulous respect of foreigners.

I avail myself, etc.,

PIO GULLON.

Mr. Woodford to the President.

No. 35.] LEGATION OF THE UNITED STATES,
Madrid, February 26, 1898.

DEAR MR. PRESIDENT: I had an interview yesterday with Messrs. Gullon and Moret at Mr. Gullon's house. It was then arranged that the Ruiz case should be adjusted, without further official correspondence and in friendly manner, between Mr. Polo de Bernabé, the new Spanish minister, and Judge Day at Washington. The minister leaves to-night via Gibraltar and should reach Washington by March 10. This arrangement is what Judge Day suggested might be desirable before I left Washington, and is according to the instruction of [the]

State Department No. 125, dated February 8. I have telegraphed Secretary Sherman.

As the suggested commercial treaties and the Ruiz matter will be settled at Washington, I think that I have now secured the practical adjustment of every important matter that has been committed to me up to date.

Autonomy cannot go backward. It must go forward and its results must be worked out in Cuba. There is the storm center.

The four essentially important things about yesterday's interview with Messrs. Gullon and Moret are these:

I. They have now decided to work in harmony together and Mr. Gullon will help Mr. Moret actively in the matter of the commercial treaties.

II. I had good opportunity to press on them, as I had already urged upon the Queen, my belief that the Cubans got most of their supplies from points outside the United States. They admitted that our patrol of our coasts is now very efficient and that recent supplies had gone from Belgium, Jamaica, etc.

III. As hitherto reported, they can not go further in open concessions to us without being overthrown by their own people here in Spain. This is what made it difficult to get prompt and satisfactory settlement of the De Lôme matter, and induced them to accept his resignation before permitting me to have an interview. I got Judge Day's telegram on the morning of the 10th, and within an hour had this telegram translated and was in telephonic communication with Gullon's office. He would not see me until the afternoon. The council of ministers (which is usually held late in the afternoon) was called at 11 o'clock this morning, and he did not see me until 4 in the afternoon. It is evident that they heard from De Lôme on the 9th.

IV. They want peace if they can keep peace and save the dynasty. They prefer the chances of war, with the certain loss of Cuba, to the overthrow of the dynasty. They know that we want peace if we can get such justice for Cuba and such protection of American interests as will make peace permanent and prevent this old Cuban question from continual resurrection. I told them positively that I regarded the Spanish note of February 1 as a serious mistake; that I should advise all possible delay in answering it; and that whether our answer should be pleasant or disagreeable must depend entirely on practical results in Cuba.

While I do not think that they can make any more direct concessions to us and retain their power here, I do begin to see possible ways by which they can make further concessions to Cuba through the insular Cuban government and so, possibly, avert war. * * *

Faithfully yours,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 161.] LEGATION OF THE UNITED STATES,
February 28, 1898.

SIR: I have the honor to report that yesterday I telegraphed you in cipher as follows:

MADRID, *February 27, 1898.*

Decree dissolving the Spanish Cortes was signed February 26. New Cortes will meet April 25.—WOODFORD.

The practical effect of this delay in dissolving the old Cortes and assembling the new one on April 25 will be that the rainy season will have arrived in Cuba before the new Cortes gets fairly at work. With the beginning of the rainy season effective movements by the Spanish regular forces in Cuba will be impossible.

The Spanish Government will probably base argument on the then condition of military movements as reason for further delay.

Very respectfully, yours,

STEWART L. WOODFORD.

[Confidential.]

Mr. Sherman to Mr. Woodford.

No. 147.] DEPARTMENT OF STATE,
Washington, March 1, 1898.

SIR: The President's message to Congress at the opening of the present session very fully set forth the information possessed by this Government touching the situation in Cuba, both as to its actual condition and its future prospects, and presented as much in detail as was possible under the circumstances the views and policy of this Government in regard thereto.

Since that time I have refrained from writing you instructions on the subject, partly because the benevolently expectant attitude of the Government of the United States with regard to the happenings in Cuba continued unaltered and partly because the changing lights thrown upon the situation from week to week made definite appreciation and comment impracticable.

Two months have now elapsed since the installation at Habana of the autonomist government of Cuba. More than two months have now passed since the substitution of Marshal Blanco for General Weyler and the adoption of a modified rule of conduct in the prosecution of hostilities against the Cuban insurgents. During this time the Department has sought to keep itself well informed of the actual situation and its immediate probabilities through our various agencies in Cuba. So far as my opportunities of observation and knowledge go, I am as yet unable to discern the favorable advances which were gladly anticipated from the changed order of things.

I review the present situation briefly for your confidential information, solely to aid you in appreciating any statements which may be made to you and in shaping your own discreet course.

First, as to the condition of the war in Cuba. The testimony which reaches me is concurrent as to the absence of any substantial success of the Spanish arms. No change has supervened in the conduct of hostilities on either side save that fewer regrettable excesses on the part of the Spanish troops are now reported. Indeed, their operations have not appeared during the past three months to have been as energetic as before. Few encounters are reported. Whether this be due to the reduced numbers of the Spanish forces through the sickness and casualties incident to all wars and to the return to the peninsula of troops who have served their time, or to the decreased productiveness

of the island itself, due to the destruction of the normal source of supply and attended by enhanced difficulty of keeping up an effective commissariat, is a matter of conjecture. Both these general causes may perhaps effect the situation. It is reported that many of the troops have been widely scattered throughout the plantations ostensibly for the purpose of their protection, but being in fact billeted upon the interior estates in much larger numbers than heretofore and drawing their subsistence from the already impoverished resources of the interior country. Meanwhile the insurgent forces continue to control a large part of the eastern region while making demonstrations and forays in the westward parts without substantial check. The recent expedition of General Blanco to the central district appears to have been barren of military results. On the whole, inaction rather than activity has marked the last three months' conduct of the war.

In the second place, the autonomist government of Cuba appears to have been extended from Habana to several of the principal cities and districts of the island with every disposition to place departmental and municipal authority in the hands of native Cubans or of Spanish residents known to be favorable to the scheme of autonomy. There can be no ground to doubt the entire good faith of the Spanish Government in thus installing and extending within limited areas the decreed system of autonomy. While its operation is thus restricted to narrow fields and is still in a period of transition, it may be premature to judge how far it effectively supplies a remedy for the evils under which the Cuban administration has admittedly labored for many years past. Besides being thus circumscribed in its operations, the financial problem appears to confront the autonomist government with considerable urgency, and indeed no other condition would well be expected in view of the wholesale destruction of the resources of the island within and of the diminution of its external commerce.

Thirdly, as for the effect of the offer of autonomy upon the insurgents in the field, it must be confessed that no hopeful result has so far followed. Beyond a few isolated submissions of insurgent chiefs and their following no disposition appears on the part of the leaders of the rebellion to accept autonomy as a solution. On the other hand, the hostility of the Spanish element in Cuba to this or any form of autonomy is apparent, so that the insurgurated reform stands between the two adverse fires of hostile oppostion in the field and insidious malevolence in the very centers of government. That the latter form of opposition would be reduced and eventually overcome in proportion as autonomy proves a success may well be admitted; that autonomy is of itself, and unaided by military success, capable of winning over the insurgent element remains a doubtful proposition.

Fourthly, the condition of the island in its financial and productive aspects has not changed for the better. It is rather, if anything, worse. The endeavors of the representatives of the peninsular authority and the domestic autonomist government to relieve the destitution and distress which prevail have been abortive. The policy of concentrating the rural population in and around the garrisoned towns, while leaving their fields and homes to decay and destruction, has worked its inevitable result. Day by day the condition of the reconcentrados becomes more pitiable, while day by day the power to relieve them, however good may be the disposition to do so, decreases

with the exhaustion of the resources of the island itself. From Matanzas, Sagua, Santiago, and other principal centers of reconcentration the same appalling tale of misery, suffering, and death reaches me. The authorities are confessedly powerless to relieve the situation. Even the excessive diminution of the number of these unfortunates by death, estimated by conservative Spanish authorities to amount to about 50 per cent of their number since the policy of the depopulation of the interior was inaugurated does not make it easier to relieve the survivors, for the exhaustion of means to do so more than keeps pace with their diminished numbers. Our consuls report that even the Spanish army itself suffers from this paralysis of means and supplies, and if it be admittedly impracticable to keep up the commissariat and pay the soldiers of Spain, it is not rational to suppose that the condition of the unfortuate reconcentrados can be materially relieved, especially if reliance is placed on the private charity of the already straightened islanders.

The decrees permitting the sufferers to return to their plantations and resume their agricultural labors have been barren of result. Their fields are waste. The few estates which, under the guard of troops, have endeavored to resume operations do not afford lodgment for a tithe of the destitute. These are mostly women and children, or old men incapable of field work. Even could they return to their homes they could not till the soil and plant and raise crops, nor support themselves until the harvest should mature. That form of relief has proved wholly inadequate.

The distressing situation of the reconcentrados has appealed very strongly to the generous heart of the American people, and under the initiative of the President every effort has been made to organize and apply systematic relief through private donations here and distribution by the available channels in Cuba. However generously our countrymen have responded to this appeal, their efforts can relieve but a very small portion of the suffering, and that only within the narrow limits of the larger towns and their immediate surroundings. The work of relief is being earnestly pressed, but it is painfully insufficient to meet the situation.

In obedience to resolutions of the Senate and House, selections of the consular correspondence regarding the present situation in Cuba have been made, but I can not at present say when they will be submitted. It is sufficient for my present purpose to inform you that the reports of the consul-general and the several consuls in Cuba substantiate the pitiable tale of suffering and death, of impoverishment and destruction of resources, and of substantial lack of change in the military situation which the press has published to the world. The only redeeming feature of the situation is the advance made in the district of Cienfuegos, where less destitution exists than in other departments, and where, under heavy guard, many of the mills have resumed operations.

I append for your further information copy of a careful and valuable report made to the Secretary of the Navy by Commander G. A. Converse, commanding the U. S. S. *Montgomery*, which recently visited the port of Matanzas, in which is recited the situation in that province.

This instruction, as I said before, is written for your confidential

information and it is not expected that you will communicate any of its statements to the Spanish authorities, but you will bear these facts in mind in your intercourse with them.

Respectfully, yours,

JOHN SHERMAN.

(Inclosure, from Navy Department, February 24, 1898, with accompaniment.)

P. S. I also append, for your further information, copy of a report from the commander of the *Maine*, Capt. C. D. Sigsbee, which has just been received.

(Inclosure No. 2, from Navy Department, February 26, 1898, with accompaniment.)

[Inclosure 1 in No. 117.]

The Secretary of the Navy to the Secretary of State.

NAVY DEPARTMENT,
Washington, February 24, 1898.

SIR: I have the honor to transmit, for your information, a copy of a report from the commanding officer of the U. S. S. *Montgomery*, from Matanzas, concerning the condition of the population of that province.

Very respectfully,

JOHN D. LONG, *Secretary.*

[Subinclosure.]

Commander Converse to the Secretary of the Navy.

U. S. S. MONTGOMERY,
At Sea, Lat. 22° 39′ N., Long. 78° 9′ W., February 6, 1898.

SIR: Complying with the instructions contained in the Department's telegram of the 3d instant, I have caused as thorough an investigation as time and circumstances would permit to be made of the condition of the people of Matanzas, with the view of ascertaining the nature and extent of the destitution at present prevailing, and respectfully report as follows:

2. The total population of the province of Matanzas in December, 1897, was estimated to be 253,616. From statistics gathered from the best authorities (official and semi-official) the total number of deaths in the province due to starvation and the diseases incident thereto have been 59,000. The number of people in the province now in a starving condition is estimated at 98,000, and this number is rapidly increasing.

3. The present population of the city of Matanzas is variously estimated to be from 50,000 to 60,000 (including the reconcentrados). In the city of Matanzas there have been between 11,000 and 12,000 deaths (ascribed to starvation and incident diseases) during the past year, and the rate is increasing daily. In October, 1897, there were 974 deaths, in November 1,260, and in December 1,733. Reports from the cemetery show that at the present time the daily death rate averages 46.

4. Within the city limits there are at present about 14,000 people absolutely without food and clothing. Of these 11,000 live in the streets of the city and are wholly without homes or shelter. The remaining 3,000 live in three small villages, located on three hills, just beyond the built-up portion of the city. Each village contains about 1,000 persons, who live in small huts constructed of palm branches. These 14,000 (known as "reconcentrados") are people who have been driven into the cities from their country homes, which have been destroyed by the operations of the war. Most of them are women and children, and they are all emaciated, sick, and almost beyond relief, unless they could have the benefit of regular treatment in the hospitals.

They are dying in the streets for want of food, one body having been passed by myself on the occasion of my official visit to the civil authorities and another having been seen by other officers of the ship.

5. The distress is no longer confined to the original reconcentrados (the laboring country people, most of whom have already perished), but has now extended to the better classes, who before the war were in moderately comfortable circumstances. Those now begging in the streets are, for a large part, well-to-do people or their children, and the citizens of Matanzas are themselves beginning to suffer for the actual necessaries of life, having drained their resources to supply the urgent needs of the 30,000 or more reconcentrados who have been quartered upon them.

6. The citizens of Matanzas have established three places where they issue rations. The ration usually consists of cooked rice and fish, which is served in tin pans, each pan containing a spoon. The filled pans are regularly arranged for distribution among the limited number (100) who have previously been admitted to the waiting room. Admission is obtained by a system of tickets, which entitle the holder to 1 ration. Each of the 3 places feeds 100 people at a time, and each supplies 3 meals daily, so that every day about 900 people receive a meal. It is needless to add that this supply is entirely inadequate for the large number (14,000) of destitute, starving people within the city limits.

7. The only other public relief is that given to poor, sick children by the management of the emergency hospital, which is under the direction of the volunteer fire department of the city. Here 80 children are daily treated and furnished with nourishment, under the direction of four of the city physicians.

8. The Spanish authorities have rendered some assistance to the starving, and on two occasions gave $1,000 toward the relief fund. This was but a small amount, but it is said to have been all that the Government could give.

9. Many of the citizens regularly feed at their homes numbers of those starving in the streets, but this will soon be no longer possible.

10. The United States consul has rations sufficient to last about two weeks, when the fund appropriated by Congress will have become exhausted, and then the sufferers will include many American citizens who have hitherto received relief from the consulate. A petition addressed to the Secretary of State and signed by 60 American citizens, setting forth in detail their urgent need for immediate relief, was delivered to the consul for transmission to the State Department on the 5th instant.

11. As far as could be ascertained, Matanzas needs a supply of food for 40,000 people for at least one month. Condensed milk for children and invalids, and quinine, sulphate of magnesia, nitrate of potash, and other medicines are desirable. The people in the streets are in urgent need of clothing, as many of them are entirely destitute and others only partially covered with filthy rags.

12. The urgent necessity of immediate relief and assistance can not be exaggerated. Whenever the officers of the *Montgomery* landed they were constantly followed by clamoring crowds of starving men, women, and children, importuning them in the most heartrending manner for food, for the want of which they are dying.

13. The foregoing information has been derived from my interviews with the civil officers of the province and city; from the United States consul, Mr. Brice; from the United States vice-consul, Mr. Brinkerhoff; from Mr. Dubois, manager of the Matanzas and Havana Railroad, and from Lieutenant-Commander Beehler, of this vessel, who personally visited the small villages in which the reconcentrados are quartered, the parts of the city most frequented by them, and the various places provided for furnishing the relief.

Very respectfully,

G. A. CONVERSE,
Commander, United States Navy, Commanding.

[Inclosure 2 in No. 147.]

The Secretary of the Navy to the Secretary of State.

NAVY DEPARTMENT,
Washington, February 26, 1898.

SIR: I have the honor to transmit herewith, for the information of the Department of State, a copy of a letter, dated the 8th instant, received in this Department from the commanding officer of the

U. S. S. *Maine*, at Habana, Cuba, in regard to the suffering among many of the inhabitants of the island of Cuba, resulting from conditions of poverty and destitution.

Very respectfully, JOHN D. LONG, *Secretary.*

[Subinclosure.]

Captain Sigsbee to Secretary of the Navy.

U. S. S. MAINE (1ST RATE),
Habana, Cuba, February 8, 1898.

SIR: I have the honor to make the following report, in conformity with the Department's telegram of February 4, 1898. The telegram reads: "Report by mail the condition of the people, being particular about destitution."

2. Doubtless the Department is aware that my information has been derived from the opinions of others rather than from my own observations. Nevertheless my efforts while in Habana have been confined almost wholly to the cultivation of good relations with the people, both Spanish and Cubans, and to the investigation of conditions on the island from different points of view. I have met representatives of all classes, but chiefly intelligent sympathizers with the insurrectionists, and I have entertained in my cabin probably 200 people from time to time.

3. As to existing conditions, I have found that the disagreement between Spaniards and Cubans is surprisingly small. Variance of opinion appears to be chiefly in regard to causes.

4. The Spanish view concedes great poverty and destitution, but with blame to the insurgents for beginning the war, persisting in its prosecution, and for preventing initially the grinding of the cane. I will illustrate at first by individual statements:

5. A Spanish lady, all of whose relations have been and are now with the Spanish army, who is intensely Spanish and without sympathy with Cuba in this struggle, the widow of a Spanish officer who died in this war, and whose two daughters are engaged to Spanish officers, said to me frankly: "Captain, it is my belief that half of the people of Cuba have died in this struggle; but the insurgents are to blame for it. They brought on the war." I have heard no statement quite so appalling from any insurgent source. From various sources come the statements, and with surprising agreement, that since the beginning of the insurrection 500,000 Cubans have emigrated or died through one cause or another immediately connected with the insurrection.

* * * * * * *

5. While in the act of dictating the foregoing, I received a visit from a leading Spanish manufacturer of Habana, who has been in the island forty years, and who is really Spanish in his sympathies. He was accompanied by a very intelligent Swiss, who speaks English very well and has been on the island nine and one-half years and is intensely pro-Spanish. I propounded a series of questions to these gentlemen, and they answered me very frankly.

6. The Swiss stated that 500,000 people, or one-third of the population, had died in Cuba since the beginning of the present insurrection. I then asked specifically if the Spanish manufacturer held the same view. The manufacturer, without qualification, replied that he did, but he also claimed that the deaths were due to a condition of war brought on without sufficient grounds by the insurgents, and that the insurgents were, therefore, primarily responsible. Even these statements give larger figures in respect to deaths than have been given to me by any Cubans.

7. I asked these two gentlemen if they did not include in their estimate those Cubans who had emigrated. Both replied that they did not. The Cuban assertions as to the number of reconcentrados who have starved varies from 200,000 to 400,000. The lowest figures given to me by anybody, Spanish or Cuban, is 200,000.

8. I conversed to-day with an American from Boston, who has been in Cuba for six weeks for the purpose of purchasing tobacco lands in Santa Clara province. He has traversed the route between Habana and Santa Clara five times. He has even gone beyond Santa Clara, which is 260 miles from Habana. He has been arrested several times by both Spaniards and Cubans. He presented me with a table showing in one column the number of reconcentrados collected at various towns and in another column the number of them that have died. It was professed that the figures found in the columns are derived from Spanish registers in the several towns or from Spanish notaries.

9. Since they were not obtained at first hand, and since, according to his statement, General Lee has compiled statistics from the same places, I do not include his table, but will reserve it. The personal observations of this gentleman are valuable. He stated that in the towns that he visited all along the route, the condition of the reconcentrados was to the last degree horrible. They were in sight dying everywhere in the towns. The death and suffering had become so common that it had failed to excite general commiseration in the locality concerned.

10. In one place he followed on horseback a cart in its rounds to pick up the dead. He saw ten dead put in the cart. He states that the revocation of the Weyler edict has but little beneficent effect in its application, because reconcentrados are not now permitted to go outside the "limited zones of cultivation" encircling the towns without permits from the authorities, and the permits are limited to a number of days.

11. His accounts and figures tend to confirm the statements made to me by Spanish and cited in the first part of this letter. He states that nearly all of the suffering people are Cubans (white people), principally women and children; that the negroes appear to be able to resist the hardships of the period far better than the whites. I have cited of this gentleman's testimony only such points as appear to be confirmed by the general tenor of remarks made to me from various sources.

12. I shall now give the views to be derived from the general mass of information gathered by me here, excluding statements made by all enthusiasts, and also by all newspaper correspondents, the latter on no other ground than that the Spaniards claim that it is, in the main, unfair. It seems to me impossible that the conditions of poverty, destitution, and death asserted in the previous paragraphs should not follow directly from the condition of the present war in this country. It is a guerrilla war on both sides, and in a country where the physical characteristics are ideal for the purpose. It is a war of blockhouses and marauding or scouting bands. The Cuban policy is to tire out the Spaniards and to prevent such agricultural operations as will provide revenue to the Spanish Government.

13. The native population is an agricultural one. The working people of the agricultural class have never handled much money. They have lived directly from the soil and have been, in the main, content with a mere living. They have never been resourceful. When the Cubans stopped the grinding of cane and made depredations on plantations, generally burning the buildings and gathering subsistence therefrom, and enticing or forcing the men into their ranks, they took the first step in producing the misery which has followed.

14. The deplorable work begun by the insurgents was continued by General Weyler and advanced by him beyond the bounds of recognized warfare and the common sentiment of humanity. The reconcentrados without support from the Spanish Government, at least without due support, were confined to the towns and to the "zones of cultivation" entirely inadequate to support them. It is even said that much of the ground thus conceded was given to Spanish soldiers or usurped by them. The statement is not without weight when compared with the declarations as to the nonpayment of Spanish troops and to the issuance to them of inadequate rations.

15. The next consideration is the increase of pay given to the Spanish officers in the field in Cuba. They receive two and a half times the pay given them when serving in Spain. This would make it to the advantage of officers to adopt lingering methods of warfare, human nature being weak.

16. Another condition of affairs, if true, would tend toward a continuance of the present sufferings. It is in the very air here that there is corruption throughout the administration of the army, extending down to the captains of companies, who are intrusted with the distribution of rations to the men. Of this I know nothing and feel myself in nowise fitted to judge. There is nothing on the surface of affairs known to me to prove it nor anything in the appearance of the gentlemanlike body of the Spanish officers to suggest it. I suggest it simply because common notoriety deals with it.

17. The foregoing chain of conditions could only lead to poverty and destitution when involving a purely agricultural population. It is not surprising, therefore, that no account from any source places the number of deaths among the reconcentrados at less than 200,000. I can see no immediate prospect of relief from the horrible suffering.

18. The storekeeping class throughout the island is almost wholly Spanish. So are the workmen in the industrial trades. The Cubans, as a people, live directly from the soil. They have lost their homes through destruction by one side or another in this strife. They have sacrificed every possession that could be converted into money whereby to provide food.

19. This agricultural population has always subsisted chiefly on vegetables at a

food, especially on sweet potatoes or yams, and on sweets rather than on meats. It is not a hardy population. The average Cuban has not nearly the stamina of the average Spaniard. An agricultural Cuban with the seed and implements in hand can raise a crop of one species of yams or potatoes in forty days and of another species in sixty days at any season of the year.

20. It appears that this is the best that could be done if they were allowed to resume their occupations without molestation from either Spaniards or Cubans, but with a continuance of rigorous surveillance on both sides and with charity inadequate to cope with the situation it is believed that the number of deaths will continue to be large. The insurgents show no disposition to allow the sugar estates to continue their operations, excepting under tribute. In cases where the Spaniards allow the operations to go on, the owner of the estate must pay a large number of Spanish soldiers to guarantee protection against the insurgents.

* * * * * * *

22. Autonomy appears to be truly acceptable only to Spaniards who have raised families in Cuba and whose lives and business are linked with the island. The insurgents demand independence, and the Spaniards who are in Cuba to make money, and in the expectation of returning to Spain, are irreconcilably in favor of the old order of things. At Habana there is a dread of what may happen in the event that General Blanco returns to Habana without having accomplished the object of his eastern tour. It is reported to-day that there are slight indications on the streets of growing ill temper among the people.

23. It is difficult for an American to predict the working of a Spanish mind. The points of view of the two people are widely separated, but we have in the island on one side the local Spaniards refusing to be ruled by Cubans, and on the other side the Cubans refusing to be ruled by the Spaniards. There is an intensely strong feeling on both sides. The Spaniards believe themselves to be the superior people. It is not improbable, therefore, that as a last resort Spain would consent to sell the island to the United States, as affording the best prospect for the Spanish people in the island. It is more than probable that the educated class of Cubans would readily fall in with such a policy.

24. The question of annexation has never been seriously presented to the American people, but should it come up, it could be a strong argument to Spain to point out that she could retire with honor in her present financial condition, by assuring to Spaniards in Cuba the benefit of good government with the United States. This argument would not have prevailed a short time ago, but matters are now approaching a crisis in Cuba. The one question that no one can answer with any certainty is, What will follow the failure of autonomy? Beyond asserting that there will be a change of ministry in Spain, no one will pretend to give an answer.

* * * * * * *

Very respectfully,

C. D. SIGSBEE
Captain, U. S. Navy, Commanding U. S. S. Maine.

Mr. Woodford to the President.

Nos. 36, 37.] LEGATION OF THE UNITED STATES,
Madrid, March 2, 1898.

DEAR MR. PRESIDENT: Yesterday morning I received [a] note from Minister Moret, asking interview at my residence that afternoon. He came at 2 o'clock and remained about one hour and a half. At the beginning of our talk he handed me memorandum in his own hand, and then discussed the same, paragraph by paragraph. He came * * * with the knowledge of Señor Sagasta, president of the council, and I think I am justified in assuming that he came with the knowledge of the Queen.

The first matter discussed was that of the alleged landing from the *Brooklyn* at San Domingo of Captain Brownsfield, of the American Navy. There is no such officer on our Navy list, and I fancy that he meant Captain Crowninshield, but I did not indicate this to Señor

Moret. He said that the information had come to him as minister of the colonies; that it had been communicated to President Sagasta; but that if it were true that young Garcia was with the American naval officer and on an American war ship it might be a serious matter, and for the present he was leaving the foreign office to learn about it through the usual official channels. * * *

As to the matter of dismissing or sending away newspaper correspondents from Habana and by the action of General Blanco or of the insular government, Minister Moret [endeavored] to get some expression of opinion as to whether my Government would take such action pleasantly and without remonstrance. I told him that this is a matter to be decided by Spain without suggestion or interference by us, and that I had no advice to give and absolutely no suggestion to make. * * *

Then came the most serious part of our conversation. He asked me to tell him what I knew and thought of General Lee. I replied that I only knew the General slightly, having simply met him on two or three public occasions at New York; that Lee was a graduate of West Point; that he was cousin to Robert E. Lee, who commanded the Confederate forces during our civil war; that he had attained very great distinction as a cavalry officer during the rebellion; that at the close of the war, being ineligible for reappointment to the national army, he had entered political life and been elected governor of Virginia; that he had been a close personal friend of President Cleveland. * * * I added that I believed General Lee had your confidence and that this seemed to me clear from the fact that you had retained him as consul-general, although Lee is a Democrat and you a Republican.

Mr. Moret then said that he thought General Lee disliked Weyler, and I at once rejoined that no American could be satisfied with General Weyler's methods in Cuba, and that if Weyler had not been recalled I should have advised the prompt breaking off [of] diplomatic relations between Spain and the United States, and that, sincere friend as I am of peace, I should have preferred war to the continuance of Weyler's command and methods. Mr. Moret admitted that possibly General Lee might be so influenced by the old condition of affairs under the Weyler régime as to have lost faith in the possibility of any effective reform. But he insisted that autonomy is making real and effective progress; that it is winning the business classes, the planters, and all the great middle class to its support, and that it will surely succeed if it can have the sympathy of the American consul-general at Habana and the friendship of the United States. Moret believes that General Lee's home and legation are the centers of sympathy for the insurrection, and that through General Lee's conversation, reports, and general personal and official influence the insurrection is helped and autonomy retarded. I gave no assent to these propositions, but did say to him that I believed that General Lee so far possessed the respect and confidence of the American public that I should think that his recall or the appointment of a new man in his place would practically injure Spain and the cause of peace far more than his retention could do hurt, even if all that Mr. Moret said were true. * * *

At the close of this part of the conversation I asked Minister Moret directly:

"What do you wish me to do?"

He replied substantially that he wanted me to do whatever would

get my Government to help him effectively in getting rid of the possible dangers and complications that may arise out of the several things mentioned in his personal and unofficial memorandum. * * *

During our conversation one fact came out which surprised me and, if it be essentially true and not mere colorable statement, is interesting. Moret said that the present ministry wanted to dissolve the present Cortes in January so as to convene the new Cortes one month sooner, and in March, but that the delay had been due to the request of the insular government, which required the additional month to get the new régime into working order. He assured me that the insular elections would be held so that the Cuban parliament would meet at Habana on April 25, the same day that the new Cortes will meet here.

But whatever caused the delay, it was evident that Spain will insist upon having more time within which to work out her policy. The new Cortes meets on April 25. The rainy season begins about May 1. Effective military operations will be practically impossible between May 1 and October 1.

This question comes to me each day with increasing force: Can Spain so far crush the rebellion by the 1st of May as that the common sense of our people will see that the war will then be practically ended?

If the rebellion is not evidently in such condition on the 1st of April as to give reasonable certainty that the 1st of May will see its practical suppression, what can the United States do during the thirty days of April to prevent the famine, the sickness, the danger of yellow-fever epidemic, and all the suffering that must be in Cuba during the five to six months of the rainy season?

If the United States must, for the protection of the health of our coast next summer and for the protection of our great financial interests, practically intervene about the 1st of April, is the warning given in your message and repeated in the American note of December 20 sufficiently clear and definite as to justify effective action on or about April 1, which will be approved by the sober judgment of our people and the final judgment of history?

These things press so constantly upon my thought that it has seemed the duty of faithful and loyal friendship to tell you of my anxiety.

Last evening I telegraphed you in cipher and translate such dispatch as follows:

MADRID, *March 1, 1898.*

President MCKINLEY, *Washington:*

My Number 36. Confidential. I have just received the following in an informal and unofficial interview, and I communicate it for your personal information as indicating possible line of conduct the Spanish Government may be forced to take.

I quote verbatim:

"A filibuster expedition commanded by Lacret with Morales as second, intended to land at Puerto Rico, was sighted off San Domingo about the 18th of February when several American men-of-war were visiting the island. From one of these ships, the *Brooklyn*, landed at San Domingo Captain Brownsfield, of the American Navy, with a mission for the Dominican Government. With him landed also son of Calixto Garcia, who stayed there and communicated with several filibusters. The *Brooklyn* started away, but Captain Brownsfield remained and embarked afterwards in the *Montgomery*, and with him, in all probability, the son of Garcia too.

"Foreign correspondents at Habana, who are a very disreputable set, are doing all they can to raise a war scare between America and Spain, spreading no end of lies and succeeding in exciting a bad feeling.

"In order to attain peace the best would be to send away some of those correspondents.

"The last, but not the least, cause of danger is the behavior of Consul Lee.

"Spain can not consider him a reliable man, and is entitled to say that his reports are misleading and untrustworthy.

"Consul Lee freely admits that he is corresponding with the insurgents and openly avows that he is deadly against autonomy.

"The insular government distrusts him as well, and is much inclined to solicit his recall."

Memorandum stops here. Spanish minister of foreign affairs ignorant of interview, which was asked by minister for the colonies with knowledge of the president of the council.

Full report by next mail. WOODFORD.

Faithfully yours, STEWART L. WOODFORD.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 2, 1898. (Received March 3.)

President directs me to say, in answer to your telegram of the 2d instant, Captain Crowninshield visited San Domingo on business entirely disassociated with Cuban affairs. Did not see Garcia or any filibustering expedition. Report has no foundation in fact.

The President will not consider any proposal to withdraw General Lee. Even a suggestion of his recall at this time would be most unfortunate from every point of view. Our information and belief is that throughout this crisis General Lee has borne himself with great ability, prudence, and fairness.

DAY.

Mr. Woodford to the President.

Nos. 38, 39.] LEGATION OF THE UNITED STATES,
Madrid, March 4, 1898.

DEAR MR. PRESIDENT: Yesterday afternoon I received Judge Day's cipher telegram answering my telegram No. 36 in my correspondence with you. This afternoon I have seen Minister Moret at his house, and have shown him Judge Day's dispatch. Moret is sincerely grateful for the prompt and satisfactory explanation of the Crowninshield incident at San Domingo, and admits that the Spanish naval officer who made the report must be mistaken. This closes the San Domingo incident.

Moret accepts your judgment with regard to Consul-General Lee, and I am sure that no suggestion will be made by the Spanish Government looking toward the recall of General Lee.

I have just telegraphed Judge Day in cipher as follows:

MADRID, *March 4, 1898.*

Assistant Secretary DAY, *Washington:*

Personal No. 38, Presidential series. Have shown your dispatch of 3d instant to minister for the colonies. He is entirely satisfied with explanation of the San Domingo incident and grateful for prompt reply. There will be no suggestion of recall of consul-general of the United States at Habana. The minister fully appreciates the situation.

WOODFORD.

Minister Moret admits that the De Lôme letter was stolen from the Habana post-office by a Spanish clerk employed in that office and who was a spy in the service of the insurgents.

There is nothing further of importance to-day, and, I am,

Faithfully yours,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, March 3, 1898.

Spanish minister for foreign affairs sent for me this afternoon, and, after full and most friendly interview, asked me to send the following dispatch, which I give in his exact words. I expressed no opinion, and did not commit my Government in any manner. Spanish request begins here: "The sending of two war ships for the sole purpose of carrying succor to the necessitous inhabitants of Cuba not only seems superfluous, but affords grounds for fearing that their presence in two different ports of the island, situated at a great distance from one another, and rarely visited by men-of-war, might be interpreted, no doubt against the desire of the Government of the United States, as favorable to their plans by those who strive to thwart the will of the majority of the Cuban people, and so prolong a rebellion which is rapidly being quelled by the political and military measures applied soundly. It would therefore be most desirable that the relief prepared in the United States should be sent to Cuba on board merchant vessels." Spanish request ends here.

WOODFORD

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 4, 1898.

Spanish chargé presented here yesterday matter covered in yours 3d. Explained to him that vessels are the *Montgomery* and *Nashville*, small cruiser and gunboat. *Montgomery* has called at Cuban ports recently. At request relief committee these ships will take load of supplies Key West to Matanzas and Sagua next week. This is the most prompt and efficient means of getting supplies to people greatly in need.

DAY.

Mr. Woodford to Mr. Sherman.

No. 163.] LEGATION OF THE UNITED STATES,
Madrid, March 4, 1898.

SIR: Yesterday afternoon, March 3, the Spanish minister of state sent me a note asking me to call at his office. I went, and our conversation was interpreted by Mr. Merry del Val for the Spanish minister,

and Mr. Moreno of my office for myself. The Spanish minister first expressed his gratification in believing that the President, like the Queen, and myself, like himself, are all working in the interests of peace. He then expressed his belief that all matters of large account were in the way of satisfactory adjustment, and added that he feared most danger from irritation growing out of small things. He then came to the matter in hand; said that he had learned that supplies were to be sent to the reconcentrados in American ships of war; that such ships would appear in ports seldom visited by men-of-war, and that their presence would certainly be misunderstood and would practically aid the rebellion. He then requested me to ask my Government, as a matter of friendship, not to send such supplies in ships of war.

I answered him that I would send, as a request from the Spanish Government, whatever dispatch he would prepare in English and request me to send as coming from himself. I expressed no opinion as to the merit of his request, and did not commit my Government in any manner. I then withdrew from his room and waited until he and Mr. del Val had prepared a request in Mr. del Val's writing, which the minister handed to me.

Accordingly I telegraphed you last evening as follows:[1]

I have the honor, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Day.

No. 166.] LEGATION OF THE UNITED STATES,
Madrid, March 6, 1898.

SIR: I have the honor to acknowledge the receipt this morning of Department dispatch by telegraph in cipher, which I translate as follows:

WASHINGTON, *March 4, 1898.*

WOODFORD, *Minister, Madrid:*

Spanish chargé d'affaires presented here yesterday matter covered in yours fourth. Explained to him that vessels are the *Montgomery* and *Nashville*, small cruiser and gunboat. *Montgomery* has called at Cuban ports recently. At the request (of) relief committee these ships will take load of supplies Key West to Matanzas and Sagua next week. This is the most prompt and efficient means of getting supplies to people greatly in need.

DAY.

My dispatch to which you refer as dated March 4 was delivered at the telegraph office here in Madrid on Thursday evening, March 3, at about half past 9 o'clock, Madrid time. If Señor du Bosc saw you on March 3, he must have had instructions from Minister Gullon at the same time that Gullon was seeing me and getting me to send his request.

I can see no just ground of complaint by the Spanish Government because the United States put war vessels at the disposal of charity to feed starving women and children. The United States is not responsible for the policy of reconcentration, with its horrible results of famine, disease, and wholesale murder. Spain has no just cause of complaint, but should be grateful that our people and Government are

[1] Printed *ante*.

doing so much to protect Spanish citizens against the results of Spanish methods of administration and warfare. I appreciate all the difficulties of the present Liberal Government, but I am not sure that it is wisest to be over punctilious with them in these matters of detail in the performance of a great work of humanity and charity. I shall be very careful and very considerate in my conversations and correspondence with the Spanish foreign office, but I am inclined to tell the Spanish minister very courteously, but so that he will not misunderstand me, that our Government and people can not see old men, women, and children dying with starvation by our very shores and not help them in the most prompt and effective manner.

I have the honor, etc., STEWART L. WOODFORD.

Mr. Sherman to Mr. Woodford.

No. 155.] DEPARTMENT OF STATE,
Washington, March 7, 1898.

SIR: Referring to the Department's instruction No. 147, of the 1st instant, advising you of the present state of affairs in Cuba, I have to inclose for your further information copy of a report from the commanding officer of the U. S. S. *Montgomery* concerning the condition of the population of Santiago de Cuba.

Respectfully, yours, JOHN SHERMAN.

[Inclosure.]

Mr. Long to Mr. Sherman.

NAVY DEPARTMENT,
Washington, February 28, 1898.

SIR: I have the honor to transmit, for your information, a copy of a report from the commanding officer of the U. S. S. *Montgomery* concerning the condition of the population of Santiago de Cuba.

Very respectfully,

JOHN D. LONG, *Secretary.*

[Subinclosure.]

U. S. S. MONTGOMERY, *Port Antonio, Jamaica, February 12, 1898.*

SIR: Complying with instructions contained in Department's telegram, I respectfully submit the following report of the condition of the people of the Province of Santiago de Cuba, and of the destitution prevailing.

The Province of Santiago de Cuba contained at the last census 267,511 inhabitants; but since the outbreak of the present revolutionary war there have been no reliable estimates of its population.

Before the war the city of Santiago de Cuba had 56,766 inhabitants. This number has been reduced to about 35,000 by departure of most of the able-bodied men to take part in the war. There have been about 5,000 "reconcentrados" quartered upon the city.

The number of deaths in the city for the past four months were as follows: October, 253; November, 320; December, 424; and in January, 486. During the first week of February the mortality was only one-half of the weekly average in January. This marked decrease is partially attributed to the free distribution of quinine through the United States consulate.

The destitution here is not nearly as great as was found in Matanzas. The actual number of "reconcentrados" could not be definitely ascertained; but the best authorities state that there are less than 2,000 at present, and they are not in any great distress.

The two mining companies are in need of labor, and give employment and good wages to all who are able to go to the mines and work; consequently, the destitution of the lowest laboring classes is little greater than normal.

There is, however, considerable destitution among the better classes, especially the lower middle classes, who are too proud to ask relief, or to let their poverty be known.

The health of the city is remarkably good at present, and at this date there is not a single case of yellow fever.

There is but one means of public relief in operation. This is known as the "Cocino Economico" and is under the management of a German subject, Mr. Michaelson, of the firm of Schumann & Co.

The "Cocino Economico" is supported by the voluntary contributions of the citizens of Santiago. The Spanish Government has not aided the charity as yet, but the autonomy governor, Señor Capriles, has recently promised Mr. Michaelson that his government would contribute $1,000 toward the maintenance of the "Cocino Economico."

The management of this charity has been highly successful. Cooked rations of soup, meat, rice, and a loaf of bread, which are estimated to be worth 30 cents, are issued for 5 cents and afford relief to those who most need it. These rations are issued in a large building admirably arranged to feed 1,500 people. All who come pay for these rations with five brass checks which can be bought for 5 cents. In many cases the "Ladies' Relief Society" distribute these checks when they visit destitute families.

Those who feed in the "Cocino" go to a counter and take their choice of either rice and meat, or soup and vegetables, with one loaf of bread. The portions are served on china plates, which are taken to the tables where the purchasers sit and eat. Many are served at an outer counter, where a ration is put in a pail and carried home.

Wood, coal, and stores of provisions are contributed to sustain this charity, and there does not appear to be an urgent need in this city of further assistance from the United States.

Eighty-nine American citizens are now supplied by the United States consul, who daily expects to receive ample additional supplies.

The foregoing information has been derived from interviews with the civil officials; from the United States consul, Mr. Hyatt, and from Lieutenant-Commander Beehler, of this vessel, who personally visited the "Cocino Economico" and investigated matters relating to destitution and means of relief.

Very respectfully,

G. A. CONVERSE,
Commander United States Navy, Commanding.

The SECRETARY OF THE NAVY.

Mr. Day to Mr. Woodford.

Personal and Confidential.] MARCH 3, 1898.

DEAR MR. WOODFORD: I have your favor of the 21st ultimo, as also your note of the 19th ultimo. I have, furthermore read your personal letters to the President, which have kept him so thoroughly advised of the situation. As to De Lôme, I agree with you that that incident is, fortunately, closed. The publication of the letter created a good deal of feeling among Americans, and but for the fact that it was a private letter, surreptitiously if not criminally obtained, it might have raised considerable difficulty in dealing with it diplomatically. As soon as we learned of its authenticity the first cable was sent to you suggesting the recall of the minister. De Lôme had been advised the day before, and cabled his resignation before the letter was brought to the Department. Your prompt and efficient method of dealing with the matter after its serious import was known, and your firm, dignified

action in the interview with the minister, no doubt led to the satisfactory termination of the incident. Everybody that I see seems well pleased with it, and no one wished trouble about a matter of this kind. If a rupture between the countries must come, it should not be upon any such personal and comparatively unimportant matter. We sent you day before yesterday full instruction covering the Cuban situation, as you will see it is bad enough.

The De Lôme incident, the destruction of the *Maine*, have added much to the popular feeling upon this subject, although the better sentiment seems to be to await the report of the facts, and to follow the action of the President after the naval board has made its report. Whatever that report may be, it by no means relieves the situation of its difficulties. The policy of starvation, the failure of Spain to take effective measures to suppress the insurrection, the loss of our commerce, the great expense of patrolling our coast—these things, intensified by the insulting and insincere character of the De Lôme letter, all combine to create a condition that is very grave, and which will require the highest wisdom and greatest prudence on both sides to avoid a crisis. Yesterday came your cipher telegram to the President as to Captain Crowninshield, etc. Captain Crowninshield's mission had nothing whatever to do with Cuba. He was accompanied by his son, and not by young Garcia, disembarked from the *Brooklyn*, came back to Key West, and thence home by rail, after learning of the destruction of the *Maine*, as he wished to be at his post in the Department. The suggestion of the withdrawal of General Lee meets with no favor with the President. Like yourself, the General has been in the midst of surroundings often unfriendly, and has borne himself with dignity, patriotism, and courage, deserving the support, not the disapproval, of the Administration. As to the objectionable newspapers, their sensational and unfounded reports are the cause of as much embarrassment at home as they can be abroad. The only remedy seems to be the sober sense and judgment of the people. There are many things, my dear General, which can not be written, but we all appreciate how difficult your position is and with what sagacity and fidelity you have discharged its manifold duties. I wish I could have a full talk with you. It may be that things will take such shape that the President will conclude to send a special messenger to you with full information, which no amount of writing could make available to you. The President highly appreciates your good work, and often speaks of it in the warmest terms.

I beg to add my personal assurances of confidence and esteem, and remain,

Very sincerely, yours, WILLIAM R. DAY.

Mr. Woodford to the President.

No. 41.] LEGATION OF THE UNITED STATES,
Madrid, March 9, 1898.

DEAR MR. PRESIDENT: Knowing how pressed you are for time, I fear you may find my letters somewhat prolix, but I know that you must wish all the light I can give you. * * *

On Monday evening, March 7, Señor ——, a well-known Spanish

merchant, gave us a family dinner, at which were present his wife and daugher, my wife, daughter, a number of other Americans, and myself. * * * Before the dinner was over I came to the conclusion that Señor ——— was talking for a purpose. In the course of the conversation he began to speak, rather than talk, in very logical and deliberate way, as if from a prepared brief. He said, in substance, that Spain had done all she could do or expected to do in recalling Weyler, in sending Blanco, in abandoning the policy of reconcentration, in establishing legitimate warfare, in rescinding the tobacco edicts, in encouraging planting and grinding, in establishing autonomy, in offering full pardon to all rebels, in permitting Cuba to make her own tariff regulations, and finally in entering deliberately and honestly on the negotiation of commercial treaties that should open the market of Cuba to reciprocal trade with the United States. That the great majority of the white people of Cuba had accepted autonomy; that planting was steadily increasing, and that the people were getting to work throughout the country wherever the rebels permitted. That the rebellion is now confined almost entirely to negroes; that there are few whites in the rebel forces, and these almost entirely officers. That the only hope of the rebellion is in the aid it gets from the United States and in the consequent expectation by the rebel chiefs that war will eventually come between the United States and Spain. That the rebellion can be kept alive in the swamps and in the hills indefinitely, because the negroes are perfectly acclimated, require little clothing and no regular rations, and can maintain guerilla warfare and inflict great destruction of property. That the rebels can not achieve the independence of the island, while they can produce continuous disorder, suffering, and indefinite destruction of property. That there are but two possible solutions—either real autonomy under nominal Spanish sovereignty, or the actual occupation and government of the island by the United States. That Cuban independence is absolutely impossible as a permanent solution of the difficulty, since independence can only result in a continuous war of races, and that this means that independent Cuba must be a second Santo Domingo. That autonomy, with real self-government of Cuba by Cubans, can and will succeed if the United States will openly advise it and place the moral power of the United States on the side of autonomy. That if the United States Government does nothing and will do nothing in aid of autonomy, then the rebellion must continue in keeping the island disturbed, although without any possibility of success in achieving independence, and that thus the rainy season will come and the present suffering, disorder, and disaster be continued throughout the approaching summer. That Spain is giving honest autonomy and will do anything and everything to make such autonomy successful except to abandon her sovereignty over the island. That the Spanish flag must remain the flag of Cuba until it is torn from the island by foreign force. That he had seen in the papers rumors of the willingness of the United States to buy Cuba, but that Spain will never sell Cuba to the United States. That no Spanish Government could do this and live. That if autonomy and military operations can not together succeed in putting an end to the rebellion and Spain should ever find herself compelled to abandon the island, she might be compelled to recognize its independence, but that she will never sell or cede the island to the United States. That the United States can

never acquire Cuba with the consent of Spain, and that if the United States ever gets the island she must take it by conquest.

He said all this in a deliberate, thoughtful, and business-like way, without heat and without passion.

I believe that he expressed the average judgment of the Spanish and business classes.

He then asked me what more I thought Spain could do to make autonomy stronger and give it sure hope of success. I simply replied that I had no advice to give or suggestion to make.

Upon his further pressing me, I asked if I might put a question and, on his assenting, I inquired whether it might not aid the insular government of Cuba in their efforts to break up the rebellion if they should propose to all the present officers of the insurgent army, below the rank of general, that such officers should be incorporated into the Spanish army, or if that be impracticable, into the local Cuban militia with the same rank and command that they now have in the insurgent army, and thus assure all the insurgents and their sympathizers that the local liberties of Cuba will be defended and secured by men who believe in the practical self-government of Cuba. He replied that such suggestion had been already made and possibly considered, but that he believed Spain would never consent to this.

I also understood him to say that he knew that Spain would be beaten in any struggle with the United States; that he feared such struggle to be inevitable, but notwithstanding this, that he and all good Spaniards would accept the issue of war without hesitation.

He then asked me why the people of the United States sympathized so strongly with the insurgents and are so strongly opposed to Spain now that Spain is doing so much and so sincerely for real autonomy and for the true self-government of Cuba by the white people of Cuba, adding that, although he had lived some years in New York, he had never thought that the serious business people of the United States wanted to annex Cuba.

As he had been talking, I had been reflecting carefully and had decided that I ought to answer him frankly and justly.

I said to him in substance that I had no authority to speak for my Government, except in official communications to the Spanish foreign office, but that I would give him my personal views. I told him that Cuba had been Spanish for four hundred years and that her condition to-day must be accepted as the result of Spanish ownership and administration. That when the present rebellion broke out, in February, 1895, there were about 1,600,000 people in Cuba. That 200,000 Spanish soldiers had since been sent there. That to-day, from the best information I had been able to get, there are not 1,000,000 living souls on the island, and that these awful figures must explain why the people of the United States can not look with indifference on such a state of things within 100 miles of our coast. That beyond all questions of trade and commerce, beyond all obligations to protect American interests and American property, this condition of affairs imposes a responsibility upon the United States which sooner or later must be considered and faced. I went no further and added nothing which, if published verbatim, could put me in false position or embarrass you.

I simply asked him if he thought my figures correct, and he frankly admitted that he believed they were.

Before I left his house he asked me if he could repeat our conversation to Señors Sagasta and Moret, and I gave him full permission, adding that I had talked freely with Minister Moret and should be perfectly willing to talk as freely with President Sagasta should he ever desire it.

He then turned quickly and put to me this direct question:

"Has the United States ever set any time limit for the suppression of the rebellion?" And I answered in these words:

Not to my knowledge. It certainly never has done it through me, but if you, as one of the largest Spanish merchants in Cuba, have any influence with your Government I beg you, not as the American minister, but as a man, urge your Government to finish this rebellion, no matter what your Government is required to do, before the rainy season begins. This awful condition of affairs in Cuba can not continue forever. End it at once—*end it at once—end it at once*, for no thoughtful American can tell how long the conscience and humanity of the American people can be held in check.

And so we parted.

This morning the papers announce the unanimous passage by the House of Mr. Cannon's bill putting $50,000,000 at your disposal. It has not excited the Spaniards—it has stunned them. To appropriate fifty millions out of money in the Treasury, without borrowing a cent, demonstrates wealth and power. Even Spain can see this. To put this money without restriction and by unanimous vote absolutely at your disposal demonstrates entire confidence in you by all parties. The ministry and the press are simply stunned.

Señor ——— came in this afternoon; said he had repeated [our] conversation of Monday evening (March 7) to Minister Moret, but had not yet seen Sagasta.

I took the opportunity to ask him why, in his judgment, if autonomy should succeed, Spain should not sell Cuba, adding that I knew he believed Spain would either grant independence or fight before she would sell, but that I was curious to know why he, a cold clear-headed business man, should prefer independence (with race wars and destruction to all property interests) or war (with certain loss of Cuba as its result) to a peaceful transfer of the island to the United States with resulting cessation of expenditures and with present relief to Spanish finances. To my surprise he promptly replied that the vote of fifty millions by the American Congress ended all hope of the success of autonomy, as it would certainly encourage the rebels to persevere. And then added that what he had said to me at his table about the resolute purpose of Spain never to sell Cuba or part with Cuba except by force, expressed the purpose of his Government and the views of all his business associates, but that personally and individually he thought it wiser to sell than to fight with certainty of defeat. But, gathering himself together quickly, he said:

I fear war. My Government will not sell. You will not tell the rebels to lay down their arms and this means war.

I simply replied:

Perhaps your Government and your business associates may all be reflecting public opinion and perhaps down in your hearts, ministers and business men alike, each of you prefer to sell, but each is afraid to let the other know his thought.

He shrugged his shoulders, but made no reply.

This evening Mr. ———, an American, called at my house and told me that Spaniards are beginning to talk freely about the hopelessness of the war; about the certainty of the ultimate loss of Cuba, and are discussing quite openly the advisability of selling Cuba if the United States are still willing to buy. I repeat this for what it is worth.

Faithfully, yours,

STEWART L. WOODFORD.

Mr. Woodford to the President.

No. 43.] LEGATION OF THE UNITED STATES,
Madrid, March 17, 1898.

DEAR MR. PRESIDENT: In my No. 41, of March 9, I told you of Señor ——— call that afternoon and of Mr. —— call that evening. On Saturday, March 12, Señor —— came again; said that he had seen Minister Moret again on the 11th; that it was clear that autonomy would surely succeed if the United States would openly advise the insurgents to lay down their arms; that if we would not do this the rebellion must continue; that Spain would never sell the island; that her honor is involved, and that autonomy having been granted, Spain would never surrender her sovereignty, except by force. All this was evidently inspired by Moret. I heard him with kindness, replied with courtesy, and kept my own counsel.

On March 15 I received Department instruction No. 147, dated March 1, and marked "confidential."

On March 16 I got Judge Day's letter of March 3, marked "Personal and confidential." These papers acquaint me with the situation in Cuba and at Washington on the dates when written.

The feeling here is despondent. Bread grows dearer; business more stagnant; public securities fall, and exchange on Paris and London rises.

As time has passed, my own impressions as to our possible duty and consequent action have changed. Permit me to tell you why and how.

In my first letter of August 10, from London, I wrote that "annexation by force might provoke protest, but should it come as the natural and logical result of successive conditions, I think it should be accepted as inevitable." * * *

In my second of August 19 that "the current of events is setting toward the independence of Cuba or toward such autonomy as shall be practical independence," etc.

In my No. 11 of October 17 that restored peace may possibly bring a practical protectorate as a reasonable and desirable result. That I hoped not, for I feared that until the Cubans are taught by the hard lessons of experience they will prove very unsatisfactory wards in chancery and that to guarantee their acts will involve a serious and dangerous responsibility. * * *

In my No. 19 of December 11 you will note that Minister Moret told me on that day that he had very strong hopes that the practical pacification of the greater part of Cuba would be secured before the 1st of March, and that "I pressed upon him and Minister Gullon, whenever I met them, the necessity of very speedy and successful action."

The 1st of March has come and gone and peace is not yet secured. Department dispatch No. 147 bears that very date.

In my No. 31 of February 7 I wrote that it was then stated in Madrid "that the Spanish Government are disappointed in their efforts to break up the rebellion by autonomy or by influencing rebel chiefs, and doubt their ability to get the rebellion practically suppressed *before the rainy season begins.*"

What I then could only give as statement current in Madrid is now evident fact. With the exception of Minister Moret and those whom his splendid courage and personal magnetism inspire and control, I do not think that any thoughtful man in Madrid now believes that autonomy, and what is euphemistically called "influencing rebel chiefs," and military operations combined can practically suppress the rebellion *before the rainy season begins.*

Señor Sagasta, an experienced statesman, a loyal Spaniard, and a faithful friend of the Queen, * * * waits hoping against hope. I think that he would do anything for peace that Spain would approve and accept. Señor Gullon evidently doubts whether peace can be maintained with the United States. * * * I think that the Queen is disappointed and anxious. Well she may be, for she has struggled with admirable courage and wonderful faith for her son and her dynasty.

In that letter of February 7 I also reported that the present ministry had decided that they have made all the concessions to the United States that they can make, without endangering their own power and the continuance of the present dynasty; that they will do no more, and will fight, if what they have done does not secure our continued neutrality.

In my No. 33 of February 19 I confirmed my belief in the disposition and decision of the Spanish Government to make no further concessions.

My report No. 35 of February 26 gives résumé of situation after my personal interview with Ministers Gullon and Moret on February 25. * * * You will remember that I had seen the Queen on the 22d. * * *

In my No. 37 of March 2, I give Minister Moret's reasons for his faith in the success of autonomy as stated by himself. But even he practically admits that its success depends on the sympathy of our consul-general at Habana, and the friendship of the United States. His admission that the delay of one month in dissolving the old Cortes and convening the new one was due to the request of the insular government throws much light on the Cuban situation.

In that report of March 2 I called your attention to the evident fact that Spain will ask for more time within which to work out her policy. Autonomy is not yet successful. The new Cortes meets on April 25. The rainy season begins about May 1. Thereafter the Spanish army in Cuba can not fight in the open country, and can literally do nothing but sicken and die until the middle of September, or the first of October, while the acclimated insurgents can ravage the island at their will. * * *

On the morning of March 9 the Madrid papers published the passage by our House of Representatives of the bill appropriating $50,000,000. As I wrote you that day, the Spanish Government and the Spanish people were simply stunned. When you advised and secured that action, you made settlement possible, although I hardly

dare even yet to think it probable. While I have worked steadily and persistently for peace, I have never been optimistic. I have always realized the difficulties of the situation. I have sometimes feared that you might think me discouraged, but I am sure that you will not think that I have ever relaxed my efforts. To-day I have more faith in possible peace than I have had since I sailed from New York. The unanimous passage of the Cannon bill at Washington, and the reception of the news here in Madrid, give me this hope. * * * The thought of sale is to-day in the air of Madrid. * * * I think that the largest holders of the Spanish debt will soon advise the sale. But Señor Moret has now made a speech which I inclose, and in which he has taken very positive ground that autonomy will succeed. His speech is clever and strong. But * * * even he may change. * * * It is possible that you can buy Cuba and that such contingency may soon arise as may make it advisable for me to be authorized to at least discuss the matter with the Queen, or with Moret, if she or he should broach the subject. I believe that Spain, tired out and exhausted, threatened with practical famine, and confronted with the immediate necessity of tremendous outlay, would thank the Queen for her wisdom and courage should she dare to part with Cuba without war, and would sustain her even if she were compelled to change her ministry to secure this result.

I have advised, respectfully but earnestly, against annexation and against any protectorate, and have worked only for peace. This was the keynote of my interview with the British and other foreign ambassadors last September and October.

I have hoped that autonomy might be successful and might bring peace. * * *

It now seems almost certain that autonomy can not succeed before the rainy season begins. This means that the present hell of famine and anarchy may continue in Cuba during all the coming summer. Should autonomy be supported by the great body of the educated and property-holding whites of Cuba, it will probably be strong enough next autumn to prevent effective good government by the insurgents. The insurgents, supported by the great majority of the blacks, and led by even a minority of enterprising and resolute whites, will probably be strong enough to prevent effective good government by the insular autonomic administration. This would mean and involve continuous disorder and practical anarchy.

The establishment of any form of protectorate still seems to me fraught with great and permanent danger. There is no general popular education in Cuba. The blacks and whites are quite even in numbers. The native Cubans and the Spanish residents are divided into hostile factions. Corruption in official rule has been for centuries the curse of Cuba. I do not believe that the population is to-day fit for self-government, and acceptance of a practical protectorate over Cuba seems to me very like the assumption of the responsible care of a madhouse. There are possible conditions under which a practical protectorate may be a reasonable and desirable result. But time and reflection have strengthened my first impression into deliberate judgment, and I pray that no conditions may arise under which we shall be responsible for the practical peace and good government of the island unless we have full power of ownership which shall enable us to compel good government.

Peace is still a necessity. Peace can hardly be assured by the insur-

gents through and under an independent government. Autonomy has not yet secured peace. I have at last come to believe that the only certainty of peace is under our flag and that with courage and faith we can minimize the dangers of American occupation and assure the blessings of American constitutional liberty.

I am thus, reluctantly, slowly, but entirely a convert to the American ownership and occupation of the island. If we recognize independence, we may turn the island over to a part of its inhabitants against the judgment of many of its most educated and wealthy residents. If we advise the insurgents to accept autonomy we may do injustice to men who have fought hard and well for liberty, and they may not get justice from the insular government should it once obtain control of the island. We may in either event only foster conditions that will lead to continuous disorder. If we have war we must finally occupy and ultimately own the island. If to-day we could purchase at reasonable price we should avoid the horrors and the expense of war, and you, as a soldier, know what war is, even when waged for holiest cause.

I therefore ask your permission to treat * * * should the opportunity ever be presented. Whatever I might do in such contigency would be done tentatively and subject in all things to your constant knowledge and direction. * * *

Should your judgment not approve my present request such knowledge will still be helpful, whatever may be the contingencies of the future.

Faithfully yours,

STEWART L. WOODFORD.

(Inclosure: Speech of Minister Moret, March 9, 1898, published in El Dia of March 11.)

Mr. Woodford to the President.

No. 44.] MADRID, *March 18, 1899.*

DEAR MR. PRESIDENT: Yesterday I completed my No. 43, reporting in full to yesterday. At noon I learned that the council of ministers had held long and heated meeting; that the ministers of war and navy had advised immediate action by Spain, urging that each day of delay increased our preparation for war and lessened any possible chance of Spanish success; that Moret had argued for peace; that Sagasta had finally and positively declared for peace on any terms at all consistent with Spanish honor; that the peace party had triumphed; and that the ministers of war and navy had withdrawn their threats of possible resignation.

At 3 o'clock in the afternoon I had an interview with Moret at his house, lasting an hour and a half.

I opened the conversation by expressing your personal pleasure at his brave and just action in the De Lôme incident. He asked me to tell you how gratified he was at your satisfaction, adding that he knew you to be the sincere friend of peace.

I then explained to him that the young man who was with Captain Crowninshield at San Domingo was the captain's son and not young

Garcia, as the Spanish naval officer had reported. This was evidently agreeable information.

Next I told him that the objectionable newspapers and newspaper men caused us as much embarrassment as they could cause his government, and with this he was content.

Then General Lee was mentioned, and we shall hear no more of his recall. This is ended.

Then I said that I was ready at any time to talk as Minister Woodford to Minister Moret, or as Mr. Woodford to Señor Moret or with the Queen in either my official or personal capacity as she might prefer.

I rose to go, but he asked me to remain and to talk with him then and at once as Mr. Woodford to Mr. Moret, for he thought the time had come for full and free understanding between us in the interest of peace.

I resumed my chair and he began:

Can you not and will you not ask your President to advise the insurgents to lay down their arms and accept autonomy?

I replied:

I can not. You uld not accept our good offices last autumn, and the self-respect of my Government forbids our tendering them again except at the official request of Spain, and such request, to be efficient now, should leave us a very free hand.

He answered that he was sorry, for he was sure that on our advice the rebels would lay down their arms, and autonomy would succeed.

He was silent for several seconds, and then said with evident effort:

We must have peace with honor to Spain. Tell me what can be done.

I replied substantially as follows:

I wish you to keep steadily in your mind that I am not talking officially, but only in my personal capacity, and with your permission I will talk as freely as I would to my President if I were at home. I may give you offense in what I shall say, but I hope not, for I know that I am your friend, the friend of your Queen, and the friend of Spain.

He arose, took my hand, and said:

Talk freely. That is what I wish. If we can understand each other fully we can work together for peace, and that is what my unhappy country needs.

Thus encouraged, I decided that the time had come to be as direct with him as I was with the Duke de Tetuan at San Sebastian, and so I said, substantially:

I do not believe that autonomy is or can be successful before the first day of May, when the rainy season begins in Cuba. That means that the present disorder and suffering must continue until next autumn, and then there will be repetition of what is now going on. I do not believe that autonomy will give peace in Cuba under the Spanish flag. Nor do I believe that the insurgents can secure peace and good order in Cuba under a free or independent government. Your Spanish party is too strong. I see nothing ahead except disorder, insecurity of persons, and destruction of property. The Spanish flag can not give peace. The rebel flag can not give peace. There is but one power and one flag that can secure peace and compel peace. That power is the United States, and that flag is our flag.

He asked:

Is that your serious and settled judgment?

I simply answered:

It is.

He was quiet for awhile. I saw that he grew very pale. Then he gathered himself together and replied:

What do you suggest?

I said:

Remember, Señor Moret, that I am only suggesting my own personal views. I have no authority from my Government or my President for what I am going to say. My President may disavow everything I suggest. I will give you my views, and I will urge them on my President as earnestly as I can, if you shall accede to them, but I can not promise that he will approve of them. On this clear and definite understanding do you still wish to hear me?

He bade me proceed, and I continued:

Some way must be found by which Spain can part with Cuba without loss of self-respect and with certainty of American control so that we may give protection to loyal Spaniards and rebels alike which each must have if peace is to be assured. You can not abandon those who have been true to you. We can not as a free people permit those to suffer whose worst crime is that they fought to be free. Only one way has yet occurred to me, and this has not been thought over sufficiently for me to do more than to suggest it tentatively. May I suggest it?

He said:

I wish you to do this. We both seek peace with honor. It is our duty as statesmen to find some way that shall reach the end we both seek.

Thus encouraged, I continued:

Possibly if your Government would authorize you to act for Spain and my Government would authorize me to act for the United States, we could come to an agreement on some such general basis as this: The United States to pay a fixed sum for the purchase of the island; a part of such price to be retained as a fund for the payment of all claims due from the United States to Spain or to Spanish citizens and from Spain to the United States or to citizens of the United States; such claims to be determined by a mixed commission to be hereafter appointed; that the agreement to sell need not be expressed in the memorandum that should be published, which might only provide for adjustment of all differences between the two nations with the British Queen as arbitrator in case of disagreement, but that a secret memorandum should be signed at the same time fixing the terms of agreement, and thus avoiding any possible disagreement. Thus Spanish pride might be satisfied.

I waited for his reply. He reflected for some time and said that there were several things he would like to ask me. These were, essentially, if I thought that the serious opinion in the United States would be willing to purchase Cuba, which would be practical annexation; also whether I thought that the United States would be willing to guarantee the Cuban debt if independence were granted, which would be a practical protectorate; and what I thought would be the effect on Spain if she were to part with the island either by sale or by recognizing its independence.

As to the first point, I told him that when I left home I believed that the great body of our thoughtful people were as opposed to immediate annexation as I was, and I gave him quite fully my reasons for this belief. Then I explained to him that what is popularly called a jingo sentiment does not influence final public action in the United States, but that after all the excitement of temporary and passionate discussion our people think carefully and act deliberately; that our people had come to know that on January 1, 1895, there were about 1,600,000 inhabitants in Cuba; that Spain had sent there more than 200,000 soldiers; that to-day there are, at the outside, no more than 1,200,000 people, including the remains of the army; that many careful judges fixed the present population and soldiers at less than 1,000,000; that

the island was still being devastated by military operations by Spaniards and insurgents alike in spite of the more humane methods now employed; that property was still being wasted and commerce prevented; that our Government was compelled to patrol our coasts and do police duty for Spain at great expense; that the continued discussion and anxiety are paralyzing our business and delaying the return of prosperity in our own country; that I believed that the serious judgment of our people has come to be that these conditions must stop now; that I believed that the most conservative public opinion in the United States would not justify my President or my Government in delaying action beyond a very early day, and that since we must act I believed that our people would prefer to buy rather than suffer the pains of war, since purchase or war must result in the same thing—the occupation and ownership of the island.

As to guaranty of the Cuban debt and practical protectorate over the island, I told him that I believed many of our people would prefer this to occupation and ownership. But as frankly I told him that personally I hoped that this would not be the solution; that it would involve syndicate deals and private financial operations; that corruption would be charged, even if it did not exist; that it would involve something like an East India Company, which is foreign to American habits and ideas; that the popular outcry against trusts would almost inevitably be raised against such solution; that it would require a mortgaging of the resources of the island and of the Crown property therein; that if the United States guaranteed the debt for an independent government or for private purchasers, we might some day be required to take possession, and meanwhile must supervise, if we did not actually govern, and that I hoped we should not, as a government, get mixed up in any transactions that involved private purchase or ownership or syndicate operations.

As to the effect on Spain, I said to him that I had been here but six months, but that I had gradually come to believe that the business men and the plain people of Spain are tired of a useless and exhausting war; that Spain had lost Cuba; that if autonomy succeeded in securing peace, the autonomistic government would each year ask and get larger and larger independence; that disagreement would probably come over distribution of the present debt, and that certain quarrels would arise over future contributions by Cuba to the expenses of the home Government; that if autonomy succeeded a new nation would be created, and that nation could not be expected to continue subject and tributary to Spain; that when the autonomic government resisted there would be rebellion which Spain could neither coax nor coerce, and that the largest statesmanship would meet and face the situation now without further loss of men and expenditure of money; that Spain seemed to me one of the richest lands in Europe, with an industrious, patient people, with fertile soil, with valuable mines, and with a seacoast of nearly 3,000 miles; that when Spain ceased wasting her energies on unproductive colonies and gave her efforts to self-development at home, she would enter on a new path of real progress, and that the Queen and the statesmen who should lead in this new pathway would succeed to-day and be honored in history.

At the close of our conversation Señor Moret said, substantially:

I do not commit myself to details. The right way can be found if we will both do our best, and I will work with you for peace, and I am sure we shall get together as to details. This must be confidential between us, for we are not talking as officials.

Yesterday I told you that my faith in settlement gets stronger. I send this letter and yesterday's No. 43 by Mr. MacArthur of our legation.

I have committed neither you nor my Government in the slightest manner. If in what I have suggested I have contributed in the smallest way to your great work of peace, I shall be grateful.

You know, and I need not further assure you, that in all things I am, faithfully, yours,

STEWART L. WOODFORD.

Mr. Woodford to the President.

[Telegram.]

MADRID, *March 19, 1898.*

My No. 45. Unless report on the steamer *Maine* requires immediate action, I suggest that nothing be decided or done until after the receipt of my personal letters 43, 44, and 46, which my second secretary of legation will carry from Gibraltar Monday, March 21. I also suggest that you authorize me to tell the Queen informally, or any minister indicated by her, that you wish final agreement before April 15. If you will acquaint me fully with general settlement desired I believe Spanish Government will offer without compulsion and upon its own motion such terms of settlement as may be satisfactory to both nations. Large liberty as to details should be conceded to Spain, but your friendship is recognized and appreciated, and I now believe it will be a pleasure to Spanish Government to propose what will probably be satisfactory to you.

WOODFORD.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 20, 1898.

President is at loss to know just what your telegram 19th covers, whether loss of *Maine* or whole situation. Confidential report shows naval board will make unanimous report that *Maine* was blown up by submarine mine. This report must go to Congress soon. Feeling in the United States very acute. People have borne themselves with grea. forebearance and self-restraint last month. President has no doubt Congress will act wisely and immediate crisis may be avoided, particularly if there be certainty of prompt restoration of peace in Cuba.

Maine loss may be peacefully settled if full reparation is promptly made, such as the most civilized nation would offer. But there remains general conditions in Cuba which can not be longer endured, and which will demand action on our part, unless Spain restores honorable peace which will stop starvation of people and give them opportunity to take care of themselves, and restore commerce now wholly lost. April 15 is none too early date for accomplishment of these purposes. Relations will be much influenced by attitude of Spanish Government in *Maine* matter, but general conditions must not be lost sight of. It is

proper that you should know that, unless events otherwise indicate, the President, having exhausted diplomatic agencies to secure peace in Cuba, will lay the whole question before Congress.

Keep President fully advised, as action of next few days may control situation.

DAY.

Mr. Woodford to the President.

No. 46.] MARCH 19, 1898.

DEAR MR. PRESIDENT: This morning I called at Señor Moret's house and showed him a telegram which I proposed to send you. He said that he could not approve it officially, as he had not yet the necessary authority, but that he would personally work with me to secure the results therein indicated. After leaving him I then telegraphed you in cipher as follows:[1]

Señor Moret said to me this morning that justice to the Queen required him to assure me in the most positive manner that she had not been privy to or cognizant of any suggestion that she wished to talk with me about any possible cession of Cuba, either to the insurgents or to the United States; that she wished to hand over his patrimony unimpaired to her son when he should reach his majority; and that she would prefer to abdicate her regency and return to her Austrian home rather than be the instrument of ceding or parting with any of Spain's colonies. * * * I am sure that Mr. Moret to-day regards this [parting with Cuba] as inevitable, and is only seeking the way in which to do it and yet save Spanish honor. He will probably find the way to do it, even if he has to sacrifice himself. I hope this last may not be necessary. I do not believe it will be. Spain needs such men as he to-day, men of faith, courage, and sincerely patriotic purpose. * * *

Please note what I say in my dispatch about April 15. I do not suggest a time limit officially stated. That might embarrass you as well as the Spanish Government. But I do regard it as very essential that they should see that the United States mean business, and mean it *now*. * * *

Your resolute and wise action in getting authority from Congress to put the nation in condition both for defense and attack has made peace not only possible, but to-day I think it probable on such terms as you suggest. You see how my faith has strengthened.

Faithfully yours,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 185.] LEGATION OF THE UNITED STATES,
Madrid, March 21, 1898.

SIR: I have the honor to report that on March 18 instant I received an official note from the Spanish minister of foreign affairs, dated March 17 instant, informing me that the decrees of 25th November last trans-

[1] Ante, p. 692.

ferred to the insular government the powers until now exercised by the government of the metropolis, and in its name by the governor-general of the island of Cuba, in the matter to which such official note related; that the governor-general had just communicated by telegram of March 17 instant to the minister of colonies that the insular council of ministers, under his presidency, had decided to prorogue in all its parts, until March 31, 1899, the decree of the governor-general of April 19, 1897, relative to the suspension of actions against landed property; that such action was subject to what the insular chambers may decide, before whom the executive power of said government is responsible in virtue of the autonomous constitution now in force in the island of Cuba.

I inclose copy of such note from the Spanish minister and call attention to the gradual but steady attempt to enlarge the effective operation of the new system of autonomy. Each day I become more doubtful as to whether autonomy can be made effectively successful within any reasonable time, but each day it becomes more and more apparent, here in Madrid, that the present Government of Spain is disposed to enlarge autonomy rather than restrict it. This is the inevitable logic of the situation.

On March 18 instant I telegraphed you in cipher as follows:

MADRID, *March 18, 1898.*

Secretary SHERMAN, *Washington.*

Spanish minister for foreign affairs informs me that Cuban insular government has extended decree suspending actions against landed property to March 31, 1899.

WOODFORD.

I also inclose copy of my translation of Spanish note, and am, very respectfully, yours,

STEWART WOODFORD.

[Inclosure—Translation.]

Señor Gullon to Mr. Woodford.

MINISTRY OF STATE,
Palace, March 17, 1898.

EXCELLENCY: MY DEAR SIR: The decrees of 25th November last transferred to the insular government the powers until now exercised in the matter by the government of the metropolis and in its name by the governor-general of the island of Cuba. The latter authority has just communicated by telegram of this date to the minister of ultramar that the council of ministers (secretaries of the despatch) under his presidency have decided to prorogue in all its parts until March 31, 1899, the decree of the governor-general of April 19, 1897, relative to the suspension of actions against landed property, subject to what the insular chambers may decide, before whom the executive power of said government is responsible in virtue of the autonomous constitution now in force in the island of Cuba.

I have the honor to communicate the above to your excellency in reply to your kind note of the 7th instant, and in reference to mine of the 8th and 14th instant, availing myself of this opportunity, Mr. Minister, to renew to your excellency the assurances of my most distinguished consideration.

PIO GULLON.

Mr. Woodford to the President.

Nos. 47, 48.] LEGATION OF THE UNITED STATES,
Madrid, March 21, 1898.

DEAR MR. PRESIDENT: To-day (Monday), I get cipher dispatch from Judge Day, which I translate as follows:

WASHINGTON, *March 20, 1898.*

WOODFORD, *Minister, Madrid:*

The President is at a loss to know just what your telegram 19th covers, whether loss of *Maine* or whole situation. Confidential report shows naval board will make unanimous report that *Maine* was blown up by submarine mine. This report must go to Congress soon. Feeling in the United States very acute. People have borne themselves with great forbearance and self-restraint last month. President has no doubt Congress will act wisely and immediate crisis may be avoided, particularly if there be certainty of prompt restoration of peace in Cuba. *Maine* loss may be peaceably settled if full reparation is promptly made, such as the most civilized nation would offer, but there remain general conditions in Cuba which can not be longer endured and which will demand action on our part unless Spain restores honorable peace, which will stop starvation of people and give them opportunity to take care of themselves and restore commerce, now wholly lost. April 15 is none too early date for accomplishment of these purposes. Relations will be much influenced by attitude of Spanish Government in *Maine* matter, but general conditions must not be lost sight of. It is proper that you should know that, unless events otherwise indicate, the President, having exhausted all diplomatic agencies to secure peace in Cuba, will lay the whole question before Congress. Keep President fully advised, as action of next few days may control the situation.

DAY.

I have to-day telegraphed you in cipher as follows:

MADRID, *March 21, 1898.*

President MCKINLEY, *Washington:*

My No. 47. Dispatch signed Day received to-day, Monday, 10 o'clock a. m. I had no intimation as to the character of report on the *Maine* when I telegraphed my No. 45, but reserved your full liberty of action if such report should require it. Nothing confidential between Spanish Government and myself as to steamer *Maine*. That subject never discussed between us. All other suggestions in my No. 45 should be absolutely secret. Will keep you fully advised every day.

WOODFORD.

The situation is so delicate and yet so pressing that I venture no suggestions to-day. I will think to-night; see Minister Moret early to-morrow morning; will then say and do what shall then, after reflection, seem wisest, and will telegraph and write you to-morrow.

Faithfully yours,

STEWART L. WOODFORD.

Señor Polo de Bernabé to Mr. Day.

ROYAL SPANISH LEGATION,
Washington, March 25, 1898.

DEAR MR. DAY: In compliance with your verbal request, I telegraphed yesterday to the Spanish consul at New Orleans, ordering him to dispatch in ballast the vessel conducting to Matanzas Mr. Albert Miller's supplies, provided, of course, that such vessel should not carry any other sort of cargo. I received last night a telegram from Mr. Peter Petinto, advising me that my instructions would be complied with. I wait for the name of the vessel to telegraph to Cuba.

Yours very truly,

LUIS POLO DE BERNABÉ.

Mr. Woodford to the President.

Nos. 49, 50.] LEGATION OF THE UNITED STATES,
Madrid, March 22, 1898.

DEAR MR. PRESIDENT: This Tuesday morning, March 22, I saw Minister Moret at his house and had conversation which is embodied in my telegraphic report to you, No. 49, of this date. I then telegraphed such report to you in cipher, as follows:

MADRID, *March 22, 1898.*

President MCKINLEY, *Washington:*

My No. 49. This morning (Tuesday) I saw the minister of the colonies at his house. Asked him whether I should talk officially or personally. He replied, personally. I commenced by saying: "I have sent a telegram, which I read to you March 19, and have received reply. I ought to now say to you that the report on the *Maine* is in the hands of the President. I am not to-day authorized to disclose its character or conclusions, but I am authorized to say to you that beyond and above the destruction of the *Maine*, unless some satisfactory agreement is reached within a very few days, which will assure immediate and honorable peace in Cuba, the President must at once submit the whole question of the relations between the United States and Spain, including the matter of the *Maine*, to the decision of Congress. I will telegraph immediately to the President any suggestion that Spain may make, and I hope to receive within a very few days some definite proposition that shall mean immediate peace."

After brief and courteous conversation, he asked me if I was authorized to say officially to the Spanish minister of foreign affairs what I had just said unofficially to him. I replied that I was so authorized, and, at his request and on his assurance that he believed it would be in the interest of early peace, I sent official note to Spanish minister for foreign affairs asking interview at his house on Wednesday afternoon, March 23, with minister of colonies present as interpreter, and will then repeat officially what I said unofficially this morning, and will receive any suggestions that may be made and telegraph the same to you, without committing you or our Government in any manner.

Should I be asked to suggest what might be acceptable to you, please instruct me by telegraph as to my answer.

WOODFORD.

This interview will be granted. Minister Moret will be present. I shall repeat verbatim and unofficially to Ministers Gullon and Moret what I said unofficially to Moret this morning. I shall then leave them to do the talking, and will report what shall be said.

Faithfully yours,

STEWART L. WOODFORD.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 23, 1898.

The President approves your statement to the minister for the colonies, as given in your No. 49. He will await your telegram after your interview with the minister for foreign affairs.

DAY.

Mr. Woodford to the President.

[Telegram.]

MADRID, *March 23, 1898.*

No. 51. Had interview with the minister for foreign affairs this afternoon, Wednesday, in the presence of minister for the colonies.

Made official statement in exact terms used at personal interview with the minister of the colonies, reported in my No. 49.

Spanish minister for foreign affairs asked delay until beginning of the rainy season and asserted his belief that insular government will secure arrangement with insurgents before then. I told him, kindly but firmly, that I did not believe such delay to be possible and that my Government wished immediate and honorable peace. I repeated that unless satisfactory agreement is reached within a very few days you must submit the whole question to Congress.

Spanish Cabinet met immediately afterwards. I do not yet know their decision. Minister for the colonies will come to my residence to-morrow morning, Thursday. I will then telegraph fully.

WOODFORD.

Mr. Woodford to the President.

[Telegram.]

MADRID, *March 24, 1898.*

No. 53. The minister for the colonies called this afternoon (Thursday) at my residence. The interview was purely personal and in no sense official and binds only the future action of the minister himself. He proposed that the Spanish Government, in answer to the statement made by the American minister March 23, instant, shall officially suggest that the question of an early and honorable peace in Cuba be submitted to the Cuban congress, as soon as assembled, which will be at Habana on May 4, and that the Spanish Government will give such Cuban congress all necessary authority to negotiate and conclude such peace.

I asked him what about military operations in Cuba between now and May 4. He replied an immediate armistice or truce to be enforced by the Spanish Government upon its army provided the United States can secure the acceptance and enforcement of like immediate truce by the insurgents.

I then asked, supposing the insular government and congress can not arrange terms for permanent peace with the insurgent government before the 15th of next September, which will be the end of the rainy season? He replied that he would personally advise his minister that the Government of Spain and the United States should, in such event, jointly compel both parties in Cuba to accept such settlement as the two Governments should then jointly advise, such terms to be arranged between the two Governments of Spain and the United States before the 15th of next September. He told me that the minister for foreign affairs would probably communicate some such proposition to me officially to-morrow (Friday) in answer to my official statement of yesterday (Wednesday).

I replied that I could give him no assurance or intimation as to whether such proposition would be acceptable to you, but that I would telegraph this report of our personal interview at once to you; and, at his request, I give him copy so that he may know that I telegraph just what was said between us.

Should I receive official communication from minister for foreign affairs, I will telegraph same immediately to State Department. Should I get no such communication, to-morrow (Friday) I will also telegraph.

WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 189.] LEGATION OF THE UNITED STATES,
Madrid, March 25, 1898.

SIR: Since the receipt of the Spanish note dated February 1, 1898, I have waited for suitable opportunity to have full and frank discussion with the Spanish minister for foreign affairs concerning the real condition of affairs in Cuba and the duty of the United States in regard thereto.

After an informal conversation which I happened to have with the minister for the colonies on the 22d instant, I decided that the suitable opportunity had come, and that day I addressed an official communication to the foreign office, asking for an interview with the minister for foreign affairs at his private residence on Wednesday afternoon, March 23. I asked, as my knowledge of Spanish is limited, that he invite his colleague, the minister for the colonies, to be present, so that our conversation might be accurately interpreted.

The minister promptly replied, granting the desired interview at his private residence, and on Wednesday, the 23d instant, I met the two ministers in official conference.

I began the conversation by reading the following statement:

I ought, at the beginning of our interview, to say to you that the report on the *Maine* is in the hands of the President. I am not to-day authorized to disclose its character or conclusions. But I am authorized to say to you that, beyond and above the destruction of the *Maine*, unless some satisfactory agreement is reached within a very few days which will assure immediate and honorable peace in Cuba the President must at once submit the whole question of the relations between the United States and Spain, including the matter of the *Maine*, to the decision of Congress.

I will telegraph immediately to the President any suggestions that Spain may make, and I hope to receive within a very few days some definite proposition that shall mean immediate peace in Cuba.

Minister Gullon replied that his Government had not received the text of the Spanish report upon the explosion of the *Maine*, and in the absence of any statement by myself as to the character of the American report he could not discuss the matter, but that the Spanish Government would certainly do whatever right and justice should require when his Government should have full knowledge of all the facts.

He then said that he was surprised at the apparent change in the attitude of the United States, as indicated by the statement which I had just made, and added that he would be glad to have me tell him, if I would, why my Government presented such a statement at the present time.

I replied substantially as follows:

The United States has not varied its attitude since I came to Spain last September. My first words to Her Majesty when I was presented at San Sebastian were the sincere expression of the desire of the United States for peace in Cuba and peace between Spain and the United States. Peace seemed to be made possible by the removal of General Weyler, by the attempted change in the methods of conducting the civil war in Cuba, and by the proffer of autonomy to the island. I believe that the present Spanish Government was sincere in the efforts it initiated. My Government hoped earnestly that these efforts would be successful, and that peace might be established firmly and permanently. In this hope we have been disappointed. The entire winter has passed. We are within a few weeks of the rainy season.

Peace is not yet in sight. The military operations conducted by the Spanish troops are accompanied by the necessary destruction of all means of subsistence where such troops operate. The insurgents in turn lay waste the country to prevent the movements of the Spanish forces. Thus the island continues to be devastated; opportunities for the support of the population by their labor are practically denied, and all the sufferings and horrors of civil war continue. The peace which seemed to have been made possible last autumn has not been secured. Peace is as necessary now as it was then, and the time has come when the United States must, in the interest of humanity and because of the great and pressing commercial, financial, and sanitary needs of our country, ask that some satisfactory agreement be reached within a very few days which will assure immediate and honorable peace in Cuba.

I then told him that this is the desire and judgment of the serious and earnest people of the United States; that the horrible facts with regard to the famine, destitution, sickness, and mortality among the people of the island had gradually become known to our citizens, and that humanity and civilization required that peace must be secured and firmly established at once; and that neither the present judgment of the civilized world nor the final judgment of history would excuse the United States in longer permitting the present condition of affairs in an island lying within 100 miles of our coast.

I told him first that the population of Cuba in January, 1895, just before the rebellion broke out, was about 1,600,000; that since February, 1895, Spain had sent to Cuba more than 200,000 soldiers and officers; that from the best information my Government could get there are now in Cuba, including the remnants of the Spanish army, not more than 1,200,000 souls; that thus the deaths during little more than three years had exceeded the births by nearly 400,000; that these figures were an indictment against the methods of Spanish rule and against its continuance in Cuba which the conscience and judgment of the United States could no longer disregard and which must require early and effective decision at our hands.

I next spoke of the sanitary conditions of the island and pointed out the constant danger which these conditions threatened to us, who are such close neighbors to Cuba, and said that our responsibility and duty are precisely what would be the duty of the minister himself in case there was a pesthouse next door to his own residence, filled with contagious disease and threatening each moment the health and the lives of his family.

I next told him that we raise in the United States but about one-tenth of the sugar we consume; that we must purchase from abroad the remaining nine-tenths; that before the present civil war we drew much of our supply from Cuba and sold to Cuba in return flour, meat, and manufactures; that all this commerce is practically destroyed.

I then called his attention to the large amounts of American capital invested in Cuba, partly in actual ownership of Cuban property and partly as loans to Cuban corporations and residents, and pointed out how valueless are such holdings and such securities so long as this civil war continues. I emphasized the tremendous pecuniary loss which the people of the United States suffer and must suffer until peace is restored.

I closed by expressing my belief that the present Spanish Govern-

ment would deal justly and honorably in regard to the destruction of the U. S. S. *Maine* in the harbor of Havana whenever I should be instructed to present that matter for diplomatic action, but that now, beyond and above the destruction of the *Maine*, and even beyond and above all questions of the destruction of American property interests in Cuba, the great and controlling questions of humanity and civilization require that permanent and immediate peace be established and enforced in the island of Cuba.

Minister Gullon replied to me, through Minister Moret as interpreter, that Spain might be relied upon to do what is right and just and honorable in the matter of the *Maine;* that he was glad to be again assured of the belief by the United States that the present Spanish Government had sought to secure effective peace through granting liberal autonomy to Cuba; that this autonomy had not as yet secured all the results which had been confidently expected, but that it had made large and effective progress; that the Spanish military movements were constantly becoming more successful; that autonomy was constantly winning adherents from the neutral population of the island; that insurgents were constantly surrendering and accepting the new conditions of legality under the Spanish flag; that, from his advices and the assurances of General Blanco, he believed that the insurrection would be practically suppressed before the rainy season began; that all the rebel leaders, with the exception of a few chiefs, were willing now to submit if the United States would only advise them to do so, and that if we would withhold intervention until the beginning of the rainy season he believed that he could assure the Government of the United States that the rebellion would then be ended and that autonomy would be assured in its successful operation. He added that the Spanish Government is ready to enlarge and increase the present grant of autonomy in all honorable ways that will add to its efficiency and guarantee its success.

He then asked me if I would not telegraph my Government requesting it to withhold action until the beginning of the rainy season.

I replied that I would send by telegraph, in his own words, whatever request he should make, but that in order to avoid possible mistake he must hand me, in English, the precise words he wished me to telegraph; that I should report our interview fully to my President; that I could give him no assurance whatever that I would personally indorse or approve his request; that I had come, reluctantly but positively, to the judgment that autonomy could not give peace to Cuba within any reasonable time; that the insurrection seemed too strong to be suppressed by the insular government and Spain combined; that the insular government, backed by Spain, might be too strong for the insurgents to overthrow it; that continuous civil war seemed to be the unfortunate destiny of Cuba under the Spanish flag; and then I added, kindly but firmly, that I did not believe the delay for which he asked to be possible, and that my Government wished immediate and honorable peace; and I repeated that unless some satisfactory agreement is reached within a very few days the President must submit the whole question to Congress.

He told me that he was going at once to a meeting of the council of ministers; that he would send to my residence, before 8 o'clock that evening, such memorandum as he might wish me to telegraph; and thus our official interview closed.

He did not send me any memorandum that night.

To-day, March 25, the Spanish minister for foreign affairs telephoned me, asking me to be at his office this afternoon at 4 o'clock. I went, and we conversed, with Mr. Merry del Val, one of the subsecretaries of the Spanish foreign office, as interpreter. This is the same gentleman who acted as interpreter in my first official interview with the Duke de Tetuan on the 18th of last September.

The Spanish minister was very earnest in his desire that the report of the investigating commission on the subject of the *Maine* should not be sent to Congress, but should be held as the subject of diplomatic adjustment between the two Governments. He assured me that Spain would do in this matter whatever should be just and right. He suggested that the matter of securing peace in Cuba should be left to the insular government of Cuba and submitted to the insular parliament, which will be assembled on May 4 next. He expressed his belief that the insular authorities would then be able to secure early and honorable peace in Cuba. I reminded him that the interests and the duty of the United States required that peace be secured at once, and asked him if the Spanish Government would be willing to grant and enforce an immediate and effective armistice or truce between the military forces of Spain and those of the insurgents, provided the insurgents would agree to and would enforce a like complete and immediate armistice or truce. He replied that he could give me no final answer without consulting his associates in the Spanish cabinet, but that personally he feared that such armistice is impossible.

Our interview closed by his stating that he would send me to-night or early to-morrow morning such memorandum or statement, in reply to my statement delivered to him on March 23, as he should wish me to telegraph to the President.

I will telegraph same as soon as received, and have the honor, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 192.] LEGATION OF THE UNITED STATES,
Madrid, March 26, 1898.

SIR: In continuation of my dispatch No. 189, dated yesterday, March 25, I have the honor to report that last evening at about 9 o'clock I received a memorandum from the Spanish minister for foreign affairs, with English translation of same, which translation the Spanish minister wished me to telegraph to the President. Accordingly I have telegraphed such translation to the President in cipher. I inclose herewith copy of the Spanish text of such memorandum and of translation of same.

This morning, March 26, I received from the Spanish minister for foreign affairs an enlarged memorandum or statement, being the same memorandum received last night with paragraphs prefixed thereto and relating to the question of the U. S. S. *Maine*. I inclose copy of such Spanish memorandum with English translation of same.

I will keep the Department promptly advised of any reply I may make to this Spanish memorandum, which is dated March 25, instant.

Very respectfully, yours,

STEWART L. WOODFORD.

[Inclosure 2 in No. 192.—Translation.]

MINISTRY OF STATE: As to the last part of the document handed to the minister of state by his excellency the United States minister—that is to say, as to a suggestion or proposal which might be made by Spain in order to secure an immediate and honorable peace—Her Majesty's Government are at present more than ever of opinion that the suggestions and means repeatedly mentioned to the United States would in a very short time bring about that peace so largely desired by all. If, however, the United States Government in making known in different terms and under a fresh aspect this requirement of an honorable and immediate peace has in mind conditions for the making or consolidation of peace which are or may be directly or indirectly connected with the political system already established in Cuba, Her Majesty's ministers consider it their duty to remind in all sincerity the said Government that nothing can be done in this direction without the natural participation of the insular parliament which is to meet on the already near date of May 4 proximo, and will give its special attention, either spontaneously or on the motion of the representative of the central government, to the measures most appropriate for rapidly bringing about a lasting peace in the island.

[Inclosure 4 in No. 192.—Translation.]

MINISTRY OF STATE, *March 25, 1898.*

At the time the cabinet was informed of the conference which had taken place in the afternoon of Wednesday, March 23, at the residence of the minister of state, between the latter, the minister for the colonies, and the United States minister, it was in possession of news somewhat altering the bearings of the questions briefly treated in the course of that interview.

It now appears that the captain of the U. S. S. cruiser *Maine* has asked leave to destroy with dynamite the wreck of his ship, thus annihilating the only proofs which, in case of doubt or disagreement, could be again examined in order to determine, if necessary, the cause and nature of a catastrophe, in the midst of which Spanish sailors and officials displayed the greatest abnegation and oblivion of all personal risk and a generous wish to circumscribe or diminish the dreadful calamity which befell the crew of the American vessel.

Even without seeing in the request of the captain of the *Maine* any other meaning than that personally expressed in the petition signed by him, the Spanish Government considers as utterly unjustifiable and inadmissible the resolution which submits to a political assembly the report drawn up by the official American board of inquiry on the causes and circumstances of the blowing up or explosion of the *Maine*. As yet nothing is known of the report of the Spanish commission. After having invited in vain the United States naval officers to take part in its labors and go through the necessary investigations conjointly with its members, it has finished and drawn up its conclusions with a complete knowledge of the scene of a disaster so deplorable and painful for all Spaniards.

One of the principal, if not the principal, basis of judgment is, therefore, wanting for every individual or body of men who may wish to weigh the facts with perfect impartiality. Under these circumstances to place before a popular deliberating assembly without correction, explanation, or counterproof of any kind, a report which, issued by the fellow citizens of the members of that body, must necessarily meet with approval inspired rather by sentiment than by reason, is not only to resolve beforehand a possible future discussion, but apparently reveals an intention of allowing national enthusiasm, commiseration, or other like natural and comprehensible feelings, so frequently found in all numerous and patriotic assemblies, to form an a priori judgment not founded on proof and to reject, before even knowing its terms, any affirmation which may give rise to doubt or seem distasteful. The most elementary sense of justice makes it in these cases a duty to previously examine and discuss in an atmosphere of absolute calmness two different inquiries tending to one common end. Only in the supposition of an irreconcilable discrepancy or complete opposition between one and the other would it be proper to submit them, as equity demands, to evidence less prone to prejudice and, if necessary, to fresh investigations and different judges.

As to the last part of the document handed to the minister of state by his excellency the United States minister—that is to say, as to suggestion or proposal which might be made by Spain in order to secure an immediate and honorable peace—Her Majesty's Government are at present more than ever of opinion that the suggestions

and means repeatedly mentioned to the United States would in a very short time bring about that peace so eagerly desired by all. If, however, the United States Government in making known in different terms and under a fresh aspect this requirement of an honorable and immediate peace has in mind conditions for the making or consolidation of peace, which are or may be directly or indirectly connected with the political system already established in Cuba, Her Majesty's ministers consider it their duty to remind the said Government in all sincerity that nothing can be done in this direction without the natural participation of the insular parliament, which is to meet on the already near date of May 4 proximo, and will turn its special attention either spontaneously or on the motion of the representative of the Central Government to the measures most appropriate for rapidly bringing about a lasting peace in the island.

Mr Woodford to the President.

Nos. 56, 57.] LEGATION OF THE UNITED STATES,
Madrid, March 26, 1898.

DEAR MR. PRESIDENT: Yesterday afternoon, March 25, at the request of the minister for foreign affairs I called at his office. Last night I telegraphed you in full the substance of interview. He then agreed to send me last night or this morning written memorandum or statement in reply to that which I handed him at our official interview, in the presence of the minister for the colonies, at his residence on the afternoon of March 25. The memorandum came in two parts. That which related to the general question of peace in Cuba was received last evening, March 26, and was embodied verbatim in my personal telegram to you, No. 56. That part which related to the steamer *Maine* is only received to-day. It is being translated into cipher and will be telegraphed you at once. It will be my No. 58.

I translate my No. 56 as follows:

MADRID, *March 25, 1898.*

President MCKINLEY, *Washington:*

My No. 56. Official interview this afternoon (Friday) with minister for foreign affairs. He assures me positively that Spain will do all the highest honor and justice require in the matter of the *Maine.*

As to the larger matter of peace in Cuba he sends me this (Friday) evening the following official memorandum, which I telegraph verbatim, as follows:

"As to the last part of the document handed to the minister of state by his excellency the United States minister—that is to say, as to a suggestion or proposal which might be made by Spain in order to secure an immediate and honorable peace—Her Majesty's Government are at present, more than ever, of opinion that the suggestions and means repeatedly mentioned to the United States would in a very short time bring about the peace so eagerly desired by all. If, however, the United States Government in making known in different terms and under fresh aspect this requirement of an honorable and immediate peace has in mind conditions for the making or consolidation of peace, which are or may be directly or indirectly connected with the political system already established in Cuba, Her Majesty's ministers consider it their duty to remind in all sincerity the said Government that nothing can be done in this direction without the natural participation of the insular parliament, which is to meet on the already near date of May fourth proximo, and will give its special attention either spontaneously or on the motion of the representative of the central government to the measures most appropriate for rapidly bringing about a lasting peace in the island."

Spanish memorandum ends here.

It is so vague that it involves uncertainty. I asked Spanish minister for foreign affairs whether his Government would grant and enforce immediate armistice if insurgents will do the same. He can not answer until he consults his cabinet. Personally he opposes armistice. After getting the official memorandum to-night, I called upon minister for colonies at his house. He insists that memorandum means that the question of an early and honorable peace shall be submitted by Spanish Government to Cuban Congress on May 4, and that Spanish Government

will give such Cuban Congress all necessary authority to negotiate and conclude peace, provided such authority shall not diminish or interfere with the constitutional power vested by the Cuban constitution in the central government. He says that if we asked for immediate armistice, he believes Spanish Government will grant and enforce armistice on sole condition that insurgent government does same. If you approve these suggestions and believe they will lead to immediate peace, I ask authority to put these two direct questions to Spanish minister for foreign affairs: First. Does your memorandum mean exactly what the minister for colonies says, employing his precise words? Second. Will you decree and enforce immediate armistice until end of the rainy season if insurgent government will do the same? I believe that if immediate peace can be secured now, lasting until September 15, hostilities will not be resumed. * *

WOODFORD.

I expect to see Minister Moret this (Saturday) evening at my house.

Faithfully, yours,

STEWART L. WOODFORD.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 26, 1898—12.10 a. m.

The President's desire is for peace. He can not look upon the suffering and starvation in Cuba save with horror. The concentration of men, women, and children in the fortified towns and permitting them to starve is unbearable to a Christian nation geographically so close as ours to Cuba. All this has shocked and inflamed the American mind, as it has the civilized world, where its extent and character are known. It was represented to him in November that the Blanco government would at once release the suffering and so modify the Weyler order as to permit those who were able to return to their homes and till the fields from which they had been driven. There has been no relief to the starving except such as the American people have supplied. The reconcentration order has not been practically superseded. There is no hope of peace through Spanish arms. The Spanish Government seems unable to conquer the insurgents. More than half of the island is under control of the insurgents; for more than three years our people have been patient and forbearing; we have patrolled our coast with zeal and at great expense, and have successfully prevented the landing of any armed force on the island. The war has disturbed the peace and tranquility of our people. We do not want the island. The President has evidenced in every way his desire to preserve and continue friendly relations with Spain. He has kept every international obligation with fidelity. He wants an honorable peace. He has repeatedly urged the Government of Spain to secure such a peace. She still has the opportunity to do it, and the President appeals to her from every consideration of justice and humanity to do it. Will she? Peace is the desired end.

For your own guidance, the President suggests that if Spain will revoke the reconcentration order and maintain the people until they can support themselves and offer to the Cubans full self-government, with reasonable indemnity, the President will gladly assist in its consummation. If Spain should invite the United States to mediate for peace and the insurgents would make like request, the President might undertake such office of friendship.

DAY.

Señor Polo de Bernabé to Mr. Day.

LEGATION OF SPAIN,
Washington, March 26, 1898.

DEAR MR. DAY: Inclosed you will find extracts from official reports about the situation of reconcentrados, for whom so much interest seems to be felt in Congress. You will see what has been done for them until now. I will send you more information in a day or two. I do not forward statistics, because they are not complete.

It is to be borne in mind that the sad situation of these people is mainly due to the devastation of the country and destruction of property by the insurgents, principally Maceo and Gomez, under the orders of the Cuban junta established in New York.

Yours, very truly,

LOUIS POLO DE BERNABÉ.

[Inclosure.]

CIVIL GOVERNMENT OF THE PROVINCE OF PINAR DEL RIO.

[Extract.]

The measures recently adopted, with philanthropic interest, by your excellency, if well interpreted and executed with fidelity, will immediately contribute to the amelioration of the wretched condition of these unfortunate people. Those who reside in this city, Luis Lazo, Artemisa, Guanjar, and some other localities are in a comparatively comfortable condition. The charity of those around them and the efforts of his excellency the general commander of the division, General Fernandez Bernal, of the parish priest of this capital, and of the local authorities have succeeded in saving from death many of the miserable people. It is not to be denied that there is still much to be done, but when the work is systematized it will doubtless be followed by flattering results. Of the children that are now in the province there are many orphans for whom a form of protection must be arranged, to keep them from vice and make them useful members of society.

Reconstruction proceeds slowly in this municipality. In those of San Juan and Martinez, Luis Lazo, Duiras, Guernajoz, and Vinales the prospects for a tobacco crop are good, extensive tracts of land in the district having been planted. In other towns there are little signs of labor. Infections and malarial fevers, smallpox, and dysentery are epidemic in some localities, being at their worst in Alonso, Rojas, San Juan, Martinez, Candelaria, Artemisa, and Paso Real, and the smallpox being also in this capital. To improve the state of the public health I have ordered the proper steps to be taken, and have had the measures recommended by the health association of the province (to which I have twice applied) complied with. If your excellency deigns, remembering that there are twenty-five councils in this district, to grant the $25,000 that seems to be necessary to alleviate the wretched conditions existing in the towns of this province, it will be an easy task to ameliorate the situation of the reconcentrados, which question so justly occupies the attention of your excellency. As far as I am able to observe, the public spirit is reviving and confidence in better conditions is being awakened. There is a praiseworthy interest in the extension of agriculture, and the noble intentions of Her Majesty's governor, loyally interpreted by your excellency, will, it is hoped, be stimulated by the welfare and flourishing conditions in the country, the pacification of which will be hastened by the salutary influence of the reforms which have been inaugurated.

FALIO FREYE,
Civil Governor of the Province of Pinar del Rio.

CIVIL GOVERNMENT OF THE PROVINCE OF SANTA CLARA.

[Extract.]

Economical kitchens have been established, on my recommendation, in most places, in which daily rations are prepared, and the latter have somewhat bettered the condition of the wretched reconcentrados. The economical kitchens are aided more or

less, according to the various localities, by public charity, which has been awakened from its lethargy by the surrounding conditions of misery, and which now has the merit that the food given away every day is taken from that actually needed by the families donating it, such a state of poverty, your excellency, having been the result of this war, disastrous alike to human life and to the property acquired with so great effort.

As to measures that I have authorized in this matter, I can say to your excellency that I have visited many of the towns of the province, although I have had a number of other official duties, and that on account of the importance of this question I have deposed mayors and town councils, and in all places I have been I have endeavored to raise the spirits of the reconcentrados and arouse sentiments of charity in the neighborhood. Not only have charitable associations been organized, but benevolent societies, managed to a great extent by women, which solicit aid and distribute the same in different ways, whether through economical kitchens independent of those which your excellency has ordered established or by acting as auxiliaries to the said associations in various ways. This work is specially for the sick reconcentrados.

As to those who are able to work, I can assure your excellency that as soon as the sugar season opened a way of gaining money all those not occupied in the cultivation of tobacco were sent to the sugar plantations. I endeavored to obtain free passage from the railway companies, but for reasons to a certain extent valid they did not comply with my request; and thus, in many instances, the charitable associations had to support this additional expense.

At the present time we are busied in helping them construct cabins in the zones of cultivation, in order to allow them to be removed from this unhealthy atmosphere and from the uncomfortable conditions to which they are now subjected.

The Provincial Association thinks that by granting $10 to each family the object would be accomplished of constructing the cabins and of transporting them thereto.

MARCOS GARCIA,
Governor of Santa Maria.

GOVERNMENT OF SANTIAGO DE CUBA.

[Extract.—Translation.]

It is beyond doubt that the extreme restriction imposed by the order of reconcentration issued on February 16, 1896, and applied to this province on the 16th of the same month in the following year, created conditions intolerable both for the inhabitants of the country and for the residents of the towns; and the reason is obvious, for the island of Cuba being an essentially agricultural country, in which dependence for food is placed almost entirely upon the cultivation of the earth, it is clear that when this industry is arrested, no arrangements having been previously made for the production of lesser fruits, the poorer classes must necessarily suffer.

The order of the 13th of last November being issued, authorizing the reconcentrados again to cultivate their property and dictating measures to ameliorate the condition of the country people now residing in towns, at once, as soon as the provisions of the same were published, I ordered the most efficient measures to be taken for its immediate accomplishment; and, in accordance with provision 6a, a provincial junta to furnish aid was organized, composed of competent representatives of commerce, agriculture, industry, and property.

In view of the scarcity of rations granted by the circular of the commandery general of May 29, 1896, the first act of the association above mentioned was to contract with the economical kitchen established in this city for 600 daily rations, which have since been distributed to an equal number of reconcentrados, especially to those which suffer most.

Each of these portions is valued at 6½ centavos, and, according to the amount presented by the said establishment, the sum of 2,772 pesos has been spent in this way from December 4 to the 15th of the present month, of which amount 600 pesos were generously donated, at the request of the provincial junta, by the patriotic society established here for the construction of army hospitals, and to pay the balance the 1,170 pesos granted monthly by his excellency the Governor-General of the island (charged to the special credit of 100,000 pesos allowed by the superior authority of the decree of November 23 of last year, already mentioned) were used.

At the same time it was arranged to make a sort of register, by districts, of the reconcentrados and of those assembled from the field of insurrection, in order to

know the true number of the same in Santiago de Cuba. It was likewise determined to constitute a woman's auxiliary to the provincial junta, which should have the duty of asking help from philanthropic persons for the reconcentrados; and this association, going farther than its actual duties, has not confined itself to theory, but, with practical and praiseworthy energy, asked and obtained from his excellency the Governor-General, during his visit to this city, the sum of 2,000 pesos, which was added to the amount collected by the various committees that have been soliciting public charity. The association also visits from house to house, carrying food and medicine for the sick, and has earned the gratitude and love of the wretched sufferers. In order to aid the benevolent action that is exerted in all directions, I ordered the provincial authorities to extend, as much as possible, the zones of cultivation, some of which are now in excellent condition. Those of San Luis Dongo and Canez are in an especially flourishing condition, and may be mentioned as among the best cultivated territories under my government.

It may thus be affirmed that the condition of the reconcentrados has been much improved. Those in the towns receive daily rations, although perhaps not in great quantity. Medicines are also furnished by the town by order of the government, and all the attention that it is the power of the latter to bestow is furnished.

ENRIQUE CAPRILES, *Governor.*

OFFICE OF THE GOVERNOR OF THE PROVINCE OF MATANZAS.

[Extract.]

The insurrection of 1895 passed beyond the limits of Santiago de Cuba, then beyond those of Camaguey, then beyond those of Las Villas, and entered the fertile plains of Matanzas, where everything was put to fire and sword; thence it passed to the province of Havana and soon to that of Pinar del Rio, and the whole island became one vast conflagration.

The insurgents did not conceal their purpose to destroy the agricultural and industrial wealth of Cuba in order that the possession of the Antille might become so burdensome to the mother country that she would finally desist from every effort to maintain her indisputable right to govern these last remnants of the immense colonial empire which the efforts of our ancestors erected in America by their genius and valor, by their treasure and their blood.

The decree of reconcentration, which was issued in October, 1896, increased the evils, and the same result was effected by the order of January 9, 1897, relative to the establishment of zones of cultivation in this province. I can assure your excellency, however, that before the month of November was over, local mendicancy was partly remedied.

The situation of the reconcentrados in this province no longer possesses the grave character that it formerly did. Outside of the city of Matanzas I may say that, with the exception of the localities in which the smallpox has recently made its appearance, and of those in which malaria continues to claim some victims, the general health is good. There is wretchedness among the needy classes, and how could it be otherwise when human activity was paralyzed, rural economy dead, trade and industry extinguished, and the sources of production dried up? But the assistance of the Government, the powerful aid of private charity, and the earnings of the laborers, at first in zones of cultivation imperfectly constituted, and subsequently on the sugar estates, the owners of which, with surprising energy and gigantic efforts, undertook the grinding of their crops, have appeased hunger and furnished relief to all classes of society.

By communications which I have received at various times from my police, in pursuance of an order issued by me, I received satisfactory news concerning the condition of the reconcentrados in various communities. This information has been confirmed by several alcaldes of the province, and some of them have told me that even when the work of the present crop is done the hands will remain at work on the majority of the estates, cleaning up the cane fields, sowing and resowing, and making preparations for the next grinding.

I have urged all parties, however, not to abandon the zones of cultivation, to increase their work on them as far as possible, and to endeavor thus to secure the means necessary not only for the support and aid of the poor who still remain in the towns, and who must live on public and private charity, but also for the exportation and the sale, in some localities, of abundant means of subsistence.

I continue to assist the municipal districts as far as their needs require and as far

as the means furnished to me by the generosity of the Government enable me to do so.

The city of Matanzas, however, requires a chapter apart.

A larger number of reconcentrados flocked hither than to other localities of the province, and public misery became the greater, since nothing was done in time like that which has been done by your excellency, adequate measures having been adopted by you to remedy these evils. Not even has it been possible thus far to establish a zone of cultivation that could remedy the pressing necessities of the case, notwithstanding the advantages offered by the fertility of the neighboring valley of the Yumuri. Consequently hunger caused greater ravages here than elsewhere, and the public health was thereby affected.

I have already said that this state of things has, fortunately, entirely changed. The hospitals and infirmaries furnish shelter, aid, and medicines to the suffering poor. Official as well as private charity relieves the indigent. The number of deaths in February presents a favorable contrast when compared to those which took place in October, November, and December. Many reconcentrados, availing themselves of the good offices of this protecting junta, have obtained free passage from the railway companies, and have gone to other localities to work on sugar estates. The public beggars are thus reduced to a certain number of women and children who have acquired the habit of begging.

With a part of the means which your excellency has seen fit to place at my disposal, and which will, I trust, be increased as far as possible, I shall assist in the establishment of zones of cultivation. On this subject I propose, within a few days, to communicate my views to your excellency at greater length, and also with regard to the ease with which, by a small increase of these means, the orphan children may be housed in charitable institutions, so that the boys may be taught trades whereby they may earn their livelihood, and the innocence of the girls may be protected; and that both boys and girls may be taught good habits and obedience to the precepts of religion, and regard for social requirements.

I thus conclude this report, offering your excellency the assurance of the gratitude of the people of Matanzas for the very great benefits which you have conferred upon them by furnishing them means for the relief of all these needs, in which I have had the satisfaction to be the instrument used in your excellency's patriotic and beneficent work.

FRANCISCO DE ARMAS,
Governor of Matanzas.

GOVERNMENT OF THE WESTERN REGION AND OF THE PROVINCE OF HAVANA.

[Extract.—Translation.]

With the first means placed by your excellency at the disposal of the governors of provinces, and owing to the noble and lofty language in which you urged public opinion to aid in the relief of so much misery, the whole appearance of affairs has changed. This money, judiciously distributed, and employed by the mayors recently appointed, has restored to life, and with it, to the hope of better times, those who were looking with utter indifference for the approach of death. Those who have survived are now being fed and clothed, and have a roof over their heads, and the alcaldes (mayors) and inhabitants of the towns, encouraged by your excellency's noble example, are vying with each other in aiding these unfortunate people.

There are municipal districts in this province, such as that of San Jose de la Sajas, in which the charity of the inhabitants suffices, without any external aid, to feed more than 4,000 reconcentrados of that and other localities. In Havana three asylums have been organized, in which lodging, food, clothing, and shoes are given to more than 800 persons, mostly women and orphan children; and the people have responded to the call of the junta of reconcentrados appointed by your excellency by furnishing money to aid the Government in its charitable undertaking. If these contributions are not large it is due to the fact that charity is necessarily limited by the means of those practicing it, and it must be remembered that this city maintains, without any assistance from the Government, numerous dispensaries, in which not less than 8,000 children are taken care of and fed. I would not be true to my duty if I failed to mention the abundant aid sent us by the people of the United States, and which, though at first confined to this city, is now beginning to reach the most distant towns of the province.

More than 12,000 persons are receiving assistance daily in Havana, and every week or fortnight in the interior of the province, and it has already put an end to the

want and misery in many places. The result of these public efforts and of your excellency's generous initiative is that, although the problem is not yet entirely solved, the frightful hunger, famine, and mortality have ceased. In some places it has returned to its normal state, and in those most heavily stricken it does not exceed 10 per cent or 15 per cent. But in spite of what has been done and of your excellency's noble exertions, it must be confessed that the problem is not solved. Neither the chests of the treasury nor private charity are inexhaustible, and the fate of these unfortunate people now depends exclusively upon the two. The problem, I repeat, is a very serious one, and its solution claims your excellency's most earnest attention.

JOSE BRUZON,
Governor of the Western Region and of the Province of Havana.

OFFICE OF THE GOVERNOR-GENERAL OF THE ISLAND OF CUBA.

[Extracts.—Translation.]

In the midst of the painful impression which is caused by the situation of the reconcentrados, no less can be done than to recognize the improvement which is observable, comparing their present state with the situation of four or five months ago.

The General Government, seeking to respond and cooperate with the lively interest which the Government of the mother country showed in the matter, proposed from the outset to exert all possible efforts to diminish the burden of so much misery and misfortune. The cities, overflowing with men, women, and children without work and without means of subsistence, could not give to an abnormal excess of population which only consumed without producing. The destruction and burning by the insurgents of so many villages forced their unfortunate inhabitants to seek shelter in the cities in order to save their lives, the only thing they could save from such barbarous and needless destruction, which had reduced them to the most frightful misery. In Puerto Principe it may be said that all of the reconcentrados were of this class.

The diseases due to such herding of human beings in masses, and the inexorable belief that a sure and inevitable death awaited them, deprived many of them of the needful energy to struggle for existence and discouraged private charity, which deemed itself impotent without the positive aid of official charity. Other considerations of a more melancholy character may be adduced in explanation of a certain passive resistance among some classes, for whom every reconcentrado was a more or less disguised enemy, but they have nothing to do with the case, nor need we expatiate thereon. The result of all this was a positive hopeless problem, and the more so as the need of finding a solution for it appeared day by day more urgent.

The measures taken by the General Government were directed to combating the evil in its origin. By the executive order of the 14th of November last, all the reconcentrados were permitted to return to their farms, being authorized to bear arms for the defense of their property. In this way the cities were relieved of the excessive burden of an overflowing and unsupportable population, while the diseases necessarily caused by such an agglomeration were dispelled. Boards of relief were organized, lending their intervention to the clergy, to the physicians, and to all helpful and useful classes. Within a few days after the establishment of these boards official charity furnished resources, $100,000 being distributed on the 23d of November and $50,000 on the 2d of March. The zeal of the local governors and alcaldes was invoked, those authorities being invited to set an example, which they have done with a devotion worthy of all praise. In this manner private charity, being stimulated and with the confidence of official support, likewise took active measures, organizing productive boards, economical kitchens, and beneficent associations for the personal distribution of relief, thus contributing very greatly to the alleviation of the suffering.

By all this the public spirit was revived, confidence was restored, and therewithal the disposition to work. In Santa Clara there are at the present time a large number of these unfortunate people who are engaged in field work. To avoid their agglomeration in the cities, whither they took refuge for the night without shelter, huts were constructed in the zones of cultivation, with excellent results. In Pinar del Rio the construction of five villages was undertaken, and successful attempts are being made to increase agricultural labor. In Santiago de Cuba the zones of cultivation are in perfect condition, of which those of San Luis, Songo, and Caney may be taken as models. In Matanzas a gratuitous distribution was made of 10,000 railway tickets to

the reconcentrados, who returned to their former homes. The gravity of the crisis is steadily diminishing, although the trouble lies so deep that it can not be speedily settled.

Setting aside all preconceived ideas, it is just to recognize that the relief which comes from the United States is also a powerful auxiliary under the actual circumstances. Forty thousand dollars, according to the estimates of the governor of this province of Habana, is the value of the food, clothing, medicine, etc., which has been distributed in this city during the month of February last, thus contributing greatly to the improvement of the general situation of the large number of reconcentrados here.

The decrease of the population is a melancholy fact. But it is likewise proper to examine the why and wherefore of this decrease, which is not at all due exclusively to destitution and abandonment. It may be said that emigration has, after a fashion, depopulated the cities. In Santiago de Cuba alone 12,000 passports have been issued. Neither do the statistics of mortality, with their elevated figures, show that the scarcity of nourishment has been the sole cause of so large a number of deaths, because it is observed that the greatest number of deaths have occurred precisely on the days following the coming to the camp of new bodies of reconcentrados, who, without heeding the counsel and watchfulness of the physicians, prevail by their importunities upon the soldiers and other thoughtlessly charitable persons to give them food and bread in abundance, which, in their condition of extreme debility, occasions their death.

The situation being thus summed up in a few words, it may be affirmed that it has considerably improved and that the sharpness of the crisis is passing; but nevertheless the problem has not been solved, because the majority of the persons who are to-day living under the shelter of public and private charity are children or women for whose future provision must be made. Warfare, which always leaves profound ravages, demands much time and assiduous labor to repair the evils which it causes in a single day.

RAMON BLANCO.

Mr. Day to Señor Polo de Bernabé.

DEPARTMENT OF STATE,
Washington, March 27, 1898.

DEAR MR. MINISTER: I am in receipt of your favor of the 25th instant, informing me that you had telegraphed to Spanish consul at New Orleans, ordering him to dispatch in ballast the vessel conducting to Matanzas Mr. Albert Miller's supplies, and had received reply that such instructions would be complied with. In note of same date I informed you of name of vessel and expected time of sailing.

Accept my thanks for your prompt action in this matter, and believe me,

Very truly, yours, WILLIAM R. DAY.

Mr. Woodford to the President.

Nos. 58, 59.] LEGATION OF THE UNITED STATES,
Madrid, March 27, 1898.

DEAR MR. PRESIDENT: Yesterday, March 26, I telegraphed you in cipher, as follows:

"MADRID, *March 26, 1898.*

"President MCKINLEY, *Washington:*

"My personal No. 58. This morning I got memorandum from Spanish minister for foreign affairs. I telegraph verbatim all that refers to steamer *Maine.* The balance of memorandum is exactly what I telegraphed in my personal No. 56.

"At the time the cabinet was informed of the conference which had taken place on the afternoon of Wednesday, March 23, at the residence of the minister of state, between the latter, the minister for the colonies, and the United States minister, it was in possession of news somewhat altering the bearings of the questions briefly treated in the course of that interview.

"It now appears that the captain of the U. S. cruiser *Maine* has asked leave to destroy with dynamite the wreck of his ship, thus annihilating the only proofs which, in case of doubt or disagreement, could be again examined in order to determine, if necessary, the cause and nature of a catastrophe in the midst of which Spanish sailors and officials displayed the greatest abnegation and oblivion of all personal risks and a generous wish to circumscribe or diminish the dreadful calamity which befell the crew of the American vessel.

"Even without seeing in the request of the captain of the *Maine* any other meaning than that personally expressed in the petition signed by him, the Spanish Government considers as utterly unjustifiable and inadmissible the resolution which submits to a political assembly the report drawn up by the official American board of inquiry on the causes and circumstances of the blowing up or explosion of the *Maine*. As yet nothing is known of the report of the Spanish commission. After having invited in vain the United States naval officers to take part in its labors and go through the necessary investigations conjointly with its members, it has finished and drawn up its conclusions with a complete knowledge of the scene of a disaster so deplorable and painful for all Spaniards. One of the principal, if not the principal, basis of judgment is therefore wanting for every individual or body of men who may wish to weigh the facts with perfect impartiality. Under these circumstances, to place before a popular deliberating assembly, without correction, explanation, or counterproof of any kind, a report which, issued by the fellow-citizens of the members of that body, must necessarily meet with approval, inspired rather by sentiment than by reason, is not only to resolve beforehand a possible future discussion, but apparently reveals an intention of allowing national enthusiasm, commisseration, or other like natural and comprehensible feelings, so frequently found in all numerous and patriotic assemblies, to form an *a priori* judgment not founded on proof and to reject, before even knowing its terms, any affirmation which may give rise to doubt or seem distasteful.

"The most elementary sense of justice makes it in these cases a duty previously to examine and discuss in an atmosphere of absolute calmness two different inquiries tending to one common end. Only in the supposition of an irreconcilable discrepancy or complete opposition between one and the other would it be proper to submit them as equity demands to evidence less prone to prejudice and, if necessary, to fresh investigations and different judges."

Spanish memorandum ends here.

Minister for the colonies will be at my residence to-night. Will telegraph you probably to-morrow, Sunday.

WOODFORD.

Señor Moret called at my residence last evening, and after pleasant but brief conference, in which he said that Señor Sagasta, the president of the council, would be glad to talk with me informally on the subject of an immediate suspension of hostilities in Cuba through the means of an armistice or truce, I told him that I would lay the matter before my Government, and would be glad to meet Señor Sagasta as soon as I should receive the necessary authority.

I have to-day, Sunday, telegraphed Judge Day officially. That telegram will be on the files of the State Department and therefore I have not telegraphed you personally to day.

Faithfully, yours,

STEWART L. WOODFORD.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Sunday, Washington, March 27, 1898.

Believed the *Maine* report will be held in Congress for a short time without action. A feeling of deliberation prevails in both houses of Congress. See if the following can be done:

First. Armistice until October 1. Negotiations meantime looking

for peace between Spain and insurgents through friendly offices of President United States.

Second. Immediate revocation of reconcentrado order so as to permit people to return to their farms, and the needy to be relieved with provisions and supplies from United States cooperating with authorities so as to afford full relief.

Add, if possible:

Third. If terms of peace not satisfactorily settled by October 1, President of the United States to be final arbiter between Spain and insurgents.

If Spain agrees, President will use friendly offices to get insurgents to accept plan. Prompt action desirable.

DAY.

Mr. Woodford to Mr. Day.

No. 193.] LEGATION OF THE UNITED STATES,
Madrid, March 27, 1898.

SIR: I have the honor to acknowledge the receipt on March 26 instant of telegraphic dispatch in cipher from the Department, dated March 25 instant, and which I translate as follows:

WASHINGTON, *March 25, 1898—Midnight.*

WOODFORD, *Minister, Madrid:*

The President's desire is for peace. He can not look upon the suffering and starvation in Cuba save with horror. The concentration of men, women, and children in the fortified towns, and permitting them to starve, is unbearable to a Christian nation geographically so close as ours to Cuba. All this has shocked and inflamed the American mind, as it has the civilized world where its extent and character are known. It was represented to him in November that the Sagasta Government would at once relieve the suffering and so modify the Weyler order as to permit those who were able to return to their homes and till the fields from which they had been driven. There has been no relief to the starving, except such as the American people have supplied. The concentration order has not been practically superseded. There is no hope of peace through Spanish arms. The Spanish Government seems unable to conquer the insurgents. More than half the island is under control of the insurgents. For more than three years our people have been patient and forbearing. We have patrolled our coasts with zeal and at great expense, and have successfully prevented the landing of any armed force on the island. The war has disturbed the peace and tranquillity of our people. We do not want the island.

The President has evidenced in every way his desire to preserve and continue friendly relations with Spain. He has kept every international obligation with fidelity. He wants an honorable peace. He has repeatedly urged the Government of Spain to secure such a peace. She has still the opportunity to do it, and the President appeals to her from every consideration of justice and humanity to do it. Will she? Peace is the desired end. For your own guidance the President suggests that if Spain will revoke concentration order and maintain the people until they can support themselves and offer to the Cubans full self-government, with reasonable indemnity, the President will gladly assist in its consummation. If Spain should invite the United States to mediate for peace, and the insurgents would make like request, the President might undertake such office of friendship.

DAY.

Last evening, and before the receipt of your telegram, which I have translated as above, the minister of colonies called at my residence and said that Señor Sagasta, the president of the council, would be glad to talk with me informally on the subject of an immediate suspension of

hostilities in Cuba through the means of an armistice or truce. I told him that I would lay the matter before my Government and would be glad to meet Señor Sagasta as soon as I should receive the necessary authority.

Accordingly, I have to-day telegraphed you in cipher as follows:

MADRID, *March 27, 1898.*

Assistant Secretary DAY, *Washington:*

Telegraphic instructions, signed "Day," dated March 25, received Saturday evening, March 26. Do the words "full self-government" mean actual recognition of independence, or is nominal Spanish sovereignty over Cuba still permissible?

Instruct me fully as to what the words "with reasonable indemnity" mean and imply.

Under Spanish constitution, ministry can not recognize independence of Cuba or part with nominal sovereignty over Cuba. Cortes alone can do this and Cortes will not meet until April 25. If I can secure immediate and effective armistice or truce between Spanish troops and insurgents, to take effect on or before April 15, will this be satisfactory?

It is possible that I may induce Spanish ministry to submit the question of an early and honorable peace to the Cuban Congress, which will meet at Havana on May 4, and that Spanish Government will give such Cuban Congress all necessary authority to negotiate and conclude peace, provided such authority shall not diminish or interfere with the constitutional power vested by the Cuban constitution in the central government. If I can secure these two things with absolute and immediate revocation of concentration order may I negotiate? I believe that an immediate armistice means present and permanent peace. Also I believe that negotiations once open between insurgents and the Cuban government some arrangement will be reached during the summer which the Spanish home Government will approve, and that Cuba will become practically independent or pass from Spanish control. President of council of ministers wishes personal interview as to armistice, but I will not see him until after I get your reply to this telegram.

WOODFORD.

I have, etc.,

STEWART L. WOODFORD.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 28, 1898.

Your cable 27th received. Full self-government with indemnity would mean Cuban independence. As to other matters see Sunday's telegram. Very important to have definite agreement for determining peace after armistice, if negotiations pending same fail to reach satisfactory conclusions.

DAY.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 28, 1898.

Important to have prompt answer on armistice matter.

DAY.

Señor Polo de Bernabé to Mr. Day.

LEGATION OF SPAIN,
Washington, March 28, 1898.

DEAR MR. DAY: With reference to my letter of the 26th instant, I have the honor to inclose you some documents referring to the reconcentrados.

Very truly, yours, LUIS POLO DE BERNABÉ.

COMMITTEE OF MATANZAS.

[Extract.—Translation.]

The executive committee of the junta of reconcentrados has the honor to give your excellency the report which you were pleased to call for with regard to the work which it has done from January 7 to date, and it does so with sincere pleasure, in view of the results which have been attained in behalf of the poor country people residing here.

The committee has perseveringly prosecuted its work of saving the greatest number possible, either by furnishing them assistance in sickness or by giving food to the most feeble. At present, owing to circumstances, the appearances presented by the people confined (reconcentrada) has changed completely. It is true that there are still many who live by begging, but this is an evil which can not be entirely remedied, first, because there is not a sufficient supply of food for all, and, secondly, because, until work is given to these unfortunate people, they will have to continue to live in the same way, accustomed as they are to this kind of life, which they have been leading and bearing for years past.

The junta is now maintaining the following infirmaries: La Caridad, with 93 beds; San Carlos, with 64 beds, and the Providencia, with 85 beds; a hall in the San Nicolas Hospital, with 48 beds, and a hall in the Santa Isabel Hospital, with 30 beds. The junta bears all the expenses of the first three, and pays the San Nicolas Hospital 15 cents a day and the Santa Isabel Hospital 25 cents a day for each patient. Now, within the last two months the movement of invalids has diminished very perceptibly; and this must be attributed, in great part, to the food which the junta has been enabled to give to the reconcentrados during that time. For instance, 1,700 rations were distributed daily at the houses Nos. 156 and 293 Mayuno street, No. 14 Maria street, and No. 6 Gelabert street for forty-seven days; and this, beyond a doubt, prevented the suffering which it was feared the cold weather would cause among the reconcentrados if they were not supplied with food. The committee was obliged to suspend the distribution of rations, owing to the fact that the means at its disposal were exhausted.

All the disbursements made by the committee from January 7 to date, for the infirmaries and the distribution of rations, amount to $1,326.50 in gold and $4,534.69 in silver. In addition to this $1,056.47 in gold and $2,126.10 in silver has been spent in the work which has been done, at the cost of the junta, in enlarging the San Nicolas Hospital, in order that it might hereafter admit a greater number of patients, as unfortunately, as had been long foreseen, a considerable part of the inhabitants will be compelled to apply to it for help in sickness, owing to want of means. As the work is almost finished some of the infirmaries may now be closed, and, although your excellency knows it, it is not superfluous to state that this work which has been executed consists of two two-story wings, each of which will contain two fine halls capable of accommodating 200 patients altogether. As only women can be received there, all the women in the other infirmaries will be sent to this hospital. The work has been done with great care, and such has been the good management and watchfulness displayed that it seems incredible, as your excellency may be assured, that it should have cost so little. Your excellency may well be satisfied with the construction of these wings at the San Nicolas Hospital. They will remain a permanent demonstration of the efforts put forth by the present Government.

The sums received since the 7th of January are as follows: Turned over by your excellency, on account of the money placed at your disposal by his excellency the Governor-General, $5,000 in silver; private donations, $4.24 in gold and $2 in silver. Total, $4.24 in gold and $5,002 in silver. The expenditures greatly exceed the receipts. The difference has been paid out of money in the hands of the junta, coming almost

entirely from the public subscription raised for that purpose. In view, necessarily, of what has already been collected; and of the individual efforts made to provide food for the poor, it has been impossible to ask for anything from public charity during the period in question.

The amount now in hand is only $131.41 in gold and $20 in notes, from which must be deducted $42.40 in gold and $32 in silver, which is owing for the rent of the houses occupied by La Providencia, and which is now due.

ALVARO LAVASTIDA.

OFFICE OF THE CHIEF OF POLICE OF THE GOVERNMENT OF THE PROVINCE OF MATANZAS.

[Translation.]

I have the honor to inform you, as the result of my observations in the towns of Cardenas, Cervantes, and Colon, which I have recently examined, that the general condition of those towns has considerably improved. The reconcentrados have mostly gone to the mills and colonies where they can find work, and there remain in the towns only their families (though not all), the invalids, the sick, and the orphans, whom the local protective juntas are helping with clothing and provisions. I noticed, with sincere gratification, that the estates in the country are beginning to resume their agricultural operations, which necessitates the employment of laborers; and although some of them have not yet begun, this is owing to the want of oxen and carts for transportation. I received from all the places mentioned the best impression as to the general state of the country, but the place which presented to my view the most sublime spectacle—for, your excellency, charity properly exercised is sublime—was the town of Colon.

The alcalde and military commandant, Don Olandio Herrero, whose popularity there is beyond expression, invited me to be present at the distribution of the food, which is given every morning and evening to the reconcentrados and the other poor people of the place. About 240 persons (old men, women, and children) were supplied with a well-assorted ration. The good order and justice with which this distribution is made by Señora Da Luz Rueda de Escobar and her sister, Señorita Florentina, who in person and with boundless care and self-sacrifice prepare the food in their own house, thereby earning the congratulations and admiration of the town, are most admirable. I thought this act of humanity deserving of all praise, and said so, and thanked them in your excellency's name. Señor Herrero voluntarily furnished me with all the information necessary to enable me to form a correct opinion of the comparatively excellent condition of those reconcentrados and poor people, including the cultivated belt, which information I do not give for fear of trespassing upon your valuable time.

All of which I take pleasure in communicating to your excellency.

MIGUEL VIRANCO.

OFFICE OF THE CHIEF OF POLICE OF THE PROVINCE OF MATANZAS.

[Extract.—Translation.]

On the occasion of my journey to the town of Jovellanos I was enabled to learn the condition of the reconcentrados in that place and in the town of Limonar. In the latter place the cultivated belt extends two kilometers and a half to the north of the town, and furnishes work and the means of subsistence to all, to such an extent that provisions are exported to this city and to Havana from this cultivated belt. All are lodged, and out of 7,000, which was the number of the reconcentrados, only about 200 had died of fever and other diseases, and none of hunger or want. As regards Jovellanos, there are very few reconcentrados remaining there, and these have work enough to support life without having recourse to charity.

They are all lodged; not one has died of hunger; and recently about 400 of these reconcentrados went off to work in the mills. The few persons dependent on alms remaining at the places of assemblage are orphans or invalids. Their situation is consequently good, thanks to the measures of preservation adopted by your excellency.

All of which I take pleasure in reporting.

MIGUEL VIRANCO.

COMMITTEE OF MATANZAS.

[Extract.—Translation.]

This executive committee of the junta of reconcentrados has the honor and pleasure of giving your excellency an account of the work which it has done in the fulfillment of its mission; and it does so in obedience to the directions of your excellency, which you were pleased to communicate to it in your kind note of the 3d instant. Little has been done, your excellency, in proportion to the wants which are to be supplied; but much has been done in proportion to the means which, until very recently, have been at its disposal. Still your excellency, as the committee thinks, may be assured that the junta whose presidency applauded the proclamation of November 13 is the one which has accomplished most, and is, beyond a doubt—why should it not say so?—the one which has been most sensible of the lofty duties intrusted to it. The facts prove the truth of this assertion, which the undersigned, who have the honor to belong to that same junta, venture to make openly. The care of the reconcentrados of Matanzas was intrusted to this junta. Let us see what was its situation before it began its operations and what is its situation now.

The Government took the initiative by giving them provisions, consisting, at first, of 125 grams of rice and 150 grams of hung beef for each person; and the junta first received 1,000 of these rations, which it attempted to distribute to the most needy. Their deficiency in quantity induced it to request that the rations should be increased to 2,000; and these other 1,000 rations which were obtained consisted of 200 grams of rice and 100 grams of bacon, crackers, sugar, and coffee. Altogether, with these supplies, the junta managed to feed more than 3,000 persons. As there was no register of the reconcentrados in Matanzas, the junta undertook to make a complete list of them, in order to decide with the utmost strictness and justice who were most in need of immediate assistance. As it could rely upon having food for the most needy, the committee turned its attention to the establishment of infirmaries in which the sick reconcentrados could be assisted and taken care of. It established the first of these infirmaries, La Caridad, with 92 beds, which it still has, and proceeded to establish others. The General Government appropriated the sum of $10,000 in silver for the relief of the reconcentrados in the whole province; and your excellency, in distributing this amount in proportion to the necessities of each locality, and to what the local juntas had previously asked for, in proportion to their needs, appropriated the sum of $4,000 to the junta of its presidency.

With this assistance, the committee, without loss of time, completed the establishment of the second infirmary, called San Carlos, with 60 beds; it established the third, La Providencia, with 80 beds. Appreciating the importance of having other places adapted to the same use, the committee made an agreement with the board of managers of the San Nicolas Hospital that the hospital should receive patients in its wards, at the expense of the committee, at the small daily charge of 15 cents in silver each, without medicines, and it is now receiving 55 sick reconcentrados. This has already been accomplished in behalf of the sick, and there is still remaining the establishment of a special infirmary for children, and the completion of two wards in the San Nicolas Hospital, which are in course of construction, and which will accommodate 90 to 100 more patients. This work, in addition to the great advantage of giving present relief to the reconcentrados, will be a lasting memento of the existence of the junta. The junta is now supporting more than 300 patients, supplying them with the food adapted to their condition, with medicines, with medical attendance, and, in many cases, with the clothes with which they leave the infirmaries. And even after these patients are discharged, it is necessary to continue to feed many of them, and hence it follows that the sick, and some 200 persons besides, are being fed in the three infirmaries.

In spite of all this, the committee has begun to give food to some poor people, and 100 of them are now daily receiving a ration sufficient for themselves and their families. There is still more to be done, and I therefore request your excellency to call the attention of his excellency the Governor-General to this subject, that he may supply the junta of this presidency with the means of feeding at least 800 to 1,000 persons, as the committee will provide for the support of the infirmaries with the money which it has received from public charity and that which it may receive hereafter from the same source. At present those receiving rations may be limited to this number, as many of the poor people who were in Matanzas formerly have gone into the country in search of work. The railroad companies of Matanzas, Havana, Cardenas, and Jucaro, when called upon, granted free transportation to such reconcentrados as might wish to return to the country; and by means of this permit, which was limited to the month of December, 3,402 persons have left for the various stations on those lines, and they are now at work. In conclusion, your excellency, I will make a statement which will enable you to appreciate the exer-

tions put forth by the junta and its committee. As soon as the infirmaries were opened 763 patients entered them. Of this number 270 have gone out cured, 182 have died, and 311 still remain in them. The junta is sufficiently rewarded for its exertions by these facts alone. It may be confidently assumed that all these patients would have died if they had not had the careful attention which has been bestowed upon them.

LICENTIATE BRAULIO DE ORNE,
President of the Committee.

Mr. Day to Señor Polo de Bernabé.

DEPARTMENT OF STATE,
Washington, March 28, 1898.

DEAR MR. MINISTER: I have to acknowledge receipt of your note of 26th instant, informing me that you had telegraphed to H. E. the Governor-General of Cuba, advising him of the arrival at Matanzas of the Norwegian steamer *Ulstein*, and requesting that all possible facilities and franchises be extended to that vessel, provided the cargo only contains goods for the relief of the reconcentrados.

Accept my thanks for your courtesy and prompt cooperation in this matter, and believe me,

Very truly, yours, WILLIAM R. DAY.

Señor Polo de Bernabé to Mr. Day

ROYAL SPANISH LEGATION,
Washington, March 28, 1898.

DEAR MR. DAY: In the conferences I have had the honor and the pleasure to have with you on the 24th, 27th instant, and to-day, you expressed me the desire of the President to send to Cuba supplies for the reconcentrados (the amount of the same to be appropriated by Congress), with the understanding that the conveyance and distribution of the same shall be made exactly under the same conditions than those strictly private contributions which have been sent until this date.

I declared you to-day in the name of His Majesty's Government that Spain would not object to this humanitarian undertaking, provided that there would not be any change whatever in the existing arrangements respecting these matters.

In order to prevent any future misunderstanding, I would be greatly obliged to you if you should reply me with a few lines, and I remain, dear Mr. Day,

Very truly and faithfully, yours,

LUIS POLO DE BERNABÉ.

Mr. Day to Señor Polo de Bernabé.

DEPARTMENT OF STATE,
Washington, March 28, 1898.

DEAR MR. POLO: I am in receipt of your note of the 26th instant, inclosing extracts from official reports about the situation of reconcentrados in the island of Cuba, for which accept my thanks.

I had the pleasure of handing to you yesterday at the Department copy of the report of the commission, which I promised you in recent conversation, and to which you refer in your note of the 26th instant.

Very truly, yours, WILLIAM R. DAY.

Mr. Woodford to the President.

[Telegram.]

MADRID, *March 29, 1898.*

No. 60. Have had conference this afternoon, Tuesday, with the president of the council, the minister for foreign affairs, and minister for colonies. Conference adjourned until Thursday afternoon, March 31. I have sincere belief that arrangement will then be reached, honorable to Spain and satisfactory to the United States, and just to Cuba. I beg you to withhold all action until you receive my report of such conference, which I will send Thursday night, March 31.

WOODFORD.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 29, 1898.

Your No. 60 just received. It is of the utmost importance that the conference be not postponed beyond next Thursday and definite results then reached. Feeling here is intense.

DAY.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 30, 1898—10.15 a. m.

Your No. 60 is encouraging, but vague as to details. The United States can not assist in enforcement of any system of autonomy.

DAY.

Nos. 60, 61.] *Mr. Woodford to the President.*

LEGATION OF THE UNITED STATES,
Madrid, March 29, 1898.

DEAR MR. PRESIDENT: Yesterday afternoon, March 28th, I had official interview with Minister Gullon. Read to him the summary of report by American naval board on the loss of the *Maine*, and left with him an official note giving such summary and stating the position of

the United States. I reported this interview officially to Secretary Sherman in my dispatch to the State Department, No. 194.[1]

I then asked the Spanish minister for foreign affairs for a conference this afternoon between himself, Señor Sagasta, president of the council, Señor Moret, and myself. Last evening I received his reply, appointing such interview for 4 o'clock this (Tuesday) afternoon at the president's office. The conference has been held. I spoke to them through Señor Moret as interpreter and opened by reading to them the following statement:

The President instructs me to have direct and frank conversation with you about present condition of affairs in Cuba and present relations between Spain and the United States.

The President thinks it is better not to discuss the respective views held by each nation. This might only provoke or incite argument and might delay and possibly prevent immediate decision.

The President instructs me to say that we do not want Cuba.

He also instructs me to say, with equal clearness, that we do wish immediate peace in Cuba. He suggests an immediate armistice, lasting until October 1, negotiations in the meantime being had looking to peace between Spain and the insurgents, through the friendly offices of the President of the United States.

He wishes the immediate revocation of reconcentration order, so as to permit the people to return to their farms, and the needy to be relieved with provisions and supplies from the United States, the United States cooperating with the Spanish authorities, so as to afford full relief.

I then paused, and waited for President Sagasta's reply.

He said that he agreed with you in thinking any discussion of the respective views held by the two nations to be inopportune and useless at such a conference.

He spoke first of the condition of the reconcentrados, calling my attention to the fact that this condition was inherited from the old ministry; then stated that the present government is arranging to furnish employment for such as are able to work, and to supply the necessities of the feeble men and of the women and children. He made no serious objection to the United States assisting in this work of charity, and gave me to understand that this part of your request would be promptly and satisfactorily met.

He then mentioned the loss of the *Maine*, and expressed his appreciation of the manner in which you had presented the subject to Congress, and added that he believed your method of dealing with this question would enable the two Governments to examine and adjust the matter in some way honorable and fair to both nations.

He then took up the question of the armistice, saying that he is in thorough accord with you in desiring early and honorable peace. He suggested that there are difficulties in the Spanish situation here in the Peninsula which I, as a stranger, could hardly understand, which made it almost impossible for the Spanish Government to offer such an armistice, but that if it were asked by the insurgents it would be at once granted; that the insular congress would meet on May 4, when the insular government could make such a proposition; that only six weeks would intervene before that time, and he hoped that the United States, which had waited so long, would now wait for these few weeks; that the offer of autonomy had been accompanied by firm declaration that Spain would employ military operations in aid of civil reforms; that these operations are now being successfully conducted, and that he

[1] See page 999.

hoped that the rebellion would be largely reduced before the Cuban Congress met.

I replied substantially that the sober sense of the American people insisted upon immediate cessation of hostilities; that the recent speech of Senator Proctor, who is one of the most conservative and reliable of our public men, had so convinced American public sentiment that longer prosecution of the war must now be prevented.

I then asked them for an answer to the two suggestions which I had made, and upon their saying that they would give the matter careful consideration, but that they must have full time for deliberation, I told them, with all possible kindness of manner and courtesy of language, that I hoped to have a further interview with them on Thursday afternoon of this week, March 31, when I trusted I should receive satisfactory reply to my suggestions.

They as politely demurred to the brief space of time, when I told them that I had intended to leave your requests with them in writing, but in order to avoid all appearance of compulsion I would not do so, but should hope on Thursday afternoon, in an adjourned conference, to receive satisfactory proposals from the Spanish Government on the line of your requests.

They reluctantly agreed to meet me on Thursday afternoon at the president's office.

I then sat down at Señor Sagasta's desk and wrote the following telegram, which I have sent to you in cipher:

MADRID, *March 29, 1898.*

President MCKINLEY, *Washington:*

No. 60. Have had conference this afternoon, Tuesday, with president of the council, the minister for foreign affairs, and minister for colonies. Conference adjourned until Thursday afternoon, March 31. I have sincere belief that arrangement will then be reached honorable to Spain and satisfactory to the United States and just to Cuba. I beg you to withhold all action until you receive my report of such conference, which I will send Thursday night, March 31.

WOODFORD.

I had Señor Moret read this telegram and translate it twice to his colleagues, so there could be no misunderstanding as to its language and meaning.

MADRID, *March 30, 1898.*

I wrote thus far yesterday afternoon after the conclusion of our conference. Last evening Señor Moret called at my residence, and said that he thought I had made positive and favorable impression on President Sagasta's mind; that the ministers would meet in council to-day for discussion; that a further meeting would be held to-morrow, March 31, under the presidency of the Queen, and that he hoped satisfactory adjustment would be reached at our adjourned conference to be held Thursday afternoon.

This (Wednesday) morning I get cipher dispatch from Secretary Day, instructing me that it is of the utmost importance that the conference be not postponed beyond to-morrow, and that definite results be then reached. I have just telegraphed him in cipher that there will be no delay beyond Thursday, March 31, and that if definite results are not then reached I shall close negotiations.

I have obeyed your instructions literally in stating to President Sagasta and his colleagues that you do not want Cuba. But I ought, with all respect and in the entire frankness with which you have permitted me to write you, to say that my judgment grows more strong each day that we shall probably have to accept the ownership and the responsi-

ble management of Cuba in order to establish permanent peace in the island. I have written you fully in the letters [Nos. 43, 44] which Mr. MacArthur will hand you at Washington some day this week explaining how and why my judgment has been changed in this regard from the view which I held last autumn, and even until early winter.

I am sure that you will give due consideration to what I have written so frankly and so fully, and you know how loyally I will try to carry out your views and wishes so long as I hold the trust with which you have honored me.

Faithfully, yours, STEWART L. WOODFORD.

Mr. Woodford to Mr. Day.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, March 30, 1898.

There will be no delay beyond Thursday, March 31. If definite results are not then reached, I shall close negotiations.

WOODFORD.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 30, 1898.

You should know and fully appreciate that there is profound feeling in Congress, and the gravest apprehension on the part of most conservative members that a resolution for intervention may pass both branches in spite of any effort which can be made. Only assurance from the President that if he fails in peaceful negotiations he will submit all the facts to Congress at a very early day will prevent immediate action on the part of Congress. The President assumes that whatever may be reached in your negotiations to-morrow will be tentative only, to be submitted as the proposal of Spain. We hope your negotiations will lead to a peace acceptable to the country.

DAY.

Mr. Woodford to Mr. Day.

No. 195.] LEGATION OF THE UNITED STATES,
Madrid, March 30, 1898.

SIR: In continuance of my dispatch, No. 193, and dated March 27 instant, I have now the honor to acknowledge receipt of four dispatches in cipher, as follows:

I.

Dispatch which reached me March 28 instant, at half past 9 in the morning, and which I translate as follows:

WOODFORD, *Minister, Madrid:*

Believe the *Maine* report will be held in Congress for a short time without action. A feeling of deliberation prevails in both Houses of Congress. See if following can be done:

First. Armistice until October 1, negotiations meantime looking to peace between

Spain and the insurgents through friendly offices of the President of the United States.

Second. Immediate revocation of reconcentration order so as to permit people to return to their farms and the needy to be relieved with provisions and supplies from United States, cooperating with authorities so as to afford full relief.

Add if possible:

Third. If terms of peace not satisfactorily settled by October 1, the President of the United States to be final arbiter between Spain and the insurgents.

If Spain agrees as above, President will use friendly offices to get insurgents to accept the plan. Prompt action desirable.

Sunday, March 27, 3 p. m.

DAY.

II.

Dispatch which reached me March 28 instant at half past 10 in the evening, and which I translate as follows:

WOODFORD, *Minister, Madrid:*

Your cable 27 received. Full self-government with indemnity would mean Cuban independence. As to other matters, see Sunday telegram. Very important to have definite agreement for determining peace after armistice if negotiations pending same fail to reach satisfactory conclusions.

DAY.

III.

Dispatch which reached me March 29 instant at 9.45 a. m., and which I translate as follows:

WOODFORD, *Minister, Madrid:*

The President's message with *Maine* report read in both Houses; referred without debate to Committees Foreign Affairs. The House adjourned.

Monday, 3 p. m. DAY.

IV.

Dispatch which reached me March 29 instant at 10 a. m., and which I translate as follows:

WOODFORD, *Minister, Madrid:*

Important to have prompt answer on armistice matter.

Monday night, 10. DAY.

V.

Dispatch which reached me this day, March 30, at 10.07 a. m., and which I translate as follows:

WOODFORD, *Minister, Madrid:*

Your No. 60 just received. It is of the utmost importance that the conference be not postponed beyond next Thursday, and definite results then reached. Feeling here is intense.

Tuesday night, 9 o'clock. DAY.

Monday afternoon, March 28 instant: At close of my official interview with Spanish minister for foreign affairs in regard to the loss of the *Maine* and the report of American naval board thereon, and which interview I reported in my dispatch to Department, No. 194, dated March 28 instant, I asked the Spanish minister for early conference between himself, Señor Sagasta, the president of the council, Señor Moret, the minister for the colonies, and myself. This conference was held yesterday afternoon, March 29 instant, at President Sagasta's office. The minister for the colonies acted as interpreter.

I began by reading to them the following statement:

The President instructs me to have direct and frank conversation with you about present condition of affairs in Cuba, and present relations between Spain and the United States.

The President thinks that it is better not to discuss the respective views held by each nation. This might only provoke or incite argument, and might delay and possibly prevent immediate decision.

The President instructs me to say that we do not want Cuba.

He also instructs me to say with equal clearness that we do wish immediate peace in Cuba.

He suggests an immediate armistice, lasting until October 1, negotiations in the meantime being had looking to peace between Spain and the insurgents through the friendly offices of the President of the United States.

He wishes the immediate revocation of reconcentration order, so as to permit the people to return to their farms and the needy to be relieved with provisions and supplies from the United States; the United States cooperating with the Spanish authorities so as to afford full relief.

Here I stopped and waited for President Sagasta's reply.

He said that he agreed with me in thinking any discussion at our then interview touching the respective views held by the two nations to be inopportune and useless.

He spoke first of the condition of the reconcentrados. He called my attention to the fact that this condition had been inherited from the old ministry, and said that the present Government is arranging to furnish employment for such as are able to work and to supply the necessities of the feeble and of the women and children. He made no serious objection to the United States assisting in this work of charity, and gave me to understand that this part of our request would be met promptly and in satisfactory manner.

He then mentioned the loss of the *Maine*, and expressed his appreciation of the manner in which the President had presented the subject to Congress, and added that he believed our method of dealing with this question would enable the two Governments to examine and adjust the matter in some way honorable and fair to both nations.

He then took up the question of the armistice, saying that he is in thorough accord with the President in desiring early and honorable peace. He suggested that there are difficulties in the Spanish situation here in the Peninsula, which I as a stranger could hardly understand, which made it almost impossible for the Spanish Government to offer such an armistice, but that if it were asked by the insurgents it would be granted at once; that the Cuban congress would meet on May 4, when they could make such a proposition; that only six weeks would intervene before that time; that he hoped the United States, which had waited so long, would now wait for these few weeks; that we should remember that the offer of autonomy had been accompanied by the clear and firm declaration that Spain would employ military operations in aid of civil reforms; that these operations are now being successfully conducted, and that he hoped and believed the power of the rebellion would be largely reduced before the Cuban congress should meet.

I replied, in substance, that the sober sense of the American people insisted upon immediate cessation of hostilities; that we could not wait until the Cuban congress should meet; that practical and effective peace must come now, and at once. In this connection I referred to the recent speech of Senator Proctor. I said that I knew Senator Proctor well; that he had been a member of President Harrison's Cabinet; that

he is one of the most conservative and reliable of our public men, and that after his public and serious statement I could no longer conscientiously consent, on the part of my Government, to the slightest delay in securing immediate and effective peace.

I then asked the Spanish ministers for an answer to the two suggestions which I had made, and upon their saying that they would give the matter careful consideration, but that they must have full time for deliberation and consultation with their colleagues and the Queen Regent, I told them, with all possible kindness of manner and courtesy of language, that I hoped to have a further interview with them on Thursday afternoon of this week, March 31, when I hoped to receive satisfactory reply to my suggestions.

They demurred to the brief space of time, when I told them that I had intended to leave with them in writing a memorandum stating the President's request, but that in order to avoid all appearance or suggestion of compulsion I would not do so, but should hope on Thursday afternoon, at an adjourned conference to be then held, to receive satisfactory proposals from the Spanish Government on the line of the requests made by my President.

They agreed to meet me on Thursday afternoon, March 31, at the President's office for further and I trust final conference.

I then sat down at Señor Sagasta's desk and in his presence wrote the following telegram, which I sent to President McKinley that afternoon in cipher:

MADRID, *March 29, 1898.*

President MCKINLEY, *Washington:*

My No. 60. Have had conference this afternoon (Tuesday) with president of the council, the minister for foreign affairs, and minister for colonies. Conference adjourned until Thursday afternoon, March 31. I have sincere belief that arrangements will then be reached honorable to Spain and satisfactory to the United States and just to Cuba. I beg you to withhold all action until you receive my report of such conference, which I will send Thursday night, March 31.

WOODFORD.

Minister Moret read this telegram and translated it twice to his colleagues, so that there would be no misunderstanding as to its language and meaning.

The conference was then adjourned until Thursday afternoon, March 31, at 4 o'clock.

This (Wednesday) evening I received your cipher dispatch, which I translate as follows:

WASHINGTON, *March 30, 1898.*

WOODFORD, *Minister, Madrid:*

Your No. 60 is encouraging, but vague as to details. The United States can not assist in enforcement of any system of autonomy.

WEDNESDAY MORNING, 10 o'clock. DAY.

I will bear this instruction carefully in mind at my conference with the Spanish ministers to-morrow (Thursday) afternoon.

Very respectfully, yours,

STEWART L. WOODFORD.

Mr. Day to Señor Polo de Bernabé.

WASHINGTON, *March 30, 1898.*

DEAR MR. MINISTER: I have the honor to acknowledge receipt of your note of the 28th instant, referring to our recent conversations,

and informing me that His Majesty's Government would not object to the sending of supplies to Cuba for the reconcentrados, the amount of same to be appropriated by the Congress of the United States, provided that there would be no change whatever in the existing arrangements respecting conveyance and distribution of such supplies.

Thanking you for your prompt action and interest in this humanitarian undertaking, I remain, etc.,

WILLIAM R. DAY, *Assistant Secretary.*

Señor Polo de Bernabé to Mr. Day.

LEGATION OF SPAIN,
Washington, March 31, 1898.

DEAR MR. DAY: I have received at 1 o'clock a. m. a cablegram from his excellency the Governor-General of Cuba stating that the pacification of the western provinces is so considerably advanced that he has decided, in his capacity of commander in chief, to abrogate the reconcentration order. He has at the same time authorized the reconcentrados to return to the fields and resume their habitual pursuits under the protection of the authorities and local boards, that will take care to help those wanting means to work and cultivate their farms, providing others employment in public works that will be immediately undertaken. In order to regularly organize their living, at the least possible expense, economical kitchens will be established.

In communicating to you General Blanco's telegram I avail myself, etc.,

LUIS POLO DE BERNABÉ.

Mr. Day to Señor Polo de Bernabé.

WASHINGTON, *March 31, 1898.*

MY DEAR MR. POLO: I have your favor of to-day, stating the abrogation of the reconcentrado order. I am at a loss to know precisely whether the order has been abrogated entirely or simply as to the western provinces. I am also in doubt as to the meaning of the term "western provinces." May I ask you to kindly advise me whether it is meant to be stated that the reconcentrado order is entirely abrogated or only as to the western provinces; and, if the latter, what provinces are included in the general designation "western provinces?"

I am greatly obliged for your courtesy in so promptly transmitting to me your information of this important action, and I avail myself, etc.

WILLIAM R. DAY.

Señor Polo de Bernabé to Mr. Day.

LEGATION OF SPAIN,
Washington, March 31, 1898.

DEAR MR. DAY: The reconcentrados order has been entirely abrogated in what relates to the western provinces, and in this general designation the provinces of Havana, Matanzas, Santa Clara, and Pinar del Rio are included, to my belief. In these provinces peace generally

prevails, and that has permitted the important action taken by General Blanco, which proves once more the conciliatory and most liberal policy pursued by His Majesty's Government and the Queen's representatives in Cuba.

Believe me, etc., LUIS POLO DE BERNABÉ.

Mr. Woodford to Mr. Day.

No. 196.] LEGATION OF THE UNITED STATES,
Madrid, March 31, 1898.

SIR: I have the honor to report that this (Thursday) morning I received your cipher telegram, which I translate as follows:

WASHINGTON, *March 30, 1898.*

WOODFORD, *Minister, Madrid:*

You should know and fully appreciate that there is profound feeling in Congress and the gravest apprehension on the part of most conservative members that a resolution for intervention may pass both branches in spite of any effort which can be made. Only assurance from the President that if he fails in peaceful negotiations he will submit all the facts to Congress at a very early day will prevent immediate action on the part of Congress.

The President assumes that whatever may be reached in your negotiations to-morrow will be tentative only to be submitted as the proposal of Spain.

We hope your negotiation will lead to a peace acceptable to the country.

WEDNESDAY, 4 p. m. DAY.

I at once telegraphed you in cipher as follows:

MADRID, *March 31, 1898.*

Assistant Secretary DAY, *Washington:*

Received your dispatch dated Wednesday, 4 p. m., this morning. If Spanish Government accept our demands this afternoon without reservation or modification, I shall close negotiations on our terms. If there be the least modification, I will receive Spanish suggestions tentatively and report by cable to-night for decision by the President. I will neither embarrass the President nor diminish the just demands of our Government.

WOODFORD.

This afternoon at 4 o'clock I met the president of the council, the minister for foreign affairs, and the minister for the colonies in our adjourned conference. The minister for the colonies acted as interpreter, as before.

I have to-night telegraphed you so fully, giving account of our conference, that I quote my telegram here.

MADRID, *March 31, 1898.*

Assistant Secretary DAY, *Washington:*

Adjourned conference held this afternoon, Thursday. All present. President of the council handed me Spanish propositions in writing, which I translated in their presence. The minister for the colonies examined and approved my translation, which begins here.

CATASTROPHE OF THE MAINE.

Spain is ready to submit to an arbitration the differences which can arise in this matter.

RECONCENTRADOS.

General Blanco, following the instructions of the Government, has revoked in the western provinces the bando relating to the reconcentrados, and, although this measure will not be able to reach its complete developments until the military operations terminate, the Government places at the disposal of the Governor-General of Cuba a credit of 3,000,000 of pesetas, to the end that the country people may return at once and with success to their labors.

The same Government will accept, nevertheless, whatever assistance to feed and succor the necessitous may be sent from the United States, in the form and conditions agreed upon between that sub-Secretary of State, Mr. Day, and the Spanish minister in Washington.

PACIFICATION OF CUBA.

The Spanish Government, more interested than that of the United States in giving to the Grand Antille an honorable and stable peace, proposes to confide its preparations to the insular parliament, without whose intervention it will not be able to arrive at the final result, it being understood that the powers reserved by the constitution to the Central Government are not lessened and diminished.

TRUCE.

As the Cuban Chambers will not meet until the 4th of May, the Spanish Government will not, on its part, find it inconvenient to accept at once a suspension of hostilities asked for by the insurgents from the general in chief, to whom it will belong in this case to determine the duration and the conditions of the suspension.

Spanish propositions end here. I told them I would telegraph their propositions to Washington verbatim, but that I did not believe the proposition relating to suspension of hostilities would be acceptable, and that the insurgents would not ask for it.

We parted without any appointment for further conference. I said that I would communicate the reply of my Government to the Spanish minister of foreign affairs.

Thursday night, 10 o'clock.

WOODFORD.

I received all the propositions tentatively; did not commit my Government to any of them; promised to communicate all to Washington by telegraph, and expressly stated my belief that the one relating to suspension of hostilities would not be acceptable.

This proposition, taken in connection with the one relating to the "pacification of Cuba," does not mean immediate or assured peace. It means, when read with the other, continuation of this destructive, cruel, and now needless war.

I have written this in my own hand, as one of my two typewriters is sick, and the other is at work on the cipher dispatches I am sending to-night.

Very respectfully, yours, STEWART L. WOODFORD.

Mr. Woodford to the President.

Nos. 62, 63.] LEGATION OF THE UNITED STATES,
Madrid, April 1, 1898.

DEAR MR. PRESIDENT: Yesterday's conference was a sorrow to me, for I have worked hard for peace. Last night I telegraphed you as follows:

MADRID, *March 31, 1898.*

President MCKINLEY, *Washington:*

My No. 62. Have just telegraphed to the Department of State my official report of the adjourned conference held this afternoon, Thursday. It has turned, as I feared, on a question of punctilio. Spanish pride will not permit the ministry to propose and offer an armistice, which they really desire, because they know that armistice now means certain peace next autumn. I am told confidentially that the offer of armistice by the Spanish Government would cause revolution here. Leading generals have been sounded within the last week, and the ministry have gone as far as they dare go to-day. I believe the ministry are ready to go as far and as fast as they can and still save the dynasty here in Spain. They know that Cuba is lost. Public opinion in Spain has moved steadily toward peace. No Spanish ministry would have dared to do one month ago what this ministry has proposed to-day.

WOODFORD.

The Spanish ministers said yesterday that their statement went as far as they could possibly go. Perhaps this is true, but they said the same some weeks ago and yesterday they yielded on two points. First, they are willing to arbitrate the *Maine* matter. Some days ago they talked fight if we should even suggest that they were responsible for the loss of the *Maine*. Secondly, they revoke the reconcentrado order, and place a large sum at General Blanco's disposal for the relief of the necessitous. It is not long since they denied the very existence of the horrible conditions they now admit.

There is no real war spirit here among the middle and lower classes. Last September most of the people were ready for war. The war spirit has been diminishing steadily and now prevails only among the aristocracy, the political classes, and the generals and officers of the army. The army is still the controlling factor in Spanish politics, and the attitude of the army constitutes the real danger to-day.

Faithfully, yours,

STEWART L. WOODFORD.

Señor Polo de Bernabé to Mr. Day.

ROYAL SPANISH LEGATION,
Washington, April 1, 1898.

DEAR MR. DAY: I have just received a communication from the Spanish consul in New Orleans, informing me that at 11 o'clock in the night of the 30th he dispatched in ballast the steamer *Ulstein* with a cargo of provisions for the reconcentrados, excusing the said vessel from the payment of those duties for her dispatch out of hours which are ordered by article 11 of the tariff.

Very truly, yours,

LUIS POLO DE BERNABÉ.

Señor Polo de Bernabé to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN,
Washington, April 1, 1898.

MR. SECRETARY: His excellency the Governor-General of the Island of Cuba requests me to communicate to your excellency, in order that it be transmitted to the President of the United States of America, the following telegram:

The colonial government of Cuba desires through your excellency to make known to the President of the United States that although there are some Cubans in arms yet there are an immense number who accept home rule, and are resolved to work zealously under this form of government in order to reestablish peace and prosperity in the land. The insurgents form a minority, while the autonomists represent the majority of the Cuban people decided to save the interests of civilization by means of justice and liberty. The Cuban people is an American people and has, in consequence, a perfect right to govern itself according to its wishes and aspirations, and in no way would it be just for a foreign will to impose upon it a political régime which it seems contrary to its happiness and unsuitable to its needs.

This would be to substitute oppression instead of liberty. The Cuban people is

now a free people; it wishes to rule legitimately its own destinies, and it would be a great wrong to dispose of its lot without its consent. The history and the feelings of the United States do not permit an American people to be sacrificed and forced to a form of government which the same people consider pernicious to its permanent interests and to the cause of peace and order in a country of different races, of small population, and whose political education is yet incomplete. The home-rule government of Cuba hopes that the President of the United States, faithful to the noble traditions of the great North American Republic, will consider and respect the rights of the Cuban people, not permitting violence to prevail. It also hopes that he will contribute by powerful action to the reestablishment of peace in Cuba under the sovereignty of the mother country and with a home-rule government equal for all, and which can be improved so as to inspire confidence in everyone.

The home-rule government of this island, which is a Cuban government, protests energetically against the falsehoods of a part of the American press, published with the malignant intention of firing passions, making it appear that injustice and brutal force reign in Cuba, and that home rule has failed before even the colonial parliament has been organized and when experience can not yet tell whether the new régime will have a good outcome or not. There is no good faith in these stories. As was said by the immortal Washington, "Honesty is the best policy." The Cuban parliament is about to meet, and both the spirit of American and the principles of right demand respect for the will of the majority of this people.

JOSÉ MARIA GALVEZ,
President of the Home-Rule Government of Cuba.

While begging your excellency to be so kind as to forward to its high destination the foregoing telegram, which expresses the true facts and the will of the Cuban people as declared through the medium of the president of its government, I seize this opportunity, etc.

LUIS POLO DE BERNABÉ.

Mr. Woodford to Mr. Sherman.

No. 197.] LEGATION OF THE UNITED STATES,
Madrid, April 1, 1898.

SIR: I have the honor to report that on Monday, March 28, instant, I sent you dispatch in cipher, which I translate as follows:

MADRID, *March 28, 1898.*

Secretary SHERMAN, *Washington:*

Present Government will have large working majority in new Cortes. Conservative minority will be led by Silvela and Pidal. Romero Robledo has but six members; Carlists only four or five; the Republicans about ten.

WOODFORD.

Very respectfully, yours,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Day.

No. 198.] LEGATION OF THE UNITED STATES,
Madrid, April 1, 1898.

SIR: I have the honor to report that I have this day telegraphed you in cipher as follows:

MADRID, *April 1, 1898.*

Assistant Secretary DAY, *Washington:*

For the information of the Department of State I give exact language of my statement read to the president of the council and his colleagues at conference Tuesday, March 29. Statement begins here.

The President instructs me to have direct and frank conversation with you about present condition of affairs in Cuba and present relations between Spain and the United States. The President thinks that it is better not to discuss the respective views held by each nation. This might only provoke or incite argument and might delay and possibly prevent immediate decision. The President instructs me to say that we do not want Cuba. He also instructs me to say with equal clearness that we do wish immediate peace in Cuba. He suggests an immediate armistice lasting until October 1, negotiations in the meantime being had looking to peace between Spain and the insurgents through the friendly offices of the President of the United States. He wishes the immediate revocation of the reconcentration order so as to permit the people to return to their farms and the needy to be relieved with provisions and supplies from the United States. The United States cooperating with the Spanish authorities so as to afford full relief.

Statement ends here.

I telegraphed last night full text of Spanish memorandum handed me yesterday in reply to my statement of Tuesday.

Friday afternoon, 1.30.

WOODFORD.

I am, etc.,

STEWART L. WOODFORD.

Mr. Day to Señor Polo de Bernabé.

DEPARTMENT OF STATE,
Washington, April 2, 1898.

DEAR MR. POLO: I have to thank you for your prompt reply to my note of the 31st ultimo, informing me that to your belief the general designation "western provinces" is applied to and includes the provinces of Havana, Matanzas, Santa Clara, and Pinar del Rio.

Believe me, etc.,

WILLIAM R. DAY.

Mr. Sherman to Señor Polo de Bernabé.

DEPARTMENT OF STATE,
Washington, April 2, 1898.

SIR: I have the honor to acknowledge receipt of your note of April 1, inclosing copy of telegram from Governor-General of the island of Cuba, and to inform you that a copy of same has been communicated to the President, as requested by you therein.

I avail, etc.,

JOHN SHERMAN.

Mr. Woodford to Mr. Day.

No. 200.] LEGATION OF THE UNITED STATES,
Madrid, April 2, 1898.

SIR: I have the honor to report that I have just telegraphed you, in cipher, as follows:

MADRID, *April 2, 1898.*

Assistant Secretary DAY, *Washington:*

Tuesday, March 29, I telegraphed to the President, being my personal No. 60. I embodied that telegram in my official dispatch to the Department of State, No. 195, dated March 30.

I telegraphed Spanish propositions in full on Thursday, March 31.

I telegraphed on Friday, April 1, my statement in full as made to Spanish ministers on March 29.

After most careful reflection I can not consider these Spanish propositions as satisfactory to the United States or just to Cuba. In view of my assurances, as given in my personal telegram No. 60 to the President, it becomes my duty to make this official statement.

Saturday, 5 p. m.

WOODFORD.

I have worked hard for peace. I am hoping against hope, and still I can not bring myself to the final belief that in these closing years of the nineteenth century Spain will finally refuse, on a mere question of punctilio, to offer immediate and effective armistice.

I still believe that immediate armistice will secure permanent and honorable peace with justice to Cuba and sure protection to our great American interests in that island. Men will not reason when their passions are inflamed. So long as they are fighting they will not negotiate. When they stop fighting they will begin to reason. Negotiations will follow and peace will come. If arms are now laid down on both sides they will not be taken up again.

Very respectfully, yours,

STEWART L. WOODFORD.

Señor Polo de Bernabé to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN AT WASHINGTON,
Washington, April 3, 1898.

The envoy extraordinary and plenipotentiary of Spain has the honor to communicate to the honorable Secretary of State of the United States the following telegram which he has just received from his excellency the Governor-General of the island of Cuba:

The insular government has resolved upon the publication in an extraordinary gazeta of a manifesto to the country setting forth the excellencies of autonomy, declaring that the colonial constitution is capable of reform in a full sense, and making a patriotic appeal to the insurrectionists to conclude a peace, after previous understanding and agreement. One of the paragraphs reads thus: "The provisional government ardently desires, and the facts bear testimony thereof, that all Cubans, without any exception whatever, shall join in the realization of the noble and fruitful work of rearing peace and concord upon bases of unshakable firmness. The provisional government, following its own inspiration and being also the faithful interpreter of the earnest desires of the Government of the mother country, addresses itself to those Cubans who, in the arena of force, are striving to attain that which in its full reality and worth and without the perils or hazards of independence has already been attained—the triumph of right and justice with far-stretching horizons for the future and broad paths for the orderly and growing development of all the living forces of this community.

"Let the clash of arms cease; let us stretch forth our hands to each other; let us fraternally embrace within the beloved Cuban fatherland, regenerated by sacrifice and liberty; let us restore our hearthstones and gather around them with love; let us work in unity to the end that from the ruins of the past may arise great, strong, and prosperous the Cuban people; let us, the sons of Cuba, enter upon a frank and loyal understanding in order to deliberate with calmness and decide with skillful provision concerning the means which shall conduce by common accord to attain peace without shame for any and with honor for all; let hostilities be suspended, in order that the voice of patriotism may be heard among us, brothers, equally interested in the lot of Cuba. The provisional government hastens to take the initiative toward the attainment of the high ends which it thus sets forth, offering most solemnly all manner of guaranties, and relying ever upon the approbation of the Government of the mother country."

In transmitting to the Hon. John Sherman the foregoing telegram, which demonstrates the noble sentiments of concord and peace that animate alike the Government of His Majesty and the autonomic government of the island of Cuba, Don Luis Polo de Bernabé avails himself of this opportunity to repeat to him the assurances of his highest consideration.

Mr. Woodford to the President.

No. 65.] LEGATION OF THE UNITED STATES,
Madrid, April 3, 1898.

DEAR MR. PRESIDENT: * * * I have been in communication with the Spanish minister all day, working hard for the last chance for peace. This evening, April 3, I telegraphed you in cipher as follows:

MADRID, *April 3, 1898.*

President MCKINLEY, *Washington:*

The minister for foreign affairs has just called and tells me confidentially that, according to news received by him, the Pope, at the suggestion of the President of the United States, proposes to offer to Spain his mediation in order that the Spanish Government grant an immediate armistice to Cuba, which will facilitate and prepare an early an honorable peace.

According to Señor Gullon's opinion, the Spanish Government will accede to the desires of the Holy Father, which are not political but humane. But he understands that the Spanish Government, going as far as it goes, asks that the United States will show their friendship for Spain by withdrawing our warships from the vicinity of Cuba and from Key West as soon as the armistice has been proclaimed. That the Spanish Government will continue this armistice so long as there are any reasonable hopes that permanent peace can be secured in Cuba. He asks your immediate answer as to withdrawal of warships at once after proclamation of armistice. I still believe that when armistice is once proclaimed hostilities will never be resumed and that permanent peace will be secured. If, under existing conditions at Washington, you can still do this, I hope that you will.

The Spanish minister for foreign affairs assures me that Spain will go as far and as fast as she can. The Austrian ambassador has heard me read this dispatch to this point and says that he will guarantee that Spain will do this.

If conditions at Washington still enable you to give me the necessary time I am sure that before next October I will get peace in Cuba with justice to Cuba and protection to our great American interests.

I know that the Queen and her present ministry sincerely desire peace and that the Spanish people desire peace, and if you can still give me time and reasonable liberty of action I will get for you the peace you desire so much and for which you have labored so hard.

I think there may be mistake in the telegram from Rome to the Queen, and that the words "at the suggestion of the President" may mean with the knowledge or with the approval of the President.

Sunday night, 10. WOODFORD.

Am too tired to-night to write further. Will report details of to-day's negotiations in my next.

Faithfully, yours, STEWART L. WOODFORD.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 3, 1898.

The President has made no suggestions to Spain except through you. He made no suggestions other than those which you were instructed to make for an armistice to be offered by Spain to negotiate a permanent peace between Spain and insurgents, and which Spain has already

rejected. An armistice involves an agreement between Spain and insurgents which must be voluntary on the part of each, and if accepted by them would make for peace. The disposition of our fleet must be left to us. An armistice, to be effective, must be immediately proffered and accepted by insurgents. Would the peace you are so confident of securing mean the independence of Cuba? The President can not hold his message longer than Tuesday.

Two o'clock Monday morning.

DAY.

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 4, 1898.

Congress may very possibly take decisive action middle or end of this week. You should notify the United States consul-general in Spain and cooperate with him in notifying the United States consular officers in Spain who are American citizens to arrange to leave their offices in charge of friendly power, and, if they desire, quietly prepare for departure from Spain upon notice, either special or public, of a rupture of relations.

If rupture comes you had better proceed to Paris and await further instructions.

SHERMAN.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 4, 1898.

We have received to-day from the Spanish minister a copy of the manifesto of the autonomy government. It is not armistice. It proves to be an appeal by the autonomy government of Cuba urging the insurgents to lay down their arms and to join with the autonomy party in building up the new scheme of home rule. It is simply an invitation to the insurgents to submit, in which event the autonomy government, likewise suspending hostilities, is prepared to consider what expansion if any of the decreed home-rule scheme is needed or practicable. It need scarcely be pointed out that this is a very different thing from an offered armistice. The President's message will go in Wednesday afternoon.

Monday night, 11 o'clock.

DAY.

Mr. Woodford to Mr. Sherman.

No. 205.] LEGATION OF THE UNITED STATES,
Madrid, April 4, 1898.

SIR: I have the honor to acknowledge receipt this evening of your cipher dispatch, which I translate as follows:

WASHINGTON, *April 4, 1898.*

WOODFORD, *Minister, Madrid:*

Congress may very possibly take decisive action middle or end of this week. You should notify the United States consul-general in Spain and cooperate with him in

notifying the United States consular officers in Spain who are American citizens to arrange to leave their offices in charge of friendly power and, if they desire, to quietly prepare for departure from Spain upon notice either to Spain or public of a rupture of relations. If rupture comes, you had better proceed to Paris and await further instructions.

SHERMAN.

I have this evening written Mr. Bowen, the consul-general at Barcelona, informing him that it is possible that diplomatic relations between Spain and the United States may be severed at any time this week, and that he should at once instruct all United States consuls who are American citizens to arrange to leave the records and property of their consulates in the charge of some friendly power and, if they so desire, to quietly make preparations for departure from Spain upon either public or official notice of rupture of relations. I have also notified him that this is for his own guidance also.

In order to cooperate with him in communicating the above to all concerned, I have sent by the same mail a copy of such letter to Julio Harmony, Corunna; Andrew F. Fay, Denia; Richard M. Bartleman, Malaga; Franklin C. Bevan, Almeria Malaga; John Howell Carroll, Cadiz; William W. Wysor, Jeres de la Frantera; and Samuel B. Caldwell, Seville. I have asked Mr. Bowen to communicate such further instructions as he may deem advisable to them or to other consular officers of American citizenship whose names I may have omitted, and have asked him to notify me at once if I can cooperate with him further.

I also telegraph you in cipher to-night and translate such dispatch as follows:

MADRID, *April 4, 1898.*

Secretary SHERMAN, *Washington:*

Cipher dispatch instructing notification to consuls received this Monday evening. All notifications have been mailed to-night.

WOODFORD.

I am, very respectfully, yours,

STEWART L. WOODFORD.

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 5, 1898.

In case of necessity intrust the legation to the British embassy.

SHERMAN.

Mr. Woodford to the President.

[Telegram.]

MADRID, *April 5, 1898.*

Should the Queen proclaim the following before 12 o'clock noon of Wednesday, April 6, will you sustain the Queen, and can you prevent hostile action by Congress?

At the request of the Holy Father, in this Passion Week and in the name of Christ, I proclaim immediate and unconditional suspension of hostilities in the island of Cuba.

This suspension is to become immediately effective so soon as accepted by the insurgents in that island, and is to continue for the space of six months, to the 5th day of October, eighteen ninety-eight.

I do this to give time for passions to cease, and in the sincere hope and belief that during this suspension permanent and honorable peace may be obtained between the insular government of Cuba and those of my subjects in that island who are now in rebellion against the authority of Spain.

I pray the blessing of Heaven upon this Truce of God, which I now declare in His name and with the sanction of the Holy Father of all Christendom.

April 5, 1898.

Please read this in the light of all my previous telegrams and letters. I believe that this means peace, which the sober judgment of our people will approve long before next November, and which must be approved at the bar of final history.

I permit the papal nuncio to read this telegram, upon my own responsibility and without committing you in any manner. I dare not reject this last chance for peace. I will show your reply to the Queen in person, and I believe that you will approve this last conscientious effort for peace.

Tuesday afternoon, 3. WOODFORD.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 5, 1898—12 midnight.

The President highly appreciates the Queen's desire for peace. He can not assume to influence the action of the American Congress beyond a discharge of his constitutional duty in transmitting the whole matter to them with such recommendation as he deems necessary and expedient.

The repose and welfare of the American people require restoration of peace and stable government in Cuba. If armistice is offered by the Government of Spain the President will communicate that fact to Congress.

The President's message will go to Congress to-morrow. It will recount the conditions in Cuba; the injurious effect upon our people; the character and condition of the conflict, and the apparent hopelessness of the strife. He will not advise the recognition of the independence of the insurgents, but will recommend measures looking to the cessation of hostilities, the restoration of peace and stability of government in the island in the interests of humanity, and for the safety and tranquillity of our own country.

Tuesday night, 12.

DAY.

Mr. Woodford to Mr. Day.

No. 206.] LEGATION OF THE UNITED STATES,
Madrid, April 5, 1898.

SIR: I have the honor to report that on Sunday afternoon, April 3, I sent to the President a telegram, in cipher, which I now translate, as follows:

MADRID, *April 3, 1898.*

President MCKINLEY, *Washington:*

The minister of foreign affairs has just called and tells me confidentially that, according to news received by him, the Pope, at the suggestion of the President of

the United States, proposes to offer to Spain his mediation, in order that the Spanish Government grant an immediate armistice to Cuba which will facilitate and prepare an early and honorable peace.

According to Señor Gullon's opinion, the Spanish Government will accede to the desires of the Holy Father, which are not political, but humane. But he understands that the Spanish Government, going as far as it goes, asks that the United States will show their friendship for Spain by withdrawing our war ships from the vicinity of Cuba and from Key West as soon as the armistice has been proclaimed. That the Spanish Government will continue this armistice so long as there are any reasonable hopes that permanent peace can be secured in Cuba. He asks your immediate answer as to withdrawal of war ships at once after the proclamation of armistice.

I still believe that when armistice is once proclaimed hostilities will never be resumed and that permanent peace will be secured. If, under existing conditions at Washington, you can still do this, I hope that you will.

The Spanish minister for foreign affairs assures me that Spain will go as far and as fast as she can. The Austrian ambassador has heard me read this dispatch to this point, and says that he will guarantee that Spain will do this.

If conditions at Washington still enable you to give me the necessary time, I am sure that before next October I will get peace in Cuba with justice to Cuba and protection to our great American interests. I know that the Queen and her present ministry sincerely desire peace, and that the Spanish people desire peace, and if you can still give me time and reasonable liberty of action I will get for you the peace you desire so much and for which you have labored so hard. I think there may be mistake in the telegram from Rome to the Queen, and that the words "at the suggestion of the President" may mean with the knowledge or approval of the President.

WOODFORD.

I also acknowledge the receipt on Monday, April 4, at 1 o'clock in the afternoon, of your cipher telegram, which I translate as follows:

WASHINGTON, *April 4, 1898.*

WOODFORD, *Minister, Madrid:*

The President has made no suggestions to Spain except through you. He has made no suggestions other than those which you were instructed to make for an armistice to be offered by Spain to negotiate a permanent peace between Spain and insurgents, and which Spain has already rejected.

An armistice involves an agreement between Spain and insurgents, which must be voluntary on the part of each, and if accepted by them would make for peace.

Disposition of our fleet must be left to us. An armistice, to be effective, must be immediately proffered and accepted by insurgents.

Would the peace you are so confident of securing mean the independence of Cuba?

The President can not hold his message longer than Tuesday.

2 o'clock Monday morning.

DAY.

I called at once upon the minister for the colonies, who has been the English interpreter during my recent conferences with President Sagasta and Minister Gullon. I gave him for his Government an exact copy of your dispatch as translated above.

Last evening he informed me officially that the Spanish Government admit that the President of the United States has never asked or suggested the mediation of the Pope, and that they regret this misunderstanding. I at once accepted this official explanation as full and sufficient.

I then telegraphed you in cipher as follows:

MADRID, *April 5, 1898.*

Assistant Secretary DAY, *Washington:*

The Spanish Government admit that the President of the United States has never asked or suggested the mediation of the Pope and they regret this misunderstanding.

The minister for the colonies informs me officially that the Cuban government has issued proclamation to the Cuban people looking to immediate peace. You will get full text from the Spanish minister at Washington.

In answer to your inquiry as to whether the peace I am so confident of securing means the independence of Cuba, I reply that I believe that if armistice, without

any conditions, had been decreed by Spanish Government lasting until next October, the negotiations between now and then would have resulted in either an autonomy which the insurgents would have accepted, or in the recognition by Spain of the independence of Cuba, or in the cession of the island to the United States. I believe that immediate armistice would have been followed by permanent peace, but without immediate and unconditional armistice lasting until next October I have no hope of successful adjustment.

Tuesday, 1 a. m. WOODFORD.

I also acknowledge the receipt this Tuesday morning at 10 o'clock of your cipher dispatch, whice I translate as follows:

WASHINGTON, *April 4, 1898.*

WOODFORD, *Minister, Madrid:*

We have received to-day from the Spanish minister a copy of the manifesto of the autonomy government. It is not armistice. It proves to be an appeal by the autonomy government of Cuba, urging the insurgents to lay down their arms and to join with the autonomy party in building up the new scheme of home rule. It is simply an invitation to the insurgents to submit, in which event the autonomy government, likewise suspending hostilities, is prepared to consider instantaneously what expansion of the decreed home rule scheme, if any, is needed or practicable. It need scarcely be pointed out that this is a very different thing from an offered armistice. The President's message will go in Wednesday afternoon.

Monday night, 11 o'clock. DAY.

Should any further negotiations be had at Madrid I will report promptly.

Very respectfully, yours,

STEWART L. WOODFORD.

Mr. Sherman to Señor Polo de Bernabé.

WASHINGTON, *April 5, 1898.*

The Secretary of State presents his compliments to the minister of Spain, and has the honor to acknowledge the receipt of the minister's note of the 3d instant in which he communicates a copy of a telegram received by the governor-general of the island of Cuba, stating that the insular government has resolved upon the publication in an extraordinary gazette of a manifesto to the country, setting forth the excellencies of autonomy, declaring that the colonial constitution is capable of reform in a full sense, and making appeal to the insurrectionists to conclude a peace after a previous understanding and agreement.

Señor Polo de Bernabé to Mr. Day.

LEGATION OF SPAIN,
Washington, April 5, 1898.

DEAR MR. DAY: I have received this afternoon General Blanco's order, that I herewith inclose, suppressing reconcentration. I see that this measure comprises the whole island, and the mistake was in the wording of the telegram. The preamble spoke of the four western provinces as nearly pacified, but article first clearly says that concentration is at an end in all the island.

I have felt rather unwell to-day, and for that reason I have not gone to see you this morning as I intended.

By General Woodford you know undoubtedly the good disposition of H. M.'s Government to do all that is compatible with its honor and dignity in these most difficult and trying circumstances.

With highest consideration, I am, dear Mr. Day,

Very truly, yours,

LUIS POLO DE BERNABÉ.

[Inclosure.—Translation.]

ORDER.

Don RAMON BLANCO Y ERENAS, *Marquis of Pena Plata, Governor-General, Captain-General and General-in-Chief of the Army of this Island:*

The pacification of the four western provinces of the island being considerably advanced by the comprehensive military operations and by the natural results of the establishment of a new régime, the work of the harvesting of the sugar crop being effected in the open country under conditions of security, the cultivation of tobacco having acquired great impetus, and the near approach of the season which offers especial advantages for the minor field work, on which depend in large part the public subsistence, I judge the time has arrived for completely restoring the normal conditions of life in the rural districts and for causing to disappear the unfortunate conditions under which the country people suffer while gathered in the towns and suburbs, thus putting an end to the reconcentration of such country people and leaving them in full liberty to return to the rural district and to engage themselves there in labors which they may deem practicable.

As, notwithstanding this ample authorization, there will necessarily remain in the old centers of reconcentration a remnant of country people and their families, who for lack of means, resources, or farming implements may not be able to make a living by agricultural labor, the cabinet council (consejo de secretarios) will submit to me, with the urgency which the case demands, means of initiating and establishing a system of public works which, while seconding the aid afforded by the magistrates and protective juntas (juntas protectoras) and by the establishment of economical kitchens, shall accomplish the double purpose of bringing reconcentration to an end and remedying its effects and consequences, thus restoring the normal condition of rural labor and relieving the misery of the masses, as well as making reproductive and of use to the country the expenses which the fulfilment of these arrangements may occasion.

With which purpose and in virtue of the extraordinary powers which are conferred upon me as Governor and Captain-General and general in chief of the army, I have proclaimed in force the following:

ARTICLE 1. From the publication of the present order in the Gaceta de la Habana, the reconcentration of the inhabitants of the rural districts is abolished throughout the entire island, such country people and their families being permitted to return freely to the places which they may deem convenient and to engage in all kinds of agricultural work.

ART. 2. The protective juntas and all the civil and military authorities shall facilitate by all the means in their reach the return of the rural inhabitants to their former places of residence or to those which they may newly elect, extending to them all the assistance which they can respectively command.

ART. 3. Under direction of the cabinet council (consejo de secretarios) and through the secretary of public works shall proceed the preparation and immediate establishment of all the public works necessary or useful to give employment and subsistence to the country people and their families who, for lack of resources, opportunities for work or farming implements, are not able to return immediately to the country; as also for the establishment of economical kitchens, which may make normal and cheapen these labors.

ART. 4. The expenses resulting from the execution of the regulations of the present order, so far as they may exceed the resources at the command of the protective juntas, may be charged to the extraordinary war credit.

ART. 5. All the orders heretofore published upon the reconcentration of the rural population, and all those which are opposed to the execution of this order, are hereby abolished.

Habana, March 30, 1898. RAMÓN BLANCO.

Weyler's reconcentrado proclamation of 1896.

[Translation.]

DON VALERIANO WEYLER Y NICOLAU, *Marquis of Tenerife, Governor-General and Captain-General of this Island, and General-in-Chief of its Army, etc.*

I order and command:

First. All the inhabitants of the country or outside of the line of fortifications of the towns shall within the period of eight days reconcentrate themselves in the towns occupied by the troops. Any individual who after the expiration of this period is found in the uninhabited parts will be considered a rebel and tried as such.

Second. The extraction of provisions from the towns and their transportation from one town to another by land or water without permission of the military authority of the point of departure is absolutely prohibited. The infringers will be tried and punished as abettors of the rebellion.

Third. The owners of beeves should transport them to the towns or their vicinity, to which end they will be given proper protection.

Fourth. At the expiration of the period of eight days, which in each municipal district shall be counted from the publication of this proclamation in the head town of same, all insurgents who present themselves shall be placed at my disposal for the purpose of fixing them the place where they shall reside, serving them as a recommendation if they furnish news of the enemy which can be made use of, if the presentation is made with firearms, and more especially if it be collective.

Fifth. The provisions of this proclamation are only applicable to the Province of Pinar del Rio.

Havana, October 21, 1896.

VALERIANO WEYLER.

Mr. Woodford to Mr. Sherman.

No. 207.] LEGATION OF THE UNITED STATES,
Madrid, April 5, 1898.

SIR: I have the honor to report that on Sunday, April 3, in view of the very critical relations between Spain and the United States, I asked the British chargé d'affaires at Madrid whether, in the event of my departure becoming necessary, Her British Majesty's embassy would take charge of American interests and property in Spain, so that they might enjoy the protection of the British flag.

To-day I received a note from the British chargé d'affaires, stating that in compliance with my request he telegraphed to his Government on the 3d instant, reporting that I had asked that in the event of my departure becoming necessary Her Majesty's embassy should take charge of American interests and property in Spain, so that they might enjoy the protection of the British flag. He also informs me that Sir Julian Pauncefote, the British ambassador at Washington, has been instructed to inform the United States Government that Her Majesty's Government will willingly undertake the protection of United States interests in Spain if this should, unfortunately, become necessary.

Sir Julian Pauncefote has further been informed that it will be necessary, according to usage, to obtain consent of the Spanish Government, and it has been suggested to Sir Julian by Lord Salisbury that the United States Government may think that an application on the subject would at present be premature.

I have written the British chargé d'affaires acknowledging the receipt of his friendly and generous note, stating that I am deeply gratified to learn from him that Her Majesty's ambassador at Washington has been instructed to inform my Government that Her Majesty's Government will willingly undertake the protection of United States interests in Spain if this should, unfortunately, become necessary, and that I note with exceeding satisfaction that all further arrangements in this regard will be made through the British ambassa-

dor with my Government at Washington, and of which Her Majesty's embassy at Madrid and myself will doubtless be instructed in due season. I have thanked the British chargé d'affaires in behalf of my Government for his very prompt and generous response to my request, adding the earnest prayer that no occasion may arise whereby the suggested action may become necessary.

I am, etc., STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 208.] LEGATION OF THE UNITED STATES,
Madrid, April 5, 1898.

SIR: This (Tuesday) evening, at 7 o'clock, I get your telegram in cipher, which I translate as follows:

WASHINGTON, *April 5, 1898.*

WOODFORD, *Minister, Madrid:*

In case of necessity intrust the legation to the British embassy.
Tuesday morning, 11 o'clock. SHERMAN.

Your dispatch gives me great relief. It confirms my arrangements as reported to you in my dispatch of this date, No. 207. I have just telegraphed you in cipher as follows:

MADRID, *April 5, 1898.*

Secretary SHERMAN, *Washington:*

Your dispatch is received. Arrangements have been made to place American interests and property in care of British embassy and under protection of the British flag, if I am compelled to leave Madrid.
Tuesday evening, 11 o'clock. WOODFORD.

Very respectfully yours,

STEWART L. WOODFORD.

Joint note of the Powers.

WASHINGTON, *April 6, 1898.*

The undersigned representatives of Germany, Austria-Hungary, France, Great Britain, Italy, and Russia, duly authorized in that behalf, address, in the name of their respective Governments, a pressing appeal to the feelings of humanity and moderation of the President and of the American people in their existing differences with Spain. They earnestly hope that further negotiations will lead to an agreement which, while securing the maintenance of peace, will afford all necessary guaranties for the reestablishment of order in Cuba.

The Powers do not doubt that the humanitarian and purely disinterested character of this representation will be fully recognized and appreciated by the American nation.

JULIAN PAUNCEFOTE,
For Great Britain.
HOLLEBEN,
For Germany.
JULES CAMBON,
For France.
VON HENGELMÜLLER,
For Austria-Hungary.
DE WOLLANT,
For Russia.
G. C. VINCI,
For Italy.

The President's reply.

The Government of the United States recognizes the good will which has prompted the friendly communication of the representatives of Germany, Austria-Hungary, France, Great Britain, Italy, and Russia, as set forth in the address of your excellencies, and shares the hope therein expressed that the outcome of the situation in Cuba may be the maintenance of peace between the United States and Spain by affording the necessary guaranties for the reestablishment of order in the island, so terminating the chronic condition of disturbance there, which so deeply injures the interests and menances the tranquillity of the American nation by the character and consequences of the struggle thus kept up at our doors, besides shocking its sentiment of humanity.

The Government of the United States appreciates the humanitarian and disinterested character of the communication now made on behalf of the powers named, and for its part is confident that equal appreciation will be shown for its own earnest and unselfish endeavors to fulfill a duty to humanity by ending a situation the indefinite prolongation of which has become insufferable.

Mr. Woodford to Mr. Sherman.

No. 209.] LEGATION OF THE UNITED STATES,
Madrid, April 6, 1898.

SIR: In further fulfillment of your telegraphic instructions which I received yesterday and acknowledged in my dispatch No. 208, dated April 5 instant, I have to-day written the British chargé d'affaires at Madrid, stating that I have received instructions from my Government to place the United States legation, its records and property, together with all American interests in Spain, in the charge and under the care of Her British Majesty's embassy in case I am compelled to leave Spain, and that if the British embassy has received or shall receive authorization from her British Majesty's Government permitting the British embassy to undertake this trust, I will execute my instructions at the convenience of the British embassy should the occasion unfortunately arise. I have expressed officially and personally the thanks of my Government to the British embassy for the generous kindness of Her Majesty's Government, and I am,

Very respectfully yours,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Day.

No. 210.] LEGATION OF THE UNITED STATES,
Madrid, April 6, 1898.

SIR: I have the honor to report that on Tuesday, April 5 instant, I telegraphed to the President in cipher as follows:

MADRID, *April 5, 1898.*

President MCKINLEY, *Washington:*

Should the Queen proclaim the following before 12 o'clock noon of Wednesday, April 6, will you sustain the Queen and can you prevent hostile action by Congress?

"APRIL 5, 1898.

"At the request of the Holy Father in this Passion Week and in the name of Christ, I proclaim immediate and unconditional suspension of hostilities in the Island of Cuba. This suspension is to become immediately effective so soon as accepted by the insurgents in that island, and is to continue for the space of six months, to the 5th day of October, 1898. I do this to give time for passions to cease and in the sincere hope and belief that during this suspension permanent and honorable peace may be obtained between the insular government of Cuba and those of my subjects in that island who are now in rebellion against the authority of Spain. I pray the blessing of Heaven upon this truce of God, which I now declare in His name and with the sanction of the Holy Father of all Christendom."

Please read this in the light of all my previous telegrams and letters. I believe that this means peace, which the sober judgment of our people will approve long before next November, and which must be approved at the bar of final history. I permit the Papal Nuncio to read this telegram upon my own responsibility and without committing you in any manner. I dare not reject this last chance for peace.

I will show your reply to the Queen in person, and I believe that you will approve this last conscientious effort for peace.

Tuesday afternoon, 3. WOODFORD.

I permitted the Austrian ambassador to take a copy of the foregoing dispatch to Her Majesty the Queen Regent and to show the same copy to the Papal Nuncio.

This morning I get your cipher dispatch in answer to the foregoing, and which I translate as follows:

WASHINGTON, *April 5, 1898.*

WOODFORD, *Minister, Madrid:*

The President highly appreciates the Queen's desire for peace. He can not assume to influence the action of the American Congress beyond the discharge of his constitutional duty in transmitting the whole matter to them with such recommendation as he deems necessary and expedient.

The repose and welfare of the American people require the restoration of peace and stable government in Cuba. If armistice is offered by the Government of Spain the President will communicate that fact to Congress. The President's message will go to Congress to-morrow. It will recount the conditions in Cuba, the injurious effect upon our people, the character and condition of the conflict, and the apparent hopelessness of the strife. He will not advise recognition of the independence of the insurgents, but will recommend measures looking to the cessation of hostilities, the restoration of peace, and stability of government in the island, in the interests of humanity and for the safety and tranquillity of our own country.

Tuesday night, 12. DAY.

This morning (April 6) I permit the Austrian ambassador to take a copy of your foregoing dispatch to Her Majesty the Queen Regent. I did not go to her in person, as a ministerial crisis is imminent to-day, growing out of the proposed issuance by the Queen, at the request of the Pope, of a proclamation of armistice. Just as I did not interfere in the ministerial crisis of last October, when the Conservatives went out of power, so I do not interfere to-day, when the present Liberal ministry may resign and possibly be followed by a ministry who will take office on the programme of immediate armistice, to be followed by early negotiations in Cuba looking to immediate, effective, and permanent peace.

I also send to-day to the Papal Nuncio copies of my dispatch of yesterday to the President, as given above, and copy of my translation of your reply thereto. I have added to these copies the statement that they are furnished to his excellency the Papal Nuncio at Madrid for his personal and confidential information and are not to be made public.

I will continue to keep the Department fully advised of what may be done here.

Very respectfully yours, STEWART L. WOODFORD.

Mr. Woodford to Mr. Day.

No. 211.] LEGATION OF THE UNITED STATES,
Madrid, April 6, 1898.

SIR: In continuation of my dispatch of this date, No. 210, I have the honor to report that I have this afternoon at 6 o'clock sent to the Spanish ministers, who are now in conference, and by the hands of the secretary of this legation, an official note reading as follows:

No. 98.] MADRID, *April 6, 1898.*

EXCELLENCY.

MY DEAR SIR: I had hoped to be officially informed before 12 o'clock noon of this day that His Majesty's Government had proclaimed definite suspension of hostilities in the island of Cuba.

The President of the United States has this afternoon transmitted to the American Congress a message covering the entire Cuban question, with such recommendations as he has deemed necessary and expedient. The repose and welfare of the American people require the restoration of peace and stable government in Cuba. If armistice had been offered by the Government of Spain the President would have communicated that fact to Congress. He has recounted the conditions in Cuba, the injurious effect upon our people, the character and conditions of the conflict, and the hopelessness of the strife. He has not advised the recognition of the independence of the insurgents, but has recommended measures looking to the cessation of hostilities, restoration of the peace, and stability of government in the island. He has done this in the interests of humanity and for the safety and tranquillity of the United States.

Should His Majesty's Government arrive this day at final decision with regard to an armistice, I will telegraph the text of the same to my Government, should I receive it before 12 o'clock to-night. It will thus reach the President to-morrow (Thursday) morning in time to be communicated by him to Congress to-morrow (Thursday).

With a sorrow deeper than I can express, I regret that His Majesty's Government has not yet communicated to me its purpose to proclaim an immediate and effective armistice or suspension of hostilities in Cuba, lasting for a sufficient length of time to enable passions to cease and obtain permanent and honorable peace in Cuba, with the text of such proclamation.

I avail myself of this opportunity to renew to your excellency the assurances of my most distinguished consideration.

STEWART L. WOODFORD.

To His Excellency PIO GULLON, *Secretary of State.*

Should I get any response to this note to the Spanish Government to-night, I will telegraph same to you.

Very respectfully, yours, STEWART L. WOODFORD.

Mr. Woodford to Mr. Day.

No. 212.] LEGATION OF THE UNITED STATES,
Madrid, April 6, 1898.

SIR: I have the honor to acknowledge the receipt this evening of your cipher telegram of this date, which I translate as follows:

WASHINGTON, *April 6, 1898.*

WOODFORD, *Minister, Madrid:*

The President's message will not be sent to Congress until next Monday, to give consul-general at Havana the time he urgently asks to insure safe departure of Americans.

DAY.

I hope that this will also give the Spanish Government the time in which to issue a frank and effective proclamation of such an armistice as may lead to early and honorable peace.

Very respectfully, yours,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Day.

No. 213.] LEGATION OF THE UNITED STATES,
Madrid, April 7, 1898.

SIR: In view of the fact that the President's message covering the Cuban question was not sent to Congress on Wednesday, April 6 instant, as I had informed the Spanish Government, in my note to them dated April 6, would be done, it has seemed my duty, after most careful reflection, to withdraw the note in which I gave them this erroneous information. Accordingly I have this day addressed an official note to the Spanish minister for foreign affairs in the following terms:

No. 99.] MADRID, *April 7, 1898.*

EXCELLENCY.

MY DEAR SIR: Since sending to your excellency my note, No. 98, dated April 6 instant, I learn from my Government that the President of the United States has not sent to Congress his proposed message covering the entire Cuban question, with such recommendations as he might deem necessary and expedient. I am further officially informed that such message will not be sent to Congress until Monday next, April 11 instant. As the fact upon which the urgency of my note was based has thus been postponed, it becomes my pleasant duty to withdraw my said note, No. 98, dated April 6 instant. I do this gladly, as it is very far from the purpose of the United States even to seem to put any pressure upon the action of Spain.

I avail myself of this opportunity to renew to your excellency the assurances of my most distinguished consideration.

STEWART L. WOODFORD.

To His Excellency PIO GULLON, *Minister of State.*

Having in view the instructions of the Department to treat the Spanish Government with all possible courtesy and consideration, while maintaining firmly the interests and stating clearly the duties of the United States, I am sure that you will approve my action in thus withdrawing unreservedly my note of yesterday, which was reported in full to the Department in my dispatch, No. 211, dated April 6, 1898.

Very respectfully, yours,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 215.] LEGATION OF THE UNITED STATES,
Madrid, April 8, 1898.

SIR: I have the honor to report that on April 3d instant I gave out the following interview:

In answer to the pressing request of the American and English newspaper correspondents in Madrid, General Woodford, the American minister, made to-day the following statement:

The obligations of my diplomatic position absolutely forbid my granting any interview or giving the slightest intimation as to the present condition of the diplomatic negotiations intrusted to my care. I came to Spain under the instructions of the President to secure peace in Cuba, with permanent peace between the United States and Spain—a peace that should be built upon the bed-rock conditions of justice to Cuba, with assured protection to the great American interests in that island. I have

labored steadily to obtain this result. I have never lost my faith, and, doubtful as conditions may seem to-day, I still believe that these great and good purposes of my President may yet be secured. I shall not desist in my labors for a just and honorable peace until the guns actually open fire, and my faith is still strong that war, with all its horrors, can be averted. Enough blood has been shed in Cuba already, and I can not believe that the closing hours of the nineteenth century will be reddened by conflict between Spain and the United States. My country asks for peace based upon conditions that shall make peace permanent and beneficent, and I have faith that Spain will yet do what is necessary to assure justice for Cuba, and with justice peace is certain.

This interview or statement was published in all the leading English newspapers. I trust that its publication has been useful.

Yesterday morning, April 7, the newspapers in Madrid were filled with erroneous statements, and efforts were made to incite mobs against the legation and against my residence. While I had no fears as to my personal safety, I thought it wise to allay the excitement and strengthen the conservative influences, which are growing stronger each hour in Madrid and which are working earnestly for peace. Accordingly I gave out the following statement, which was printed in all the Madrid papers last evening and in all the morning papers to-day, and which has been telegraphed to all the papers throughout Spain:

UNITED STATES LEGATION,
Madrid, April 7, 1898.

The Madrid newspapers this morning are filled with statements concerning the American minister which are so inaccurate that he asks the courtesy of the press to correct them. He does this in the interest of friendship and peace. The proprieties of his diplomatic position forbid his making any statements with regard to his diplomatic action with the Spanish Government, but last September he gave to the Spanish foreign office written permission to publish the text of any official correspondence which he should have at any time with the Spanish Government. This permission is effective to-day, and the Spanish Government are at complete liberty to publish every word that he has ever addressed to the Spanish foreign office by letter, by memorandum, or by statement.

The second secretary of the legation, Mr. MacArthur, sailed for New York on Monday, March 21. His family left Madrid on Tuesday night, April 5, and will sail for New York about the end of April. Mr. MacArthur went to New York to resume the practice of his profession as a lawyer. He has resigned from the diplomatic service.

The wife of the American minister left with her niece for Paris Wednesday night, April 6. She is in poor health, and the excitements of the past two weeks have compelled her to seek absence and rest. The daughter of the American minister remains with him, and will remain with him at Madrid. He has not given up his residence in the Calle Nunez de Balboa, where he expects to reside so long as he shall remain accredited to the Spanish court.

The American minister has received nothing but courtesy from the people of Madrid during his residence here. He has never had the slightest apprehension for his own personal security or that of his family. He is working for peace, and, despite all rumors to the contrary, he still hopes that peace will be kept between Spain and the United States and that peace will very soon be again established in Cuba—a peace that shall be based upon absolute justice, with protection to the great American interests in that island and with the maintenance of the honor of Spain.

This publication has done good in Madrid and will do good throughout Spain. The end is still very doubtful, and I am working from sense of duty rather than with strong faith in success. Still this is evident, and on this I base what hope is left to me: The sober sense of Spain is slowly but surely coming to the front, and a few days (if these few days can still be had) will see a crystallized, public sentiment that will sustain the present Spanish Government, if that Government has the immediate courage to do at once the things that are necessary for peace.

Very respectfully yours,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Day.

No. 216.] LEGATION OF THE UNITED STATES,
Madrid, April 9, 1898.

SIR: I have the honor to report that I have just telegraphed you in cipher as follows:

MADRID, *April 9, 1898.*

Assistant Secretary DAY, *Washington:*

No change in situation. Spanish propositions of March 31 have not been modified. It is still possible that armistice may be declared. I will keep you fully advised. WOODFORD.

There are rumors this morning of a possible ministerial crisis, but I can not verify them at this moment.

Very respectfully, yours, STEWART L. WOODFORD.

Mr. Woodford to Mr. Day.

No. 217.] LEGATION OF THE UNITED STATES,
Madrid, April 9, 1898.

SIR: I have the honor to inform you that I have just telegraphed you in cipher as follows:

MADRID, *April 9, 1898.*

Assistant Secretary DAY, *Washington:*

Am just informed that armistice has been granted and that Spanish Government has communicated directly with the President. Please keep me fully advised.
WOODFORD.

As I was dictating this dispatch I was sent for by the Spanish minister of foreign affairs. He told me that the Spanish Government had this day decided to grant an armistice in Cuba, at the request of the Pope and in deference to the wishes and advice of the representatives of the six great European powers; that the Spanish minister in Washington had been instructed to notify our Department of State, and that authority to proclaim the armistice had been cabled to the Captain-General in Cuba. He handed me written memorandum in Spanish stating officially the action of the Spanish Government.

I have at once telegraphed you in cipher as follows:

MADRID, *April 9, 1898.*

Assistant Secretary DAY, *Washington:*

Spanish minister for foreign affairs has just sent for me. The representatives of the European powers called upon him this morning and advised acquiescence in Pope's request for an armistice. Armistice has been granted. Spanish minister in Washington instructed to notify our Department of State and yourself. Authority has been cabled to General Blanco to proclaim armistice. I send verbatim memorandum just handed me by Spanish minister for foreign affairs, as follows:

"In view of the earnest and repeated request of His Holiness, supported resolutely by declarations and friendly counsels of the representatives of the six great European powers, who formulated them this morning in a collective visit to the minister of state, as corollary of the efforts of their Governments in Washington, the Spanish Government has resolved to inform the Holy Father that on this date it directs the general-in-chief of the army in Cuba to grant immediately a suspension of hostilities for such length of time as he may think prudent to prepare and facilitate the peace earnestly desired by all."

I hope that this dispatch may reach you before the President's message goes to Congress.

WOODFORD.

I will endeavor to acquaint myself fully with the inside condition of affairs here and will keep you advised.

Very respectfully, STEWART L. WOODFORD.

Mr. Woodford to the President.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, April 10, 1898.

President MCKINLEY, *Washington:*

My personal No. 66. In view of action of Spanish Government, as cabled Saturday, April 9, I hope that you can obtain full authority from Congress to do whatever you shall deem necessary to secure immediate and permanent peace in Cuba by negotiations, including the full power to employ the Army and Navy, according to your own judgment, to aid and enforce your action. If this be secured I believe you will get final settlement before August 1 on one of the following bases: Either such autonomy as the insurgents may agree to accept, or recognition by Spain of the independence of the island, or cession of the island to the United States.

I hope that nothing will now be done to humiliate Spain, as I am satisfied that the present Government is going, and is loyally ready to go, as fast and as far as it can. With your power of action sufficiently free you will win the fight on your own lines. I do not expect immediate reply, but will be glad to have an early acknowledgment of receipt.

WOODFORD.

Señor Polo de Bernabé to Mr. Sherman.

[Memorandum.—Translation.]

LEGATION OF SPAIN AT WASHINGTON,
Washington, April 10, 1898.

The minister plenipotentiary of Spain has the honor to state to the honorable Secretary of State of the United States of America that Her Majesty the Queen Regent, acceding to the reiterated desires of His Holiness, and inspired by the sentiments of concord and peace which animate her, has given appropriate instructions to the general in chief of the army of Cuba, to the end that he shall concede an immediate suspension of hostilities for such time as he shall deem prudential, in order to prepare and facilitate people in that island.

General Blanco has to-day published the corresponding bando, and reserves to himself to determine in another bando the duration and other details of its execution, with the sole aim that so transcendental a measure shall lead within the shortest possible time to the desired pacification of the Great Antilla.

In deciding upon the duration thereof, the general in chief, inspired by the highest sentiments, far from raising difficulties or obstructions, is prepared to grant every possible facility.

The Government of Her Majesty, by this most important step, has set the crown to her extraordinary efforts to obtain the pacification of Cuba through the instrumentalities of reason and of right.

The autonomic constitution, which gives to the inhabitants of the island of Cuba a political system at least as liberal as that which exists in the Dominion of Canada, will within a short time enter upon the stage of complete development, when, after the elections have been held, the insular parliament will meet at Habana on the 4th of May next; and the franchise and liberties granted to the Cubans are such that no motive or pretext is left for claiming any fuller measure thereof.

Nevertheless as the island of Cuba is represented in the Cortes of the Kingdom, a privilege which is not enjoyed by any other foreign autonomic colony, the Cuban senators and deputies in the Cortes may there present their aspirations if they desire more.

No one knowing the liberal spirit of the majority in the recently elected Spanish Cortes and the patriotic attitude of the principal parties in opposition can doubt that the Cubans will obtain whatever changes they may justly desire, within the bounds of reason and of the national sovereignty, as is solemnly offered in the preamble of the royal decree of November 5, 1897, at which time the Government of Her Majesty declared that it would not withdraw or permit the withdrawal of any colonial liberties, guaranties, and privileges.

The abrogation of the decree of reconcentration and the assistance of every kind which the Government of Her Majesty has granted and permitted to be extended to the reconcentrados have at last terminated a lamentable condition of things, which was the unavoidable consequence of the sanguinary strife provoked by a small minority of the sons of Cuba, and who have been mainly led and sustained by foreign influences.

No impartial mind, having full knowledge of the facts, which have never on any occasion been perverted, as those relating to the Cuban question have been and are now perverted, can justly impute to Spain remissness in endeavoring to reach the means of pacification of the island nor illiberality in granting privileges, liberties, and franchises for the welfare and happiness of its inhabitants. The Government of Her Majesty doubts not that this will be recognized by the United States Government, even as it must recognize the manifest injustice with which a portion of the public opinion of this country claims to discover responsibilities on the part of Spain for the horrible catastrophe which took place on the calamitous night of the 15th of February last. Her Majesty the Queen Regent, her responsible government, the Governor-General of Cuba, the insular government, and all the higher authorities of Habana displayed from the first moment the profound sorrow and the sentiments of horror which that measureless misfortune caused to them, as well as the sympathy which on that melancholy occasion linked them to the American Government and people.

Proof of this is found in the visits of Her Majesty's chargé d'affaires to the illustrious President of the United States, the visits made by the highest officers of the Spanish State to Mr. Woodford, the assistance unsparingly given to the victims, the funeral obsequies which were provided for them by the municipal council of Habana, and the notes addressed to the Department of State by this legation under date of February 16 and 17 and the 2d instant, bearing the respective numbers 12, 13, 14, and 23.

The officers and crews of Her Majesty's war vessels lying near the *Maine*, heedless of the evident peril that menaced them, as is testified by the officers of that American ironclad, immediately lowered their boats, saving a large number of the wrecked ship's men, who alone owe their lives to the instant and efficient aid of the Spanish sailors.

It is singular that these well-known facts and impressive declarations seem to have been forgotten by public opinion, which instead lends credence to the most absurd and offensive conjectures.

The Government of Her Majesty would very greatly esteem the

sense of justice and the courtesy of the United States Government were an official statement to set the facts in their true light, for it would seem that they are ignored and the failure to appreciate them is potentially contributing to keep up an abnormal excitement in the minds of the people that imperils, causelessly and most irrationally, the friendly relations of the two countries.

As for the question of fact which springs from the diversity of views between the reports of the Spanish and American boards, the Government of Her Majesty, although not yet possessed of the official text of the two reports, has hastened to declare itself ready to submit to the judgment of impartial and disinterested experts, accepting in advance the decision of the arbitrators named by the two parties, which is obvious proof of the frankness and good faith which marks the course of Spain on this as on all occasions.

The minister of Spain trusts that these statements, inspired by the earnest desire for peace and concord which animates the Government of Her Majesty, will be appreciated at their just worth by the Government of the United States.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 10, 1898—About 6 p. m.

The Spanish minister to-day informed me that authority had been given General Blanco to proclaim suspension of hostilities, and thereupon invited, on General's behalf, indication of nature and scope of such proclamation. Spanish minister had been answered that the President must decline to make further suggestions than those heretofore made known through you and through Spanish minister here, but that in sending in his message to-morrow the President will acquaint Congress with this latest communication of the Spanish Government and add any further information which Minister Polo may be in a position to furnish in regard to the nature and terms of General Blanco's action under the authorization so given him. The above is sent for your information. Your personal, No. 66, just received and fully noted.

DAY.

Mr. Woodford to Mr. Day.

No. 218.] LEGATION OF THE UNITED STATES,
Madrid, April 11, 1898.

SIR: I have the honor to acknowledge the receipt this morning at half past 4 o'clock of cipher telegram from you, which I translate as follows:

WASHINGTON, *April 10, 1898.*

WOODFORD, *Minister, Madrid:*

The Spanish minister to-day informed that authority had been given General Blanco to proclaim suspension hostilities and thereupon invited, on General's behalf, indication of nature and scope of such proclamation. Spanish minister has been answered that the President must decline to make further suggestions than those

heretofore made known through you and through Spanish minister here, but that in sending in his message to-morrow the President will acquaint Congress with this latest communication of the Spanish Government and add any further information which Minister Polo may be in a position to furnish in regard to the nature and terms of General Blanco's action under the authorization so given him. The above is sent for your information.

Sunday evening, 6.30 o'clock.

DAY.

I have had no communication with the Spanish Government since receiving the memorandum from the minister for foreign affairs on Saturday afternoon, April 9, instant, whice I telegraphed to you as soon as received, and also reported in my dispatch No. 217 of same date.

Slight disturbances were threatened in Madrid yesterday, but the Government has been prompt and firm, and the city is quiet this morning.

Very respectfully yours,

STEWART L. WOODFORD.

Señor Polo de Bernabé to Mr. Day.

ROYAL SPANISH LEGATION,
Washington, April 11, 1898.

DEAR MR. DAY: I inclose herewith the official announcement of General Blanco's proclamation that I have received this morning and an English translation of said proclamation.

Believe me, etc., POLO DE BERNABÉ.

[Inclosure.]

Translation of General Blanco's proclamation.

SUSPENSION OF HOSTILITIES.

Her Majesty's Government, yielding to the reiterated wish expressed by His Holiness the Pope, has resolved, with the end to prepare and facilitate peace on this island, to decree a suspension of hostilities, and orders me to publish it for said purposes.

In virtue thereof I have thought it expedient to order:

Article first. From the day following the receipt of this proclamation in each locality hostilities are declared to be suspended in the territory of the island of Cuba.

Article second. The details for the execution of the above article shall be the subject of special instructions that will be communicated to the different commanders in chief of the army corps for the most prompt and easy execution, according to the situation and circumstances of each.

Done at Habana the 7th day of April, 1898.

RAMON BLANCO.

MESSAGE.

To the Congress of the United States:

Obedient to that precept of the Constitution which commands the President to give from time to time to the Congress information of the state of the Union and to recommend to their consideration such measures as he shall judge necessary and expedient, it becomes my duty now to address your body with regard to the grave crisis that

has arisen in the relations of the United States to Spain by reason of the warfare that for more than three years has raged in the neighboring island of Cuba.

I do so because of the intimate connection of the Cuban question with the state of our own Union and the grave relation the course which it is now incumbent upon the nation to adopt must needs bear to the traditional policy of our Government if it is to accord with the precepts laid down by the founders of the Republic and religiously observed by succeeding Administrations to the present day.

The present revolution is but the successor of other similar insurrections which have occurred in Cuba against the dominion of Spain, extending over a period of nearly half a century, each of which, during its progress, has subjected the United States to great effort and expense in enforcing its neutrality laws, caused enormous losses to American trade and commerce, caused irritation, annoyance, and disturbance among our citizens, and, by the exercise of cruel, barbarous, and uncivilized practices of warfare, shocked the sensibilities and offended the humane sympathies of our people.

Since the present revolution began, in February, 1895, this country has seen the fertile domain at our threshold ravaged by fire and sword in the course of a struggle unequaled in the history of the island and rarely paralleled as to the numbers of the combatants and the bitterness of the contest by any revolution of modern times where a dependent people striving to be free have been opposed by the power of the sovereign state.

Our people have beheld a once prosperous community reduced to comparative want, its lucrative commerce virtually paralyzed, its exceptional productiveness diminished, its fields laid waste, its mills in ruins, and its people perishing by tens of thousands from hunger and destitution. We have found ourselves constrained, in the observance of that strict neutrality which our laws enjoin, and which the law of nations commands, to police our own waters and watch our own seaports in prevention of any unlawful act in aid of the Cubans.

Our trade has suffered; the capital invested by our citizens in Cuba has been largely lost, and the temper and forbearance of our people have been so sorely tried as to beget a perilous unrest among our own citizens which has inevitably found its expression from time to time in the National Legislature, so that issues wholly external to our own body politic engross attention and stand in the way of that close devotion to domestic advancement that becomes a self-contained commonwealth whose primal maxim has been the avoidance of all foreign entanglements. All this must needs awaken, and has, indeed, aroused the utmost concern on the part of this Government, as well during my predecessor's term as in my own.

In April, 1896, the evils from which our country suffered through the Cuban war became so onerous that my predecessor made an effort to bring about a peace through the mediation of this Government in any way that might tend to an honorable adjustment of the contest between Spain and her revolted colony, on the basis of some effective scheme of self-government for Cuba under the flag and sovereignty of Spain. It failed through the refusal of the Spanish Government then in power to consider any form of mediation or, indeed, any plan of settlement which did not begin with the actual submission of the insurgents to the mother country, and then only on such terms as Spain

herself might see fit to grant. The war continued unabated. The resistance of the insurgents was in no wise diminished.

The efforts of Spain were increased, both by the dispatch of fresh levies to Cuba and by the addition to the horrors of the strife of a new and inhuman phase happily unprecedented in the modern history of civilized Christian peoples. The policy of devastation and concentration, inaugurated by the Captain-General's bando of October 21, 1896, in the Province of Pinar del Rio was thence extended to embrace all of the island to which the power of the Spanish arms was able to reach by occupation or by military operations. The peasantry, including all dwelling in the open agricultural interior, were driven into the garrison towns or isolated places held by the troops.

The raising and movement of provisions of all kinds were interdicted. The fields were laid waste, dwellings unroofed and fired, mills destroyed, and, in short, everything that could desolate the land and render it unfit for human habitation or support was commanded by one or the other of the contending parties and executed by all the powers at their disposal.

By the time the present administration took office a year ago, reconcentration—so called—had been made effective over the better part of the four central and western provinces, Santa Clara, Matanzas, Habana, and Pinar del Rio.

The agricultural population to the estimated number of 300,000 or more was herded within the towns and their immediate vicinage, deprived of the means of support, rendered destitute of shelter, left poorly clad, and exposed to the most unsanitary conditions. As the scarcity of food increased with the devastation of the depopulated areas of production, destitution and want became misery and starvation. Month by month the death rate increased in an alarming ratio. By March, 1897, according to conservative estimates from official Spanish sources, the mortality among the reconcentrados from starvation and the diseases thereto incident exceeded 50 per centum of their total number.

No practical relief was accorded to the destitute. The overburdened towns, already suffering from the general dearth, could give no aid. So called "zones of cultivation" established within the immediate areas of effective military control about the cities and fortified camps proved illusory as a remedy for the suffering. The unfortunates, being for the most part women and children, with aged and helpless men, enfeebled by disease and hunger, could not have tilled the soil without tools, seed, or shelter for their own support or for the supply of the cities. Reconcentration, adopted avowedly as a war measure in order to cut off the resources of the insurgents, worked its predestined result. As I said in my message of last December, it was not civilized warfare; it was extermination. The only peace it could beget was that of the wilderness and the grave.

Meanwhile the military situation in the island had undergone a noticeable change. The extraordinary activity that characterized the second year of the war, when the insurgents invaded even the thitherto unharmed fields of Pinar del Rio and carried havoc and destruction up to the walls of the city of Havana itself, had relapsed into a dogged struggle in the central and eastern provinces. The Spanish arms regained a measure of control in Pinar del Rio and parts of Havana, but, under the existing conditions of the rural country,

without immediate improvement of their productive situation. Even thus partially restricted, the revolutionists held their own, and their conquest and submission, put forward by Spain as the essential and sole basis of peace, seemed as far distant as at the outset.

In this state of affairs my Administration found itself confronted with the grave problem of its duty. My message of last December reviewed the situation and narrated the steps taken with a view to relieving its acuteness and opening the way to some form of honorable settlement. The assassination of the prime minister, Canovas, led to a change of government in Spain. The former administration, pledged to subjugation without concession, gave place to that of a more liberal party, committed long in advance to a policy of reform, involving the wider principle of home rule for Cuba and Puerto Rico.

The overtures of this Government, made through its new envoy, General Woodford, and looking to an immediate and effective amelioration of the condition of the island, although not accepted to the extent of admitted mediation in any shape, were met by assurances that home rule, in advanced phase, would be forthwith offered to Cuba, without waiting for the war to end, and that more humane methods should thenceforth prevail in the conduct of hostilities. Coincidentally with these declarations, the new Government of Spain continued and completed the policy already begun by its predecessor, of testifying friendly regard for this nation by releasing American citizens held under one charge or another connected with the insurrection, so that by the end of November not a single person entitled in any way to our national protection remained in a Spanish prison.

While these negotiations were in progress the increasing destitution of the unfortunate reconcentrados and the alarming mortality among them claimed earnest attention. The success which had attended the limited measure of relief extended to the suffering American citizens among them by the judicious expenditure through the consular agencies of the money appropriated expressly for their succor by the joint resolution approved May 24, 1897, prompted the humane extension of a similar scheme of aid to the great body of sufferers. A suggestion to this end was acquiesced in by the Spanish authorities. On the 24th of December last I caused to be issued an appeal to the American people, inviting contributions in money or in kind for the succor of the starving sufferers in Cuba, following this on the 8th of January by a similar public announcement of the formation of a central Cuban relief committee, with headquarters in New York City, composed of three members representing the American National Red Cross and the religious and business elements of the community.

The efforts of that committee have been untiring and have accomplished much. Arrangements for free transportation to Cuba have greatly aided the charitable work. The president of the American Red Cross and representatives of other contributory organizations have generously visited Cuba and cooperated with the consul-general and the local authorities to make effective distribution of the relief collected through the efforts of the central committee. Nearly $200,000 in money and supplies has already reached the sufferers and more is forthcoming. The supplies are admitted duty free, and transportation to the interior has been arranged so that the relief, at first necessarily confined to Havana and the larger cities, is now extended through most if not all of the towns where suffering exists.

Thousands of lives have already been saved. The necessity for a change in the condition of the reconcentrados is recognized by the Spanish Government. Within a few days past the orders of General Weyler have been revoked; the reconcentrados, it is said, are to be permitted to return to their homes and aided to resume the self-supporting pursuits of peace. Public works have been ordered to give them employment, and a sum of $600,000 has been appropriated for their relief.

The war in Cuba is of such a nature that short of subjugation or extermination a final military victory for either side seems impracticable. The alternative lies in the physical exhaustion of the one or the other party, or perhaps of both—a condition which in effect ended the ten years' war by the truce of Zanjon. The prospect of such a protraction and conclusion of the present strife is a contingency hardly to be contemplated with equanimity by the civilized world, and least of all by the United States, affected and injured as we are, deeply and intimately, by its very existence.

Realizing this, it appeared to be my duty, in a spirit of true friendliness, no less to Spain than to the Cubans who have so much to lose by the prolongation of the struggle, to seek to bring about an immediate termination of the war. To this end I submitted, on the 27th ultimo, as a result of much representation and correspondence, through the United States minister at Madrid, propositions to the Spanish Government looking to an armistic until October 1 for the negotiation of peace with the good offices of the President.

In addition, I asked the immediate revocation of the order of reconcentration, so as to permit the people to return to their farms and the needy to be relieved with provisions and supplies from the United States, cooperating with the Spanish authorities, so as to afford full relief.

The reply of the Spanish cabinet was received on the night of the 31st ultimo. It offered, as the means to bring about peace in Cuba, to confide the preparation thereof to the insular parliament, inasmuch as the concurrence of that body would be necessary to reach a final result, it being, however, understood that the powers reserved by the constitution to the central Government are not lessened or diminished. As the Cuban parliament does not meet until the 4th of May next, the Spanish Government would not object, for its part, to accept at once a suspension of hostilities if asked for by the insurgents from the general in chief, to whom it would pertain, in such case, to determine the duration and conditions of the armistice.

The propositions submitted by General Woodford and the reply of the Spanish Government were both in the form of brief memoranda, the texts of which are before me, and are substantially in the language above given. The function of the Cuban parliament in the matter of "preparing" peace and the manner of its doing so are not expressed in the Spanish memorandum; but from General Woodford's explanatory reports of preliminary discussions preceding the final conference it is understood that the Spanish Government stands ready to give the insular congress full powers to settle the terms of peace with the insurgents—whether by direct negotiation or indirectly by means of legislation does not appear.

With this last overture in the direction of immediate peace, and its

disappointing reception by Spain, the Executive is brought to the end of his effort.

In my annual message of December last I said:

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

Thereupon I reviewed these alternatives, in the light of President Grant's measured words, uttered in 1875, when after seven years of sanguinary, destructive, and cruel hostilities in Cuba he reached the conclusion that the recognition of the independence of Cuba was impracticable and indefensible, and that the recognition of belligerence was not warranted by the facts according to the tests of public law. I commented especially upon the latter aspect of the question, pointing out the inconveniences and positive dangers of a recognition of belligerence which, while adding to the already onerous burdens of neutrality within our own jurisdiction, could not in any way extend our influence or effective offices in the territory of hostilities.

Nothing has since occurred to change my view in this regard, and I recognize as fully now as then that the issuance of a proclamation of neutrality, by which process the so-called recognition of belligerents is published, could, of itself and unattended by other action, accomplish nothing toward the one end for which we labor—the instant pacification of Cuba and the cessation of the misery that afflicts the island.

Turning to the question of recognizing at this time the independence of the present insurgent government in Cuba, we find safe precedents in our history from an early day. They are well summed up in President Jackson's message to Congress, December 21, 1836, on the subject of the recognition of the independence of Texas. He said:

> In all the contests that have arisen out of the revolution of France, out of the disputes relating to the Crowns of Portugal and Spain, out of the separation of the American possessions of both from the European Governments, and out of the numerous and constantly occurring struggles for dominion in Spanish America, so wisely consistent with our just principles has been the action of our Government, that we have, under the most critical circumstances, avoided all censure, and encountered no other evil than that produced by a transient estrangement of good will in those against whom we have been by force of evidence compelled to decide.
>
> It has thus made known to the world that the uniform policy and practice of the United States is to avoid all interference in disputes which merely relate to the internal government of other nations, and eventually to recognize the authority of the prevailing party without reference to our particular interests and views or to the merits of the original controversy.
>
> * * * But on this, as on every other trying occasion, safety is to be found in a rigid adherence to principle.
>
> In the contest between Spain and the revolted colonies we stood aloof, and waited not only until the ability of the new States to protect themselves was fully established, but until the danger of their being again subjugated had entirely passed away. Then, and not until then, were they recognized.
>
> Such was our course in regard to Mexico herself. * * * It is true that with regard to Texas the civil authority of Mexico has been expelled, its invading army defeated, the chief of the Republic himself captured, and all present power to control the newly organized government of Texas annihilated within its confines; but, on the other hand, there is, in appearance, at least, an immense disparity of physical force on the side of Texas. The Mexican Republic, under another executive, is rallying its forces under a new leader and menacing a fresh invasion to recover its lost dominion.
>
> Upon the issue of this threatened invasion the independence of Texas may be con-

sidered as suspended; and were there nothing peculiar in the relative situation of the United States and Texas, our acknowledgment of its independence at such a crisis could scarcely be regarded as consistent with that prudent reserve with which we have hitherto held ourselves bound to treat all similar questions.

Thereupon Andrew Jackson proceeded to consider the risk that there might be imputed to the United States motives of selfish interest in view of the former claim on our part to the territory of Texas, and of the avowed purpose of the Texans in seeking recognition of independence as an incident to the incorporation of Texas into the Union, concluding thus:

Prudence, therefore, seems to dictate that we should still stand aloof and maintain our present attitude, if not until Mexico itself or one of the great foreign powers shall recognize the independence of the new government, at least until the lapse of time or the course of events shall have proved beyond cavil or dispute the ability of the people of that country to maintain their separate sovereignty and to uphold the government constituted by them. Neither of the contending parties can justly complain of this course. By pursuing it we are but carrying out the long-established policy of our Government, a policy which has secured to us respect and influence abroad and inspired confidence at home.

These are the words of the resolute and patriotic Jackson. They are evidence that the United States, in addition to the test imposed by public law as the condition of the recognition of independence by a neutral state (to wit, that the revolted state shall "constitute in fact a body politic, having a government in substance as well as in name, possessed of the elements of stability," and forming de facto, "if left to itself, a state among the nations, reasonably capable of discharging the duties of a state"), has imposed for its own governance in dealing with cases like these the further condition that recognition of independent statehood is not due to a revolted dependency until the danger of its being again subjugated by the parent state has entirely passed away.

This extreme test was, in fact, applied in the case of Texas. The Congress to whom President Jackson referred the question as one "probably leading to war," and therefore a proper subject for "a previous understanding with that body by whom war can alone be declared and by whom all the provisions for sustaining its perils must be furnished," left the matter of the recognition of Texas to the discretion of the Executive, providing merely for the sending of a diplomatic agent when the President should be satisfied that the Republic of Texas had become "an independent State." It was so recognized by President Van Buren, who commissioned a chargé d'affaires March 7, 1837, after Mexico had abandoned an attempt to reconquer the Texan territory, and when there was at the time no bona fide contest going on between the insurgent province and its former Sovereign.

I said in my message of December last, "It is to be seriously considered whether the Cuban insurrection possesses beyond dispute the attributes of statehood which alone can demand the recognition of belligerency in its favor." The same requirement must certainly be no less seriously considered when the graver issue of recognizing independence is in question, for no less positive test can be applied to the greater act than to the lesser; while, on the other hand, the influences and consequences of the struggle upon the internal policy of the recognizing State, which form important factors when the recognition of belligerency is concerned, are secondary, if not rightly eliminable, factors when the real question is whether the community claiming recognition is or is not independent beyond peradventure.

Nor from the standpoint of expediency do I think it would be wise or prudent for this Government to recognize at the present time the independence of the so-called Cuban Republic. Such recognition is not necessary in order to enable the United States to intervene and pacify the island. To commit this country now to the recognition of any particular government in Cuba might subject us to embarrassing conditions of international obligation toward the organization so recognized. In case of intervention our conduct would be subject to the approval or disapproval of such government. We would be required to submit to its direction and to assume to it the mere relation of a friendly ally.

When it shall appear hereafter that there is within the island a government capable of performing the duties and discharging the functions of a separate nation, and having, as a matter of fact, the proper forms and attributes of nationality, such government can be promptly and readily recognized and the relations and interests of the United States with such nation adjusted.

There remain the alternative forms of intervention to end the war, either as an impartial neutral by imposing a rational compromise between the contestants, or as the active ally of the one party or the other.

As to the first it is not to be forgotten that during the last few months the relation of the United States has virtually been one of friendly intervention in many ways, each not of itself conclusive, but all tending to the exertion of a potential influence toward an ultimate pacific result, just and honorable to all interests concerned. The spirit of all our acts hitherto has been an earnest, unselfish desire for peace and prosperity in Cuba, untarnished by differences between us and Spain, and unstained by the blood of American citizens.

The forcible intervention of the United States as a neutral to stop the war, according to the large dictates of humanity and following many historical precedents where neighboring States have interfered to check the hopeless sacrifices of life by internecine conflicts beyond their borders, is justifiable on rational grounds. It involves, however, hostile constraint upon both the parties to the contest as well to enforce a truce as to guide the eventual settlement.

The grounds for such intervention may be briefly summarized as follows:

First. In the cause of humanity and to put an end to the barbarities, bloodshed, starvation, and horrible miseries now existing there, and which the parties to the conflict are either unable or unwilling to stop or mitigate. It is no answer to say this is all in another country, belonging to another nation, and is therefore none of our business. It is specially our duty, for it is right at our door.

Second. We owe it to our citizens in Cuba to afford them that protection and indemnity for life and property which no government there can or will afford, and to that end to terminate the conditions that deprive them of legal protection.

Third. The right to intervene may be justified by the very serious injury to the commerce, trade, and business of our people, and by the wanton destruction of property and devastation of the island.

Fourth, and which is of the utmost importance. The present condition of affairs in Cuba is a constant menace to our peace, and entails upon this Government an enormous expense. With such a conflict

waged for years in an island so near us and with which our people have such trade and business relations; when the lives and liberty of our citizens are in constant danger and their property destroyed and themselves ruined; where our trading vessels are liable to seizure and are seized at our very door by war ships of a foreign nation, the expeditions of filibustering that we are powerless to prevent altogether, and the irritating questions and entanglements thus arising—all these and others that I need not mention, with the resulting strained relations, are a constant menace to our peace, and compel us to keep on a semiwar footing with a nation with which we are at peace.

These elements of danger and disorder already pointed out have been strikingly illustrated by a tragic event which has deeply and justly moved the American people. I have already transmitted to Congress the report of the naval court of inquiry on the destruction of the battle ship *Maine* in the harbor of Havana during the night of the 15th of February. The destruction of that noble vessel has filled the national heart with inexpressible horror. Two hundred and fifty-eight brave sailors and marines and two officers of our Navy, reposing in the fancied security of a friendly harbor, have been hurled to death, grief and want brought to their homes, and sorrow to the nation.

The naval court of inquiry, which, it is needless to say, commands the unqualified confidence of the Government, was unanimous in its conclusion that the destruction of the *Maine* was caused by an exterior explosion, that of a submarine mine. It did not assume to place the responsibility. That remains to be fixed.

In any event the destruction of the *Maine*, by whatever exterior cause, is a patent and impressive proof of a state of things in Cuba that is intolerable. That condition is thus shown to be such that the Spanish Government can not assure safety and security to a vessel of the American Navy in the harbor of Havana on a mission of peace, and rightfully there.

Further referring in this connection to recent diplomatic correspondence, a dispatch from our minister to Spain, of the 26th ultimo, contained the statement that the Spanish minister for foreign affairs assured him positively that Spain will do all that the highest honor and justice require in the matter of the *Maine*. The reply above referred to of the 31st ultimo also contained an expression of the readiness of Spain to submit to an arbitration all the differences which can arise in this matter, which is subsequently explained by the note of the Spanish minister at Washington of the 10th instant, as follows:

> As to the question of fact which springs from the diversity of views between the reports of the American and Spanish boards, Spain proposes that the facts be ascertained by an impartial investigation by experts, whose decision Spain accepts in advance.

To this I have made no reply.

President Grant, in 1875, after discussing the phases of the contest as it then appeared, and its hopeless and apparent indefinite prolongation, said:

> In such event, I am of opinion that other nations will be compelled to assume the responsibility which devolves upon them, and to seriously consider the only remaining measures possible—mediation and intervention. Owing, perhaps, to the large expanse of water separating the island from the Peninsula, * * * the contending parties appear to have within themselves no depository of common confidence, to suggest wisdom when passion and excitement have their sway, and to assume the part of peacemaker.

In this view in the earlier days of the contest the good offices of the United States as a mediator were tendered in good faith, without any selfish purpose, in the interest of humanity and in sincere friendship for both parties, but were at the time declined by Spain, with the declaration, nevertheless, that at a future time they would be indispensable No intimation has been received that in the opinion of Spain that time has be n reached. And yet the strife continues with all its dread horrors and all its injuries to the interests of the United States and of other nations.

Each party seems quite capable of working great injury and damage to the other, as well as to all the relations and interests dependent on the existence of peace in the island; but they seem incapable of reaching any adjustment, and both have thus far failed of achieving any success whereby one party shall possess and control the island to the exclusion of the other. Under these circumstances, the agency of others, either by mediation or intervention, seems to be the only alternative which must sooner or later be invoked for the termination of the strife.

In the last annual message of my immediate predecessor, during the pending struggle, it was said:

When the inability of Spain to deal successfully with the insurrection has become manifest, and it is demonstrated that her sovereignty is extinct in Cuba for all purposes of its rightful existence, and when a hopeless struggle for its reestablishment has degenerated into a strife which means nothing more then the useless sacrifice of human life and the utter destruction of the very subject-matter of the conflict, a situation will be presented in which our obligations to the sovereignty of Spain will be superseded by higher obligations, which we can hardly hesitate to recognize and discharge.

In my annual message to Congress, December last, speaking to this question, I said:

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

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

The long trial has proved that the object for which Spain has waged the war can not be attained. The fire of insurrection may flame or may smolder with varying seasons, but it has not been and it is plain that it can not be extinguished by present methods. The only hope of relief and repose from a condition which can no longer be endured is the enforced pacification of Cuba. In the name of humanity, in the name of civilization, in behalf of endangered American interests which give us the right and the duty to speak and to act, the war in Cuba must stop.

In view of these facts and of these considerations, I ask the Congress to authorize and empower the President to take measures to secure a full and final termination of hostilities between the Government of Spain and the people of Cuba, and to secure in the island the establishment of a stable government, capable of maintaining order and observing its international obligations, insuring peace and tranquillity and the security of its citizens as well as our own, and to use the military and naval forces of the United States as may be necessary for these purposes.

And in the interest of humanity and to aid in preserving the lives of the starving people of the island I recommend that the distribution of food and supplies be continued, and that an appropriation be made out of the public Treasury to supplement the charity of our citizens.

The issue is now with the Congress. It is a solemn responsibility. I have exhausted every effort to relieve the intolerable condition of affairs which is at our doors. Prepared to execute every obligation imposed upon me by the Constitution and the law, I await your action.

Yesterday, and since the preparation of the foregoing message, official information was received by me that the latest decree of the Queen Regent of Spain directs General Blanco, in order to prepare and facilitate peace, to proclaim a suspension of hostilities, the duration and details of which have not yet been communicated to me.

This fact with every other pertinent consideration will, I am sure, have your just and careful attention in the solemn deliberations upon which you are about to enter. If this measure attains a successful result, then our aspirations as a Christian, peace-loving people will be realized. If it fails, it will be only another justification for our contemplated action.

WILLIAM MCKINLEY.

EXECUTIVE MANSION, *April 11, 1898.*

Mr. Sherman to Señor Polo de Bernabé.

DEPARTMENT OF STATE,
Washington, April 12, 1898.

The Secretary of State has the honor to acknowledge the receipt of the memorandum in regard to the Cuban question, which was delivered by the Spanish minister to the Assistant Secretary of State on the 10th instant, and of the translation thereof which accompanied the minister's note verbale of the 11th instant, reserving examination and consideration of the statements therein contained.

Mr. Woodford to Mr. Sherman.

No. 221.] LEGATION OF THE UNITED STATES,
Madrid, April 13, 1898.

SIR: I have the honor to report that I have just telegraphed you in cipher as follows:

MADRID, *April 13, 1898.*

Secretary SHERMAN, *Washington:*

American citizens are applying at our various consulates for transportation to United States in case of war, claiming that they are penniless and unable to pay passage. I ask instructions for consuls and myself as to what shall be done in cases of this kind.

WOODFORD.

Very respectfully, yours,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Day.

No. 224.] LEGATION OF THE UNITED STATES,
Madrid, April 14, 1898.

SIR: I have the honor to acknowledge the receipt this morning at 7 o'clock of Department dispatch in cipher, which I translate as follows:

WASHINGTON, *April 13, 1898.*

WOODFORD, *Minister, Madrid:*

In case of war, where there is real danger to American citizens who can not provide means of transportation, you and consuls will provide for passage and draw on Department. DAY.

I give the necessary instruction to-day to Consul-General Bowen at Barcelona, and request him to notify consuls.

Very respectfully,

STEWART L. WOODFORD.

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE.
Washington, April 14, 1898.

House of Representatives, 324 to 19, passed yesterday afternoon resolution authorizing and directing the President to intervene at once to stop the war in Cuba, with the purpose of securing peace and order there and establishing, by the free action of the people thereof, a stable and independent government of their own, and empowering him to use the land and naval forces to execute that purpose.

Senate Committee on Foreign Affairs reported yesterday resolution declaring that the people of the Island of Cuba are and of right ought to be free and independent, demanding that Spain relinquish authority and government in Cuba and withdraw land and naval forces therefrom, and empowering the President to use Army and Navy and militia to carry resolution into effect. It will probably be decisively voted to-day.

Ultimate resolution in conference cannot now be forecast, but will doubtless direct intervention by force if need be to secure free Cuba. The situation is most critical.

JOHN SHERMAN.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE.
Washington, April 17, 1898.

The Senate, Saturday evening, by 67 votes to 21, passed a resolution amending all of the House resolution after the enacting clause. It declares as follows:

"*Resolved*, By the Senate and House of Representatives of the United States of America in Congress assembled, First,

"That the people of the Island of Cuba are and of right ought to be free and independent, and that the Government of the United States hereby recognizes the Republic of Cuba as the true and lawful government of that island. Second,

"That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the island of Cuba, and withdraw its land and naval force from Cuba and Cuban waters. Third,

"That the president of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States and to call into the actual service of the United States the militia of the several States to such an extent as may be necessary to carry these resolutions into effect. Fourth,

"That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island, except for the pacification thereof, and asserts its determination when that is accomplished to leave the government and control of the island to its people."

The House has taken a recess until 10 Monday morning, when vote will be taken on concurring in the Senate amendments. If the House nonconcurs conference follows. Ultimate form of resolution can not yet be foreseen.

Sunday morning, 1 o'clock.

DAY, *Acting.*

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 19, 1898.

At 3 this morning, after prolonged conference, the Senate and the House of Representatives adopted the joint resolution, the text of which was telegraphed to you Saturday night, omitting from the first section the words, "And that the Government of the United States hereby recognizes the Republic of Cuba as the true and lawful government of that island." Vote in Senate, 42 to 35; in House, 310 against 6.

An instruction will be telegraphed you later, immediately on the President signing the joint resolution. In the meantime you will prepare for withdrawal from Spain and notify consuls to be ready for the signal to leave. If any consul is in danger he may quietly leave at his discretion.

DAY.

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 20, 1898.

You have been furnished with the text of a joint resolution voted by the Congress of the United States on the 19th instant (approved to-day) in relation to the pacification of the island of Cuba. In obedience to that act, the President directs you to immediately communicate to the

Government of Spain said resolution, with the formal demand of the Government of the United States that the Government of Spain at once relinquish its authority and government in the island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters. In taking this step the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island except for the pacification thereof, and asserts its determination when that is accomplished to leave the government and control of the island to its people under such free and independent government as they may establish.

If by the hour of noon on Saturday next, the 23d day of April, instant, there be not communicated to this Government by that of Spain a full and satisfactory response to this demand and resolution whereby the ends of peace in Cuba shall be assured, the President will proceed without further notice to use the power and authority enjoined and conferred upon him by the said joint resolution to such extent as may be necessary to carry the same into effect.

SHERMAN.

[Inclosure.]

[PUBLIC RESOLUTION—No. 21.]

JOINT RESOLUTION for the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect.

Whereas the abhorrent conditions which have existed for more than three years in the island of Cuba, so near our own borders, have shocked the moral sense of the people of the United States, have been a disgrace to civilization, culminating as they have in the destruction of a United States battle ship, with two hundred and sixty-six of its officers and crew, while on a friendly visit in the harbor of Havana, and can not longer be endured, as has been set forth by the President of the United States in his message to Congress of April eleventh, eighteen hundred and ninety-eight, upon which the action of Congress was invited: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, First. That the people of the island of Cuba are, and of right ought to be, free and independent.

Second. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the island of Cuba, and withdraw its land and naval forces from Cuba and Cuban waters.

Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such extent as may be necessary to carry these resolutions into effect.

Fourth. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island, except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the island to its people.

Approved, April 20, 1898.

Mr. Woodford to Mr. Day.

No. 236.] LEGATION OF THE UNITED STATES,
Madrid, April 20, 1898.

SIR: I have the honor to acknowledge the receipt on Tuesday night, April 19 instant, of your cipher telegram, which I translate as follows:[1]

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[1] See page 762.

I have accordingly telegraphed the consul-general at Barcelona as follows:

MADRID, *April 20, 1898.*

BOWEN, *Consul-General, Barcelona:*

Prepare for withdrawal from Spain. Notify consuls to be ready to leave at once. If any consul believes himself in immediate danger he is authorized to quietly leave at his discretion.

WOODFORD.

I have also telegraphed you this morning as follows:

MADRID, *April 20, 1898.*

DAY, *Assistant Secretary, Washington:*

Have received telegram of Tuesday morning. Am prepared to withdraw. Have notified consuls to be ready.

WOODFORD.

Very respectfully, yours,

STEWART L. WOODFORD.

Mr. Sherman to Señor Polo de Bernabé.

DEPARTMENT OF STATE,
Washington, April 20, 1898.

SIR: I have the honor to communicate to you a copy of an instruction sent this day to the United States minister at Madrid, by telegraph, in obedience to a joint resolution of the Congress of the United States of America in relation to the pacification of the island of Cuba, approved this day, of which a copy is hereto annexed.

I avail myself of this opportunity to repeat to you the assurances of my highest consideration.

JOHN SHERMAN.

[Inclosure.]

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 20, 1898.

You have been furnished with the text of a joint resolution voted by the Congress of the United States on the 19th instant (approved to-day) in relation to the pacification of the island of Cuba. In obedience to that act, the President directs you to immediately communicate to the Government of Spain said resolution, with the formal demand of the Government of the United States that the Government of Spain at once relinquish its authority and government in the island of Cuba and Cuban waters. In taking this step the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island except for the pacification thereof, and asserts its determination when that is accomplished to leave the government and control of the island to its people under such free and independent government as they may establish.

If, by the hour of noon on Saturday next, the 23d day of April, instant, there be not communicated to this Government by that of Spain a full and satisfactory response to this demand and resolution, whereby the ends of peace in Cuba shall be assured, the President will proceed without further notice to use the power and authority enjoined and conferred upon him by the said joint resolution to such extent as may be necessary to carry the same into effect.

SHERMAN.

JOINT RESOLUTION For the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the Island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, First. That the people of the Island of Cuba are, and of right ought to be, free and independent.

Second. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the Island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters.

Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such extent as may be necessary to carry these resolutions into effect.

Fourth. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said Island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the Island to its people.

Approved, April 20, 1898.

Señor Polo de Bernabé to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN AT WASHINGTON,
Washington, April 20, 1898. (Received 11.35 a. m.)

MR. SECRETARY: The resolution adopted by the Congress of the United States of America, and approved to-day by the President, is of such a nature that my continuance in Washington becomes impossible and obliges me to request you the delivery of my passports.

The protection of Spanish interests will be intrusted to the French ambassador and to the Austro-Hungarian minister.[1]

On this occasion, very painful to me, I have, etc.

LUIS POLO DE BERNABÉ.

Mr. Sherman to Señor Polo de Bernabé.

DEPARTMENT OF STATE,
Washington, April 20, 1898.

MR. MINISTER: I have the honor to acknowledge the receipt of your note of this day's date, in which you state that the resolution adopted by the Congress of the United States of America, and to-day approved by the President, is of such a nature as to make your continuance in Washington impossible and constrains you to request that your passports be given you. You add that the protection of Spanish interests is intrusted to the ambassador of France and the minister of Austria-Hungary.

In response to your request I have the honor to hand you a passport for yourself, your family, and your suite. I beg also to inform you that arrangements have been made for a guard to attend you during your presence in the territory of the United States.

Sincerely regretting the step that you have felt constrained to take, I avail myself, etc.,

JOHN SHERMAN.

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[1] See page 785.

Copy of passport handed to Minister Polo de Bernabé.

No. —.] UNITED STATES OF AMERICA.

To all to whom these presents shall come, greeting:

Know ye that the bearer hereof, Señor Don Luis Polo de Bernabé, envoy extraordinary and minister plenipotentiary of Spain to the United States, is about to travel abroad, accompanied by his family and suite.

These are therefore to request all officers of the United States, or of any State thereof, whom it may concern, to permit them to pass freely, without let or molestation, and to extend to them friendly aid and protection in case of need.

In testimony whereof I, John Sherman, Secretary of State of the United States of America, have hereunto set my hand and caused the seal of the Department of State to be affixed, at Washington, this 20th day of April, A. D. 1898, and of the independence of the United States of America the one hundred and twenty-second.

[SEAL.] JOHN SHERMAN.

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 20, 1898.

Señor Polo de Bernabé, Spanish minister to the United States, upon being informed shortly before noon to-day of the action of this Government taken in pursuance of the resolutions of Congress of April 19, 1898, has asked for his passports. In compliance with his request passports for himself, his family, and suite have been handed him, with assurances of safety while within the territory of the United States.

Unless previously handed your passports, you will be expected to remain near the Court of Spain till Saturday noon of this week, and unless by that day and hour some communication is received from the Government of Spain which you deem will be satisfactory to this Government you are to ask for your passports and safe conduct.

SHERMAN.

Mr. Woodford to Mr. Sherman.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, April 21, 1898. (Received 9.02 a. m.)

Early this (Saturday) morning, immediately after the receipt of your open telegram and before I had communicated same to Spanish Government, Spanish minister for foreign affairs notified me that diplomatic relations are broken between the two countries and that all official communication between their respective representatives have ceased. I accordingly asked for safe passport. Turn legation over to British embassy and leave for Paris this afternoon. Have notified consuls.

Mr. Woodford to Mr. Sherman.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, April 21, 1898.

Following is text of official note received this morning at 7.30 o'clock from Spanish minister of state:

In compliance with a painful duty, I have the honor to inform your excellency that, the President having approved a resolution of both Chambers of the United States which, in denying the legitimate sovereignty of Spain and in threatening armed intervention in Cuba, is equivalent to an evident declaration of war, the Government of His Majesty has ordered its minister in Washington to withdraw without loss of time from the North American territory with all the personnel of the legation. By this act the diplomatic relations which previously existed between the two countries are broken off, all official communication between their respective representatives ceasing, and I hasten to communicate this to your excellency in order that on your part you may make such dispositions as seem suitable.

I beg your excellency to kindly acknowledge the receipt of this note, and I avail myself, etc.

WOODFORD.

Mr. Woodford to Mr. Sherman.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, April 21, 1898.

Following is text of my reply to official note received this morning at 7.30 o'clock from Spanish minister of state:

I have the honor to acknowledge the receipt this morning of your note of this date informing me that the Spanish minister at Washington has been ordered to withdraw with all his legation and without loss of time from North American territory. You also inform me that by this act diplomatic relations between the two countries are broken off; that all official communication between their respective representatives ceases. I have accordingly this day telegraphed the American consul-general at Barcelona to instruct all the consular representatives of the United States in Spain to turn their respective consulates over to the British consuls and to leave Spain at once. I have myself turned this legation over to Her Britannic Majesty's embassy at Madrid. That embassy will from this time have the care of all American interests in Spain. I now request passports and safe conduct to the French frontier for myself and the personnel of this legation. I intend leaving this afternoon at 4 o'clock for Paris. I avail myself, etc.

WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 241.] LEGATION OF THE UNITED STATES,
Madrid, April 21, 1898.

SIR: I have the honor to report that I have this morning telegraphed to the consul-general at Barcelona that Spanish Government have broken off diplomatic relations and instructing him and all our consular officers to turn their respective consulates over at once to British consuls and then to leave Spain.

I read to Mr. Barclay, the British chargé d'affaires at Madrid, the

note which I had received from the Spanish minister of foreign affairs this morning, and said:

> This communication breaks diplomatic relations between Spain and the United States. It now becomes my duty, in obedience to the instructions of my Government, to place this legation and all American interests and citizens in Spain in the care of Her British Majesty's Government. I thank you personally for your own great courtesy and kindness in this matter, and I beg you to express to your Government the sincere appreciation of the Government and the people of the United States.

I then removed the United States escutcheon from the front of the legation offices. The legation, its archives, and library are now in the custody of the British embassy.

Having thus completed all arrangements, I addressed the following note to the Spanish minister of foreign affairs:

* * * * * * *

I have, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No 242.] LEGATION OF THE UNITED STATES,
Madrid, April 21, 1898.

SIR: I have the honor to acknowledge the receipt, at half past 2 o'clock this morning, April 21, of your telegram, reading as follows:

* * * * * * *

At 3 o'clock this morning, April 21, I received your second dispatch, partly open and partly in cipher, which I translate as follows:

* * * * * * *

At half past 7 this morning, April 21, I received a note from the Spanish Government, which I translated and cabled to you. I confirm such cablegram as follows:

* * * * * * *

I then took the necessary steps to turn the several consulates and this legation over to the care of Her British Majesty's Government, as reported in my dispatch No. 241 of this date. I then addressed to the Spanish minister for foreign affairs the note which I report in such dispatch 241, and telegraphed its text to you as follows:

* * * * * * *

I have informed the British chargé d'affaires that my Government instructed me in case of war between Spain and the United States to furnish transportation from Spain to the United States to any poor American citizen who might be in danger in Spain and should in my judgment require such assistance, and I have asked him in behalf of my Government to exercise this discretionary power and to draw directly upon the State Department at Washington for any funds for this purpose. I inclose copy of such letter.

I will report by cable on reaching Paris.

Very respectfully,

STEWART L. WOODFORD.

[Inclosure.]

Mr. Woodford to Mr. Barclay.

LEGATION OF THE UNITED STATES,
Madrid, April 21, 1898.

MY DEAR SIR: Having, by the direction of my Government and through the kind courtesy of Her British Majesty's Government, this day turned over to you the legation of the United States at Madrid, I beg to inclose the receipt for the rent of the legation offices, which has been paid to July 1 proximo. I have paid the messenger and porter to the same date. I inclose draft on Seligman Brothers of London to your order for £100, which I trust will be sufficient for any current incidental expenses to which you may be put. My Government instructed me in case of war between Spain and the United States to furnish transportation from Spain to the United States to any poor American citizen who might be in danger in Spain and should, in my judgment, require such assistance. I ask you, in behalf of my Government, to exercise this discretionary power and to draw directly upon the State Department at Washington for any funds required for this purpose.

I send copy of this letter to the American Secretary of State at Washington, and with renewed thanks for your kindness and courtesy, I am, etc.,

STEWART L. WOODFORD.

WAR WITH SPAIN.

Blockade of Cuban ports.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, by a joint resolution passed by the Congress and approved April 20, 1898, and communicated to the Government of Spain, it was demanded that said Government at once relinquish its authority and government in the island of Cuba, and withdraw its land and naval forces from Cuba and Cuban waters; and the President of the United States was directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States to such extent as might be necessary to carry said resolution into effect; and

Whereas, in carrying into effect said resolution, the President of the United States deems it necessary to set on foot and maintain a blockade of the north coast of Cuba, including all ports on said coast between Cardenas and Bahia Honda and the port of Cienfuegos on the south coast of Cuba:

Now, therefore, I, William McKinley, President of the United States, in order to enforce the said resolution, do hereby declare and proclaim that the United States of America have instituted and will maintain a blockade of the north coast of Cuba, including ports on said coast between Cardenas and Bahia Honda and the port of Cienfuegos on the south coast of Cuba, aforesaid, in pursuance of the laws of the United States and the law of nations applicable to such cases. An efficient force will be posted so as to prevent the entrance and exit of vessels from the ports aforesaid. Any neutral vessel approaching any of said ports, or attempting to leave the same, without notice or knowledge of the establishment of such blockade, will be duly warned by the commander of the blockading forces, who will indorse on her register the fact, and the date, of such warning, where such indorsement was made; and if the same vessel shall again attempt to enter any blockaded port,

she will be captured and sent to the nearest convenient port for such proceedings against her and her cargo as prize, as may be deemed advisable.

Neutral vessels lying in any of said ports at the time of the establishment of such blockade will be allowed thirty days to issue therefrom.

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

Done at the city of Washington, this 22d day of April, A. D. 1898, and of the independence of the United States the one hundred and twenty-second.

[SEAL.] WILLIAM MCKINLEY.

By the President:

JOHN SHERMAN,
Secretary of State.

Call for volunteers—Spain.

BY THE PRESIDENT OF THE UNITED STATES.

A PROCLAMATION.

Whereas a joint resolution of Congress was approved on the twentieth day of April, 1898, entitled "Joint resolution for the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect;" and

Whereas, by an act of Congress entitled "An act to provide for temporarily increasing the military establishment of the United States in time of war, and for other purposes," approved April 22, 1898, the President is authorized, in order to raise a volunteer army, to issue his proclamation calling for volunteers to serve in the Army of the United States:

Now, therefore, I, William McKinley, President of the United States, by virtue of the power vested in me by the Constitution and the laws, and deeming sufficient occasion to exist, have thought fit to call forth, and hereby do call forth, volunteers to the aggregate number of 125,000, in order to carry into effect the purpose of the said resolution; the same to be apportioned, as far as practicable, among the several States and Territories and the District of Columbia, according to population, and to serve for two years, unless sooner discharged. The details for this object will be immediately communicated to the proper authorities through the War Department.

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

Done at the city of Washington, this twenty-third day of April, A. D. 1898, and of the independence of the United States the one hundred and twenty-second.

[SEAL.] WILLIAM MCKINLEY.

By the President:

JOHN SHERMAN,
Secretary of State.

To the Senate and House of Representatives of the United States of America:

I transmit to the Congress, for its consideration and appropriate action, copies of correspondence recently had with the representative of Spain in the United States, with the United States minister at Madrid, and through the latter with the Government of Spain, showing the action taken under the joint resolution approved April 20, 1898, "for the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect."

Upon communicating to the Spanish minister in Washington the demand which it became the duty of the Executive to address to the Government of Spain in obedience to said resolution, the minister asked for his passports and withdrew. The United States minister at Madrid was in turn notified by the Spanish minister for foreign affairs that the withdrawal of the Spanish representative from the United States had terminated diplomatic relations between the two countries, and that all official communications between their respective representatives ceased therewith.

I commend to your especial attention the note addressed to the United States minister at Madrid by the Spanish minister for foreign affairs on the 21st instant, whereby the foregoing notification was conveyed. It will be perceived therefrom that the Government of Spain, having cognizance of the joint resolution of the United States Congress, and in view of the things which the President is thereby required and authorized to do, responds by treating the reasonable demands of this Government as measures of hostility, following with that instant and complete severance of relations by its action which by the usage of nations accompanies an existent state of war between sovereign powers.

The position of Spain being thus made known and the demands of the United States being denied with a complete rupture of intercourse by the act of Spain, I have been constrained, in exercise of the power and authority conferred upon me by the joint resolution aforesaid, to proclaim under date of April 22, 1898, a blockade of certain ports of the north coast of Cuba, lying between Cardenas and Bahia Honda and of the port of Cienfuegos on the south coast of Cuba; and further, in exercise of my constitutional powers and using the authority conferred upon me by the act of Congress approved April 22, 1898, to issue my proclamation, dated April 23, 1898, calling forth volunteers in order to carry into effect the said resolution of April 20, 1898. Copies of these proclamations are hereto appended.

In view of the measures so taken, and with a view to the adoption of such other measures as may be necessary to enable me to carry out the expressed will of the Congress of the United States in the premises, I now recommend to your honorable body the adoption of a joint resolution declaring that a state of war exists between the United States of America and the Kingdom of Spain, and I urge speedy action thereon, to the end that the definition of the international status of the United States as a belligerent power may be made known, and the assertion

of all its rights and the maintenance of all its duties in the conduct of a public war may be assured.

WILLIAM MCKINLEY.

EXECUTIVE MANSION,
Washington, April 25, 1898.

War with Spain—Maritime law.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:

A PROCLAMATION.

Whereas by an act of Congress approved April 25, 1898, it is declared that war exists and that war has existed since the 21st day of April, A. D. 1898, including said day, between the United States of America and the Kingdom of Spain; and

Whereas it being desirable that such war should be conducted upon principles in harmony with the present views of nations and sanctioned by their recent practice, it has already been announced that the policy of this Government will be not to resort to privateering, but to adhere to the rules of the Declaration of Paris;

Now, therefore, I, William McKinley, President of the United States of America, by virtue of the power vested in me by the Constitution and the laws, do hereby declare and proclaim:

1. The neutral flag covers enemy's goods, with the exception of contraband of war.

2. Neutral goods, not contraband of war, are not liable to confiscation under the enemy's flag.

3. Blockades in order to be binding must be effective.

4. Spanish merchant vessels, in any ports or places within the United States, shall be allowed till May 21, 1898, inclusive, for loading their cargoes and departing from such ports or places; and such Spanish merchant vessels, if met at sea by any United States ship, shall be permitted to continue their voyage, if, on examination of their papers, it shall appear that their cargoes were taken on board before the expiration of the above term; provided, that nothing herein contained shall apply to Spanish vessels having on board any officer in the military or naval service of the enemy, or any coal (except such as may be necessary for their voyage), or any other article prohibited or contraband of war, or any dispatch of or to the Spanish Government.

5. Any Spanish merchant vessel which, prior to April 21, 1898, shall have sailed from any foreign port bound for any port or place in the United States, shall be permitted to enter such port or place, and to discharge her cargo, and afterward forthwith to depart without molestation; and any such vessel, if met at sea by any United States ship, shall be permitted to continue her voyage to any port not blockaded.

6. The right of search is to be exercised with strict regard for the rights of neutrals, and the voyages of mail steamers are not to be interfered with except on the clearest grounds of suspicion of a violation of law in respect of contraband or blockade.

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

Done at the city of Washington, on the twenty-sixth day of April, in the year of our Lord one thousand eight hundred and [SEAL.] ninety-eight, and of the Independence of the United States the one hundred and twenty-second.

WILLIAM MCKINLEY.

By the President:

ALVEY A. ADEE,
Acting Secretary of State.

Second call for volunteers—Spain.

BY THE PRESIDENT OF THE UNITED STATES:

A PROCLAMATION.

Whereas an act of Congress was approved on the twenty-fifth day of April, 1898, entitled, "An act declaring that war exists between the United States of America and the Kingdom of Spain," and

Whereas by an act of Congress entitled, "An act to provide for temporarily increasing the military establishment of the United States in time of war and for other purposes," approved April 22, 1898; the President is authorized, in order to raise a volunteer army, to issue his proclamation calling for volunteers to serve in the Army of the United States:

Now, therefore, I, William McKinley, President of the United States, by virtue of the power vested in me by the Constitution and the laws, and deeming sufficient occasion to exist, have thought fit to call forth and hereby do call forth, volunteers to the aggregate number of 75,000 in addition to the volunteers called forth by my proclamation of the twenty-third day of April, in the present year; the same to be apportioned, as far as practicable, among the several States and Territories and the District of Columbia, according to population, and to serve for two years, unless sooner discharged. The proportion of each arm and the details of enlistment and organization will be made known through the War Department.

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

Done at the city of Washington, this twenty-fifth day of May, in the year of our Lord one thousand eight hundred and ninety- [SEAL.] eight, and of the Independence of the United States the one hundred and twenty-second.

WILLIAM MCKINLEY.

By the President:

WILLIAM R. DAY,
Secretary of State.

Blockade—Southern Cuba and San Juan, Porto Rico.

BY THE PRESIDENT OF THE UNITED STATES:

A PROCLAMATION.

Whereas for the reasons set forth in my proclamation of April 22, 1898, a blockade of the ports on the northern coast of Cuba, from

Cardenas to Bahia Honda, inclusive, and of the port of Cienfuegos, on the south coast of Cuba, was declared to have been instituted; and

Whereas it has become desirable to extend the blockade to other Spanish ports:

Now, therefore, I, William McKinley, President of the United States, do hereby declare and proclaim that, in addition to the blockade of the ports specified in my proclamation of April 22, 1898, the United States of America has instituted and will maintain an effective blockade of all the ports on the south coast of Cuba, from Cape Frances to Cape Cruz, inclusive, and also of the port of San Juan, in the island of Porto Rico.

Neutral vessels lying in any of the ports to which the blockade is by the present proclamation extended will be allowed thirty days to issue therefrom with cargo.

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

Done at the city of Washington, this twenty-seventh day of June, A. D. 1898, and of the Independence of the United States the one hundred and twenty-second.

[SEAL.]

WILLIAM MCKINLEY.

By the President:

J. B. MOORE, *Acting Secretary of State.*

War decrees of Spain.

The following is taken from the London Gazette of May 3, 1898, transmitted by Ambassador Hay, under date of May 4:

FOREIGN OFFICE, *May 3, 1898.*

The secretary of state for foreign affairs has received, through Her Majesty's embassy at Madrid, the following translation of a decree issued by the Spanish Government on the 23d of April, 1898:

ROYAL DECREE.

In accordance with the advice of my council of ministers, in the name of my son, King Alfonso XIII, and as Queen Regent of the Kingdom, I decree as follows:

ARTICLE I. The state of war existing between Spain and the United States terminates the treaty of peace and friendship of the 27th October, 1795, the protocol of the 12th January, 1877, and all other agreements, compacts, and conventions that have been in force up to the present between the two countries.

ART. II. A term of five days from the date of the publication of the present royal decree in the Madrid Gazette is allowed to all United States ships anchored in Spanish ports, during which they are at liberty to depart.

ART. III. Notwithstanding that Spain is not bound by the declaration signed in Paris on the 16th April, 1856, as she expressly stated her wish not to adhere to it, my Government, guided by the principles of international law, intends to observe and hereby orders that the following regulations for maritime law be observed:

(*a*) A neutral flag covers the enemy's goods, except contraband of war.

(*b*) Neutral goods, except contraband of war, are not liable to confiscation under the enemy's flag.

(*c*) A blockade to be binding must be effective; that is to say, maintained with a sufficient force to actually prevent access to the enemy's coast.

ART. IV. The Spanish Government, while maintaining their right to issue letters of marque, which they expressly reserved in their note of the 16th May, 1857, in reply to the request of France for the adhesion of Spain to the declaration of Paris relative to maritime law, will organize for the present a service of "auxiliary cruisers of the navy," composed of ships of the Spanish mercantile navy, which will cooperate with the latter for the purposes of cruising, and which will be subject to the statutes and jurisdiction of the navy.

ART. V. In order to capture the enemy's ships, to confiscate the enemy's merchandise under their own flag, and contraband of war under any flag, the royal navy, auxiliary cruisers, and privateers, if and when the latter are authorized, will exercise the right of visit on the high seas and in the territorial waters of the enemy, in accordance with international law and any regulations which may be published for the purpose.

ART. VI. Under the denomination contraband of war the following articles are included:

Cannons, machine guns, mortars, guns, all kinds of arms and firearms, bullets, bombs, grenades, fuses, cartridges, matches, powder, sulphur, saltpeter, dynamite and every kind of explosive, articles of equipment like uniforms, straps, saddles, and artillery and cavalry harness, engines for ships and their accessories, shafts, screws, boilers, and other articles used in the construction, repair, and arming of war ships, and in general all warlike instruments, utensils, tools, and other articles, and whatever may hereafter be determined to be contraband.

ART. VII. Captains, commanders, and officers of non-American vessels or of vessels manned as to one-third by other than American citizens, captured while committing acts of war against Spain, will be treated as pirates, with all the rigor of the law, although provided with a license issued by the Republic of the United States.

ART. VIII. The minister of state and the minister of marine are charged to see the fulfillment of the present royal decree and to give the orders necessary for its execution.

MARIA CRISTINA.

MADRID, *April 23, 1898.*

FOREIGN OFFICE, *May 3, 1898.*

The secretary of state for foreign affairs has received by Her Majesty's embassy at Madrid the following translation of the instructions, drawn up by the Spanish minister of marine, for exercising the right of visit in accordance with article 5 of the royal decree which was issued on the 23d of April, 1898:

ROYAL ORDER.

YOUR EXCELLENCY: His Majesty the King, and in his name the Queen Regent, have been pleased to approve of the annexed instructions for exercising the right of visit. They have been drawn up by the minister of marine in accordance with article 5 of the royal decree issued by the president of the council of ministers on yesterday's date.

SEGISMUNDO BERMEJO.

MADRID, *April 24, 1898.*

To the PRESIDENT OF THE COUNCIL OF THE FLEET.

INSTRUCTIONS FOR THE EXERCISE OF THE RIGHT TO VISIT.

1. Right of visit can only be exercised by belligerents; hence it can evidently be only resorted to during international conflicts by one or other of the states at war, as also during internal civil or insurrectionary wars, when one or more foreign powers have recognized the insurrectionary party as belligerents. In such circumstances, right of visit can be exercised by the mother country, but it is restricted to the merchant vessels of the nation or nations who have given this recognition, and who are for such reason in the position of neutrals.

2. In accordance with the position laid down in the preceding article, ships of war and merchant vessels of the belligerents, when legally armed either as auxiliary cruisers of their navy or as privateers, if and when they are authorized, may, in their own territorial waters, or those under the jurisdiction of the enemy, or in the open seas, detain such merchant vessels as they meet with in order to verify the legitimacy of their flag, and, if neutrals and proceeding to a port of the other belligerent, the nature of their cargo.

3. Seas subject to the sovereign jurisdiction of neutral powers are absolutely inviolable; right of visit may not, therefore, be resorted to within them, even if it be alleged that it was attempted to exercise such right in the open sea, and that, on chase being given, and without losing sight of the vessel pursued, the latter penetrated into neutral waters.

Neither may the violation of the rights attaching to such waters be justified under the pretext that the coast washed thereby was undefended or uninhabited.

4. The following is the method of exercising right of visit:

(*a*) Notification to the vessel to be visited to lay to and state its nationality is made by the visiting vessel hoisting her national flag and firing a blank shot, a signal upon

which the merchant vessel is bound to hoist the flag of the nation to which it belongs and lay to.

(*b*) If the merchant vessel does not obey this first intimation and either refuses to hoist her flag or does not lay to, a second gun will be fired, this time loaded, care being taken that the shot does not strike the vessel, though going sufficiently close to her bows for the vessel to be duly warned; and if this second intimation be disregarded, a third shot will be fired at the vessel, so as to damage her, if possible, without sinking her. Whatever be the damage caused to the merchant vessel by this third shot, the commanding officer of the man-of-war or captain of the privateer can not be made responsible.

Nevertheless, in view of special circumstances, and in proportion to the suspicion excited by the merchantman, the auxiliary vessel of war or privateer may delay resorting to the last extremity until some other measure has been taken, such as not aiming the third discharge at the vessel, but approaching it and making a fresh notification by word of mouth; but if this last conciliatory measure prove fruitless, force will immediately be resorted to.

(*c*) The visiting vessel will place herself at such distance as her commander or captain may think convenient from the vessel to be visited, according to circumstances of wind, sea, current, or the suspicion inspired by the said vessel; and if these circumstances make it advisable for the boat about to make visit to approach on the windward side and go to leeward on returning, there is no reason why she should not do so.

But if, by existing treaties between the nations to which the vessels respectively belong, the distance to be kept is specified, such a clause of conventional law shall be respected, if the circumstances of wind, sea, or current above mentioned permit.

(*d*) The visiting vessel will send to the merchant vessel a boat with an officer, who will effect the visit in question, under a verbal commission from his commanding officer; said officer may board the merchant vessel in company with two or three of the crew of the boat, but it will be left to his discretion whether he shall do so or go alone.

(*e*) The visiting officer will inform the captain of the merchant vessel that, under commission from the commander of the Spanish ship of war, or of the auxiliary cruiser (here follows name of ship of war or auxiliary cruiser), or from the captain of the privateer (here follows name of vessel), he intends to effect a visit and will request him to produce his sailing papers, or official document which takes their place, in proof of the nationality of the vessel therein stated being that of the flag which he has hoisted, and to show the port to which the vessel is proceeding.

Should the first point be satisfactorily proved, and should the port of destiny prove to be a neutral one, the visit is thereby concluded.

But should the vessel be proceeding to a port belonging to the enemy of the nation to which the visiting vessel belongs, the officer will ask the captain of the merchant vessel for the documents in which the nature of the cargo is stated, in order to ascertain if there be contraband of war; should there be none, the visit is definitely concluded, and the neutral vessel is at liberty to proceed on its voyage; but should there be contraband, its capture is proceeded with, but no search may, in these circumstances, be made.

5. The visiting officer should have instructions from his commanding officer authorizing the visited vessel to continue her voyage if the visit has presented no difficulties, in order that the delay may not be longer than is absolutely indispensable.

6. If the captain of the visited vessel asks to have the visit certified, the visiting officer will accede to his request and will insert a note in the sheet for the day in the ship's books in the following form:

The undersigned (rank in the navy), sailing on the (gunboat, cruiser, etc., of His Catholic Majesty, named ———, or the auxiliary cruiser or privateer), whose commanding officer is (rank and name), certifies that this day at (hour of morning or evening), under a verbal commission from the said commanding officer, he has carried out the visit of the (class of vessel, name, and nationality of merchant service), captain (name of captain), and ascertained from the papers shown to him the legitimacy of the flag which she flies and the neutrality of her cargo.

Date.

Signature of visiting officer.

Seal of visiting vessel.

7. The visit will likewise be recorded in the books of the visiting vessel, the following circumstances being stated:

(*a*) Details of the intimation or intimations given to the visited vessel.

(*b*) Hour of its laying to.

(*c*) Name and nationality of visited vessel and captain thereof.

(*d*) Manner in which visit was effected, and its result, stating name of officer who executed it.

(*e*) Hour at which vessel was authorized to proceed.

8. The record of the visit, which, as stated in Article VI, can be made at the wish of the captain of the visited vessel, will become an indispensible formality should the vessel contain wounded or sick soldiers, subjects of the enemy, for in such a case all such persons will, by the mere act of visit, be incapaciated from bearing arms again during the war, in accordance with the first paragraph of the tenth additional article of the Geneva Convention.

The visiting officer will therefore in such a case make a notification of the same to the chief of the expeditionary force, and will make a note in the books of the visited vessel in the form prescribed in Article VI, with the following addition:

This vessel contains (number of sick and wounded) individuals (of the army or navy or both) sick and wounded, subjects of the enemy, all of whom, by the fact of this visit, are incapaciated from bearing arms again during the war, according to paragraph one of the tenth additional article of the Geneva Convention, of which I have made notification to the commander of the expeditionary force, who stated that he was (here follow rank and name).

9. The visit is not an act of jurisdiction on the part of the belligerent; it is a natural means of legitimate defense allowed by international law, lest fraud and bad faith should assist the enemy. This right should therefore be exercised with the greatest moderation by the belligerent, special care being taken to avoid causing the neutral any extortion, damage, or trouble that is not absolutely justifiable.

In consequence of this, the detention of the ship visited should always be as short as possible, and the proceedings restricted as far as they can be, their exclusive object being, as explained, for the belligerent to ascertain the neutrality of the ship, and in case of its neutrality (if bound for a port of the enemy) the inoffensive and neutral description of its cargo.

It is not necessary, therefore, to demand during the visit any other documents than those proving these two conditions, for what the belligerent requires is to prevent any damage, favoring, or assisting the enemy; to prevent assistance and help being furnished to them that may contribute directly to the prolongation of the war, and not to be assured that all ships belonging to neutral powers are provided with all the documents required by the laws of their country.

10. In consequence of the visit the vessel is captured in the following case:

(1) If the nationality of the vessel proves to be that of the enemy, unless covered by the immunities established by the Geneva Convention by which Spain is bound. (The said exceptions are given at the end of these instructions.)

(2) If active resistance is offered to the visit, that is, if force is employed to escape it.

(3) If a legal document to prove the nationality can not be produced.

(4) If bound for the enemy's ports, the vessel can not produce a document proving the nature of the cargo.

(5) If the cargo is composed in whole or more than two-thirds of contraband of war.

In the case of the illicit part of the cargo being less than two-thirds only, the articles which are contraband of war will be confiscated, and to unload them the ship will be conducted to the nearest and most convenient Spanish port.

It must be understood that goods directly and immediately affecting the war are contraband only when destined for the enemy's ports, for when they are consigned to a neutral port these goods are munitions of war, but not contraband.

But if a vessel is dispatched for a neutral port in proper form, but makes for a port of the enemy, then, if found near to one of these ports or sailing in quite a different direction than the proper one shown in her papers, she shall be captured if the captain can not prove that force majeure drove him from his proper course.

(6) If she carries on behalf of the enemy officers, troops, or seamen.

(7) If she carries letters and communications of the enemy, unless she belong to a marine mail service, and these letters or communications are in bags, boxes, or parcels with the public correspondence, so that the captain may be ignorant of their contents.

(8) If the vessel is employed in watching the operations of the war, either freighted by the other belligerent or paid to perform this service.

(9) If the neutral vessel takes part in this employment or assists in any way in such operations.

The vessel will also be captured when, during the visit, duplicate or false papers are found, since such cases fall under the regulations contained in clauses (3) and (4) or in both, since neither false nor duplicate papers can serve to justify the conditions referred to.

Neither an attempt at flight to escape visit nor simple suspicion of fraud respecting the nationality of the vessel or the nature of its cargo authorize the capture of the vessel.

The circumstance that the papers are written in a language unknown to the officer making the visit does not authorize the detention of the vessel.

11. Merchant vessels sailing under convoy, under charge of one or more ships of the navy of their nation, are absolutely exempt from the visit of the belligerents, being protected by the immunity enjoyed by the war ships.

As the formation of a convoy is a measure emanating from the government of the state to which belong the vessels protecting the convoy, as well as the vessels under convoy, it must be taken as certain that the government in question not only will not allow fraud of any kind, but has employed the strictest measures to avoid fraud being committed by any of the vessels under the convoy.

It is therefore useless for the belligerent to inquire of the chief officer of the convoy whether he guarantees the neutrality of ships sailing under his charge, or of the cargo they carry.

12. On the visit taking place, it is not permissible to give orders to open the hatchways in order to examine the cargo, nor to open any article of furniture to search for documents. The ship's papers presented by the captain to prove the legitimacy of the flag and the nature of the cargo are the only proof which international law allows.

13. Although it very seldom occurs that the principal ship's papers, whether those referring to her nationality or to the nature of her cargo, are lost, mislaid, or left on shore by mistake, if such a case should occur, and by other papers or means the captain can convince the officer visiting the ship of the neutrality of the ship and her cargo, he may authorize the captain to continue her voyage; but if an explanation can not be given, the ship will be detained and conducted to the nearest Spanish port until the necessary investigation concerning the point or points in question is made.

14. The commander of the vessel carrying out the visit and the officer commissioned to make the visit, the former in ordering and the latter in carrying it out, should act without prejudice to the good faith of the neutral being visited, and without losing sight of the consideration and respect that nations owe to one another.

Note relative to the first section of Article X. The clauses of the Geneva Convention of the 22d August, 1864, and those of its additional articles drawn up at the second diplomatic conference of the 20th October, 1868, are as follows:

"*Articles concerning the marine.*

"ARTICLE VI.

"The boats which, at their own risk and peril, during and after an engagement, pick up the shipwrecked or wounded, or which, having picked them up, convey them on board a neutral or hospital ship, shall enjoy, until the accomplishment of their mission, the character of neutrality, as far as the circumstances of the engagement and the position of the ships engaged with permit.

"The appreciation of these circumstances is intrusted to the humanity of all the combatants. The wrecked and wounded thus picked up and saved must not serve again during the continuance of the war.

"ARTICLE VII.

"The religious, medical, and hospital staff of any captured vessel are declared neutral, and, on leaving the ship, may remove the articles and surgical instruments which are their private property.

"ARTICLE VIII.

"The staff designated in the preceding article must continue to fulfill their functions in the captured ship, assisting in the removal of the wounded made by the victorious party; they will then be at liberty to return to their country in conformity with the second paragraph of the first additional article.[1]

"The stipulations of the second additional article are applicable to the pay and allowance of the staff already mentioned.

[1] This article states that the time of departure will be fixed by the commander of the boarding party.

"ARTICLE IX.

"The military hospital ships remain under martial law in all that concerns their stores; they become the property of the captor, but the latter must not divert them from their special appropriation during the continuance of the war.

"ARTICLE X.

"Any merchantman, to whatever nation she may belong, charged exclusively with removal of sick and wounded, is protected by neutrality; but the mere fact, noted on the ship's books, of the vessel having been visited by an an enemy's cruiser, renders the sick and wounded incapable of serving during the continuance of the war. The cruiser shall even have the right of putting on board an officer in order to accompany the convoy, and thus verify the good faith of the operation.

"If the merchant ship also carries a cargo, her neutrality will still protect it, provided that such cargo is not of a nature to be confiscated by the belligerents.

"The belligerents retain the right to interdict neutralized vessels from all communication, and from any course which they may deem prejudicial to the secrecy of their operations. In urgent cases special conventions may be entered into between commanders in chiefs, in order to neutralize temporarily and in a special manner the vessels intended for the removal of the sick and wounded.

"ARTICLE XI.

"Wounded or sick sailors and soldiers, when embarked, to whatever nation they may belong, shall be protected and taken care of by their captors.

"Their return to their own country is subject to the condition that they are bound not to bear arms again during the war.

"ARTICLE XII.

"The distinctive flag to be used with the national flag, in order to indicate any vessel or boat which may claim the benefits of neutrality, is a white flag with a red cross. The belligerents may exercise in this respect any mode of verification which they may deem necessary.

"Military hospital ships shall be distinguished by being painted white outside, with green strake.

"ARTICLE XIII.

"The hospital ships which are equipped at the expense of the aid societies, recognized by the signatory powers to the Geneva Convention, and which are furnished with a commission emanating from the sovereign, who shall have given express authority for their being fitted out, and with a certificate from the proper naval authority that they have been placed under his control until their final departure, and that they were then appropriated solely to the purposes of their mission, shall be considered neutral, as well as the whole of their staff. They shall be recognized and protected by the belligerents.

"They shall make themselves known by hoisting, together with their national flag, the white flag with a red cross. The distinctive mark of their staff, while performing their duties, shall be an armlet of the same colors. The outer painting of these hospital ships shall be white, with red strake.

"These ships shall bear aid and assistance to the wounded and wrecked belligerents, without distinction of nationality.

"They must take care not to interfere in any way with the movements of the combatants. During and after the battle they must do their duty at their own risk and peril.

"The belligerents shall have the right of controlling and visiting them; they will be at liberty to refuse their assistance, to order them to depart, and to detain them if the exigencies of the case require such a step.

"The wounded and wrecked picked up by these ships can not be reclaimed by either of the combatants, and they will be required not to serve during the continuance of the war.

"ARTICLE XIV.

"In naval wars any strong presumption that either belligerent takes advantage of the benefits of neutrality, with any other view than the interest of the sick and wounded, gives to the other belligerent, until proof to the contrary, the right of suspending the convention as regards such belligerent."

The Minister of Marine,
SEGISMUNDO BERMEJO.

MADRID, *April 24, 1898.*

Instructions to blockading vessels and cruisers.

GENERAL ORDERS } NAVY DEPARTMENT,
No. 492. } *Washington, June 20, 1898.*

The following "Instructions to blockading vessels and cruisers," prepared by the Department of State, are published for the information and guidance of the naval service.

JOHN D. LONG,
Secretary.

INSTRUCTIONS TO BLOCKADING VESSELS AND CRUISERS.

1. Vessels of the United States, while engaged in blockading and cruising service, will be governed by the rules of international law, as laid down in the decisions of the courts and in the treaties and manuals furnished by the Naval Department to ships' libraries, and by the provisions of the treaties between the United States and other powers.

The following specific instructions are established for the guidance of officers of the United States:

BLOCKADE.

2. A blockade to be effective and binding must be maintained by a force sufficient to render ingress to or egress from the port dangerous. If the blockading vessels be driven away by stress of weather, but return without delay to their stations, the continuity of the blockade is not thereby broken; but if they leave their stations voluntarily, except for purposes of the blockade, such as chasing a blockade runner, or are driven away by the enemy's force, the blockade is abandoned or broken. As the suspension of a blockade is a serious matter, involving a new notification, commanding officers will exercise especial care not to give grounds for complaints on this score.

NOTIFICATIONS TO NEUTRALS.

3. Neutral vessels are entitled to notification of a blockade before they can be made prize for its attempted violation. The character of this notification is not material. It may be actual, as by a vessel of the blockading force, or constructive, as by a proclamation of the government maintaining the blockade, or by common notoriety. If a neutral vessel can be shown to have had notice of the blockade in any way, she is good prize and should be sent in for adjudication; but, should formal notice not have been given, the rule of constructive knowledge arising from notoriety should be construed in a manner liberal to the neutral.

4. Vessels appearing before a blockaded port, having sailed without notification, are entitled to actual notice by a blockading vessel. They should be boarded by an officer, who should enter in the ship's log the fact of such notice, such entry to include the name of the blockading vessel giving notice, the extent of the blockade, the date and place, verified by his official signature. The vessel is then to be set free; and should she again attempt to enter the same or any other blockaded port as to which she has had notice she is good prize.

5. Should it appear from a vessel's clearance that she sailed after notice of blockade had been communicated to the country of her port of departure, or after the fact of blockade had, by a fair assumption, become commonly known at that port, she should be sent in as a prize. There are, however, treaty exceptions to this rule, and these exceptions should be strictly observed.

6. A neutral vessel may sail in good faith for a blockaded port with an alternative destination to be decided upon by information as to the continuance of the blockade obtained at an intermediate port. But, in such case, she is not allowed to continue her voyage to the blockaded port in alleged quest of information as to the status of the blockade, but must obtain it and decide upon her course before she arrives in suspicious vicinity; and if the blockade has been formally established with due notification, any doubt as to the good faith of such a proceeding should go against the neutral and subject her to seizure.

7. In accordance with the rule adopted by the United States in the existing war with Spain, neutral vessels found in port at the time of the establishment of a blockade will, unless otherwise ordered by the United States, be allowed thirty days from the establishment of the blockade to load their cargoes and depart from such port.

8. A vessel under any circumstances resisting visit, destroying her papers, presenting fraudulent papers, or attempting to escape, should be sent in for adjudica-

tion. The liability of a blockade runner to capture and condemnation begins and terminates with her voyage. If there is good evidence that she sailed with intent to evade the blockade, she is good prize from the moment she appears upon the high seas. Similarly, if she has succeeded in escaping from a blockaded port she is liable to capture at any time before she reaches her home port. But with the termination of the voyage the offense ends.

9. The crews of blockade runners are not enemies and should be treated not as prisoners of war, but with every consideration. Any of the officers or crew, however, whose testimony before the prize court may be desired, should be detained as witnesses.

10. The men-of-war of neutral powers should, as a matter of courtesy, be allowed free passage to and from a blockaded port.

11. Blockade running is a distinct offense, and subjects the vessel attempting, or sailing with the intent, to commit it, to seizure without regard to the nature of her cargo. The presence of contraband of war in the cargo becomes a distinct cause of seizure of the vessel, where she is bound to a port of the enemy not blockaded, and to which, contraband of war excepted, she is free to trade.

RIGHT OF SEARCH.

12. The belligerent right of search may be exercised without previous notice, upon all neutral vessels after the beginning of war, to determine their nationality, the character of their cargo, and the ports between which they are trading.

13. This right should be exercised with tact and consideration, and in strict conformity with treaty provisions, wherever they exist. The following directions are given, subject to any special treaty stipulations: After firing a blank charge, and causing the vessel to lie to, the cruiser should send a small boat, no larger than a whaleboat, with an officer to conduct the search. There may be arms in the boat, but the men should not wear them on their persons. The officer wearing only his side arms, and accompanied on board by not more than two men of his boat's crew, unarmed, should first examine the vessel's papers to ascertain her nationality and her ports of departure and destination. If she is neutral, and trading between neutral ports, the examination goes no further. If she is neutral, and bound to an enemy's port not blockaded, the papers which indicate the character of her cargo should be examined. If these show contraband of war the vessel should be seized; if not, she should be set free, unless, by reason of strong grounds of suspicion, a further search should seem to be requisite.

14. Irrespective of the character of the cargo, or her purported destination, a neutral vessel should be seized if she—

(1) Attempts to avoid search by escape; but this must be clearly evident.
(2) Resists search with violence.
(3) Presents fraudulent papers.
(4) Is not supplied with the necessary papers to establish the objects of search.
(5) Destroys, defaces, or conceals papers.

The papers generally to be expected on board of a vessel are:

(1) The register.
(2) The crew list.
(3) The log book.
(4) A bill of health.
(5) A charter party.
(6) Invoices.
(7) Bills of lading.

15. A neutral vessel carrying hostile dispatches, when sailing as a dispatch vessel practically in the service of the enemy, is liable to seizure; but not when she is a mail packet and carries them in the regular and customary manner, either as a part of the mail in her mail bags, or separately, as a matter of accommodation and without special arrangement or remuneration. The voyages of mail steamers are not to be interferred with except on the clearest grounds of suspicion of a violation of law in respect of contraband or blockade.

16. A neutral vessel in the service of the enemy, in the transportation of troops or military persons, is liable to seizure.

MERCHANT VESSELS OF THE ENEMY.

17. Are good prize, and may be seized anywhere, except in neutral waters. To this rule, however, the President's proclamation of April 26, 1898, made the following exceptions:

"4. Spanish merchant vessels in any ports or places within the United States, shall be allowed till May 21, 1898, inclusive, for loading their cargoes and departing from such ports or places; and such Spanish merchant vessels, if met at sea by any United States ship, shall be permitted to continue their voyage, if, on examination

of their papers, it shall appear that their cargoes were taken on board before the expiration of the above term; provided that nothing herein contained shall apply to Spanish vessels having on board any officer in the military or naval service of the enemy, or any coal (except such as may be necessary for their voyage, or any other article prohibited or contraband of war, or any dispatch of or to the Spanish Government.

"5. Any Spanish merchant vessel which, prior to April 21, 1898, shall have sailed from any foreign port bound for any port or place in the United States, shall be permitted to enter such port or place, and to discharge her cargo, and afterward forthwith to depart without molestation; and any such vessel, if met at sea by any United States ship, shall be permitted to continue her voyage to any port not blockaded."

ENEMY'S PROPERTY IN NEUTRAL VESSELS NOT CONTRABAND OF WAR.

18. The President, by his proclamation of April 26, 1898, declared:

"1. The neutral flag covers enemy's goods, with the exception of contraband of war."

CONTRABAND OF WAR.

19. The term contraband of war comprehends only articles having a belligerent destination, as to an enemy's port or fleet. With this explanation, the following articles are, for the present, to be treated as contraband:

Absolutely contraband.—Ordnance; machine guns and their appendages, and the parts thereof; armor plate and whatever pertains to the offensive and defensive armament of naval vessels; arms and instruments of iron, steel, brass, or copper, or of any other material, such arms and instruments being specially adapted for use in war by land or sea; torpedoes and their appurtenances; cases for mines, of whatever material; engineering and transport materials, such as gun carriages, caissons, cartridge boxes, campaigning forges, canteens, pontoons; ordnance stores; portable range finders; signal flags destined for naval use; ammunition and explosives of all kinds; machinery for the manufacture of arms and munitions of war; saltpeter; military accouterments and equipments of all sorts; horses.

Conditionally contraband.—Coal, when destined for a naval station, a port of call, or a ship or ships of the enemy; materials for the construction of railways or telegraphs, and money, when such materials or money are destined for the enemy's forces; provisions, when destined for an enemy's ship or ships, or for a place that is besieged.

SENDING IN OF PRIZES.

20. Prizes should be sent in for adjudication, unless otherwise directed, to the nearest home port in which a prize court may be sitting.

21. The prize should be delivered to the court as nearly as possible in the condition in which she was at the time of seizure; and to this end her papers should be sealed at the time of seizure and kept in the custody of the prize master. Attention is called to articles Nos. 16 and 17 for the government of the United States Navy. (Exhibit A.)

22. All witnesses whose testimony is necessary to the adjudication of the prize should be detained and sent in with her, and if circumstances permit it is preferable that the officer making the search should act as prize master.

23. As to the delivery of the prize to the judicial authority, consult sections 4615, 4616, and 4617, Revised Statutes of 1878. (Exhibit B.) The papers, including the log book of the prize, are delivered to the prize commissioners; the witnesses, to the custody of the United States marshal; and the prize itself remains in the custody of the prize master until the court issues process directing one of its own officers to take charge.

24. The title to property seized as prize changes only by the decision rendered by the prize court. But if the vessel itself or its cargo is needed for immediate public use, it may be converted to such use, a careful inventory and appraisal being made by impartial persons and certified to the prize court.

28. If there are controlling reasons why vessels may not be sent in for adjudication, as unseaworthiness, the existence of infectious disease, or the lack of a prize crew, they may be appraised and sold; and if this can not be done they may be destroyed. The imminent danger of recapture would justify destruction, if there was no doubt that the vessel was good prize. But in all such cases all the papers and other testimony should be sent to the prize court in order that a decree may be duly entered.

EXHIBIT A.

ART. 16. No person in the Navy shall take out of a prize, or vessel seized as a prize, any money, plate, goods, or any part of her equipment, unless it be for the better preservation thereof, or unless such articles are absolutely needed for the use of any

of the vessels or armed forces of the United States, before the same are adjudged lawful prize by a competent court; but the whole, without fraud, concealment, or embezzlement, shall be brought in, in order that judgment may be passed thereon; and every person who offends against this article shall be punished as a court-martial may direct.

ART. 17. If any person in the Navy strips off the clothes of, or pillages, or in any manner maltreats, any person taken on board a prize, he shall suffer such punishment as a court-martial may adjudge

EXHIBIT B.

SEC. 4615. The commanding officer of any vessel making a capture shall secure the documents of the ship and cargo, including the log book, with all other documents, letters, and other papers found on board, and make an inventory of the same, and seal them up, and send them, with the inventory, to the court in which proceedings are to be had, with a written statement that they are all the papers found, and are in the condition in which they were found; or explaining the absence of any documents or papers, or any change in their condition. He shall also send to such court, as witnesses, the master, one or more of the other officers, the supercargo, purser, or agent of the prize, and any person found on board whom he may suppose to be interested in, or to have knowledge respecting, the title, national character, or destination of the prize. He shall send the prize, with the documents, papers, and witnesses, under charge of a competent prize master and prize crew, into port for adjudication, explaining the absence of any usual witnesses; and in the absence of instructions from superior authority as to the port to which it shall be sent, he shall select such port as he shall deem most convenient, in view of the interest of probable claimants, as well as of the captors. If the captured vessel, or any part of the captured property, is not in condition to be sent in for adjudication, a survey shall be had thereon and an appraisement made by persons as competent and impartial as can be obtained, and their reports shall be sent to the court in which proceedings are to be had; and such property, unless appropriated for the use of the Government, shall be sold by the authority of the commanding officer present, and the proceeds deposited with the assistant treasurer of the United States most accessible to such court, and subject to its order in the cause. (See sec. 1624, art. 15.)

SEC. 4616. If any vessel of the United States shall claim to share in a prize, either as having made the capture, or as having been within signal distance of the vessel or vessels making the capture, the commanding officer of such vessel shall make out a written statement of his claim, with the grounds on which it is founded, the principal facts tending to show what vessels made the capture, and what vessels were within signal distance of those making the capture, with reasonable particularity as to times, distances, localities, and signals made, seen, or answered; and such statement of claim shall be signed by him and sent to the court in which proceedings shall be had, and shall be filed in the cause.

SEC. 4617. The prize master shall make his way diligently to the selected port, and there immediately deliver to a prize commissioner the documents and papers, and the inventory thereof, and make affidavit that they are the same, and are in the same condition as delivered to him, or explaining any absence or change of condition therein, and that the prize property is in the same condition as delivered to him, or explaining any loss or damage thereto; and he shall further report to the district attorney and give to him all the information in his possession respecting the prize and her capture; and he shall deliver over the persons sent as witnesses to the custody of the marshal, and shall retain the prize in his custody until it shall be taken therefrom by process from the prize court. (See sec. 5441.)

OCCUPATION OF SANTIAGO.

GENERAL ORDERS, No. 101.

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, July 18, 1898.

The following, received from the President of the United States, is published for the information and guidance of all concerned:

EXECUTIVE MANSION,
Washington, July 18, 1898.

To the SECRETARY OF WAR.

SIR: The capitulation of the Spanish forces in Santiago de Cuba and in the eastern part of the Province of Santiago, and the occupation of the territory by the forces of the United States, render it necessary to instruct the military commander of the United States as to the conduct which he is to observe during the military occupation.

The first effect of the military occupation of the enemy's territory is the severance of the former

political relations of the inhabitants and the establishment of a new political power. Under this changed condition of things the inhabitants, so long as they perform their duties, are entitled to security in their persons and property and in all their private rights and relations. It is my desire that the inhabitants of Cuba should be acquainted with the purpose of the United States to discharge to the fullest extent its obligations in this regard. It will therefore be the duty of the commander of the army of occupation to announce and proclaim in the most public manner that we come not to make war upon the inhabitants of Cuba, nor upon any party or faction among them, but to protect them in their homes, in their employments, and in their personal and religious rights. All persons who, either by active aid or by honest submission, cooperate with the United States in its efforts to give effect to this beneficent purpose will receive the reward of its support and protection. Our occupation should be as free from severity as possible.

Though the powers of the military occupant are absolute and supreme, and immediately operate upon the political condition of the inhabitants, the municipal laws of the conquered territory, such as affect private rights of person and property and provide for the punishment of crime, are considered as continuing in force, so far as they are compatible with the new order of things, until they are suspended or superseded by the occupying belligerent; and in practice they are not usually abrogated, but are allowed to remain in force and to be administered by the ordinary tribunals, substantially as they were before the occupation. This enlightened practice is, so far as possible, to be adhered to on the present occasion. The judges and the other officials connected with the administration of justice may, if they accept the supremacy of the United States, continue to administer the ordinary law of the land, as between man and man, under the supervision of the American commander in chief. The native constabulary will, so far as may be practicable, be preserved. The freedom of the people to pursue their accustomed occupations will be abridged only when it may be necessary to do so.

While the rule of conduct of the American commander in chief will be such as has just been defined, it will be his duty to adopt measures of a different kind, if, unfortunately, the course of the people should render such measures indispensable to the maintenance of law and order. He will then possess the power to replace or expel the native officials in part or altogether, to substitute new courts of his own constitution for those that now exist, or to create such new or supplementary tribunals as may be necessary. In the exercise of these high powers the commander must be guided by his judgment and his experience and a high sense of justice.

One of the most important and most practical problems with which it will be necessary to deal is that of the treatment of property and the collection and administration of the revenues. It is conceded that all public funds and securities belonging to the government of the country in its own right, and all arms and supplies and other movable property of such government, may be seized by the military occupant and converted to his own use. The real property of the State he may hold and administer, at the same time enjoying the revenues thereof; but he is not to destroy it save in the case of military necessity. All public means of transportation, such as telegraph lines, cables, railways, and boats belonging to the State may be appropriated to his use, but, unless in case of military necessity, they are not to be destroyed. All churches and buildings devoted to religious worship and to the arts and sciences, all schoolhouses, are, so far as possible, to be protected, and all destruction or intentional defacement of such places, of historical monuments or archives, or of works of science or art, is prohibited, save when required by urgent military necessity.

Private property, whether belonging to individuals or corporations, is to be respected, and can be confiscated only for cause. Means of transportation, such as telegraph lines and cables, railways and boats, may, although they belong to private individuals or corporations, be seized by the military occupant, but, unless destroyed under military necessity, are not to be retained.

While it is held to be the right of the conqueror to levy contributions upon the enemy in their seaports, towns, or provinces which may be in his military possession by conquest and to apply the proceeds to defray the expenses of the war, this right is to be exercised within such limitations that it may not savor of confiscation. As the result of military occupation the taxes and duties payable by the inhabitants to the former Government become payable to the military occupant, unless he sees fit to substitute for them other rates or modes of contribution to the expenses of the Government. The moneys so collected are to be used for the purpose of paying the expenses of Government under the military occupation, such as the salaries of the judges and the police, and for the payment of the expenses of the Army.

Private property taken for the use of the Army is to be paid for when possible in cash at a fair valuation, and when payment in cash is not possible, receipts are to be given.

All ports and places in Cuba which may be in the actual possession of our land and naval forces will be opened to the commerce of all neutral nations, as well as our own, in articles not contraband of war upon payment of the prescribed rates of duty which may be in force at the time of the importation.

WILLIAM MCKINLEY.

By order of the Secretary of War:

H. C. CORBIN,
Adjutant-General.

CORRESPONDENCE CONCERNING THE PROTECTION OF SPANISH SUBJECTS AND INTERESTS IN THE UNITED STATES BY THE DIPLOMATIC AND CONSULAR OFFICERS OF FRANCE AND AUSTRIA-HUNGARY.

The French ambassador to the Secretary of State.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, April 22, 1898.

MR. SECRETARY OF STATE: I have the honor to inform you that before leaving Washington, and in fulfillment of the instructions of his Government, Mr. Polo y Bernabé confided to me and at the same time to the minister of Austria-Hungary the protection of Spanish subjects and interests in the United States.

With a view to simplify in practice the accomplishment of the mission which our respective Governments have accepted, the minister of Austria-Hungary and I have made in common accord the following arrangements:

First. The archives of the Spanish legation in Washington will remain stored in the legation of Austria-Hungary.

Second. The care of the consular archives and the protection of Spanish interests will be confided to the consulates-general of Austria-Hungary in New York and Chicago and the consulates of France in New Orleans, San Francisco, and Philadelphia.

Third. In those localities where only one of the two countries has a representative, he will assume the protection of Spanish interests; in those places where the two countries are only represented by consular agents, such protection will be exercised by the French agent.

Fourth. Questions the adjustment of which many necessitate representations to the Department of State will be dealt with either by the minister of Austria-Hungary or by me, accordingly as the Austrian or French consul shall have had the initiative therein.

Fifth. In all other cases I shall charge myself alone with the steps to be taken with respect to the Government of the United States.

I to-day send instructions in this sense to the French consuls, and I will be grateful to you to be pleased to invite the competent authorities to extend to them, the case arising, all the needful facilities.

Be pleased to accept, etc.,

JULES CAMBON.

The Austro-Hungarian minister to the Secretary of State.

[Translation.]

IMPERIAL ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, April 22, 1898.

MR. SECRETARY OF STATE: I have the honor, Mr. Secretary of State, to inform you that Mr. Polo y Bernabé, in carrying out the direction of his Government with respect to his departure from Washington, has simultaneously intrusted to the French ambassador and myself the protection of Spanish subjects and interests in the United States.

In order to simplify in practice the carrying out of this commission, which our Governments have accepted, the French ambassador and I have agreed in common upon the following rules:

1. The archives of the Spanish legation in Washington will be left on deposit in the Austro-Hungarian legation.

2. The custody of the archives and the protection of Spanish interests in New York and Chicago will be intrusted to the local Austro-Hungarian consuls-general, and in New Orleans, Philadelphia, and San Francisco to the French consulates.

3. In those places where only one of the two countries has a representative, the latter will assume the protection of Spanish interests; in those places where both are represented only by consular agents, such protection will be exercised through the French agents.

4. Questions the settlement of which may call for representations to the Department of State will be acted upon either by the French ambassador or by me, accordingly as the initiative thereof shall have been taken through a French or an Austro-Hungarian consul.

5. In all other cases the French ambassador will take exclusive charge of the proceedings with the Government of the Union.

I to-day send the appropriate instructions to the Austro-Hungarian consulates, and I will be very grateful to you, Mr. Secretary of State, if you will be pleased to invite the competent authorities to extend to them, the case arising, the necessary assistance.

Accept, etc., HENGELMÜLLER.

The Secretary of State to the French ambassador.

No. 12.] DEPARTMENT OF STATE,
Washington, April 25, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 22d instant, whereby you inform me that Mr. Polo de Bernabé, before leaving Washington and in fulfillment of the instructions of his Government, intrusted to you, and at the same time to the Austro-Hungarian minister, the protection of Spanish subjects and interests in the United States. To the end of simplifying in practice the accomplishment of this commission, which your respective Governments have accepted, you and the Austro-Hungarian minister have agreed upon certain convenient arrangements, which you are pleased to communicate to me, as follows:

"First. The archives of the Spanish legation in Washington will remain stored in the legation of Austria-Hungary.

"Second. The care of the consular archives and the protection of Spanish interests will be confided to the consulates-general of Austria-Hungary in New York and Chicago, and to the consulates of France in New Orleans, San Francisco, and Philadelphia.

"Third. In those localities where only one of the two countries has a representative, he will assume the protection of Spanish interests; in those places where the two countries are only represented by consular agents, such protection will be exercised by the French agent.

"Fourth. Questions the adjustment of which may necessitate representations to the Department of State will be dealt with either by the minister of Austria-Hungary or by me [the French ambassador],

accordingly as the Austrian or the French consul shall have had the initiative therein.

"Fifth. In all other cases I shall charge myself [the French ambassador] alone with the steps to be taken with respect to the Government of the United States."

In reply, I beg to inform you that the Government of the United States admits your friendly action in assuming charge of the protection of Spanish subjects and interests in the United States, and that the scheme which you and the Austro-Hungarian minister have devised for the practical division of the charge you have simultaneously assumed is provisionally accepted so long as experience shall show its convenience in practice. It is, of course, understood, in conformity with the international usage which obtains in circumstances like the present, that the arrangement contemplates only the friendly offices of yourself or of your esteemed colleague, as well as of the consular representatives of your respective nations, should occasion therefor arise, with regard to Spanish subjects and their interests actually within the jurisdiction of the United States, and embraces no representative office by either of you on behalf of the Government of Spain, between which and the Government of the United States a condition of war unhappily exists.

I shall communicate to the competent authorities copies of the notes thus addressed to me by yourself and the Austro-Hungarian minister, to the end that they may give all due heed to such representations as the agents of either country may feel called upon to make in behalf of Spanish subjects and interests in fulfillment of the friendly offices of protection thus assumed and admitted. In order, however, that no confusion may exist as to the distribution of protective functions among the respective consulates, I beg that you will favor me with a list of the French consular officers who have been designated to act in the manner stated in your note.

Be pleased to accept, etc., JOHN SHERMAN.

The Secretary of State to the Austro-Hungarian minister.

DEPARTMENT OF STATE,
Washington, April 25, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 22d instant, whereby you inform me that Mr. Polo de Bernabé, before leaving Washington and in fulfillment of the instructions of his Government, intrusted to you, and at the same time to the French ambassador, the protection of Spanish subjects and interests in the United States. To the end of simplifying in practice the accomplishment of this commission, which your respective Governments have accepted, you and the French ambassador have agreed upon certain convenient arrangements which you are pleased to communicate to me, as follows:

"First. The archives of the Spanish legation at Washington will be left on deposit in the Austro-Hungarian legation.

"Second. The custody of the archives and the protection of Spanish interests in New York and Chicago will be intrusted to the local Austro-Hungarian consuls-general, and in New Orleans, Philadelphia, and San Francisco to the French consulates.

"Third. In those places where only one of the two countries has a representative, the latter will assume the protection of Spanish interests; in those places where both are represented only by consular agents, such protection will be exercised through the French agents.

"Fourth. Questions, the settlement of which may call for representations to the

Department of State, will be acted upon either by the French ambassador or by me [the Austro-Hungarian minister], accordingly as the initiative thereof shall have been taken through a French or Austro-Hungarian consul.

"Fifth. In all other cases the French ambassador will take exclusive charge of the proceedings with the Government of the Union."

In reply, I beg to inform you that the Government of the United States admits your friendly action in assuming charge of the protection of Spanish subjects and interests in the United States, and that the scheme which you and the French ambassador have devised for the practical division of the charge you have simultaneously assumed is provisionally accepted so long as experience shall show its convenience in practice. It is, of course, understood, in conformity with the international usage which obtains in circumstances like the present, that the arrangement contemplates only the friendly offices of yourself or of your esteemed colleague, as well as of the consular representatives of your respective nations, should occasion therefor arise, with regard to Spanish subjects and their interests actually within the jurisdiction of the United States, and embraces no representative office by either of you on behalf of the Government of Spain, between which and the Government of the United States a condition of war unhappily exists.

I shall communicate to the competent authorities copies of notes thus addressed to me by yourself and the French ambassador, to the end that they may give all due heed to such representations as the agents of either country may feel called upon to make in behalf of Spanish subjects and interests in fulfillment of the friendly office of protection thus assumed and admitted. In order, however, that no confusion may exist as to the distribution of protective functions among the respective consulates, I beg that you will favor me with a list of the Austro-Hungarian consular officers who have been designated to act in the manner stated in your note.

Be pleased to accept, etc.,

JOHN SHERMAN.

The French ambassador to the Secretary of State.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC IN THE UNITED STATES,
Washington, April 26, 1898.

MR. SECRETARY OF STATE: In your acknowledgment, dated April 25, of a note which I had the honor to address to you on the 22d of the same month, in regard to the steps which I had taken, in concert with the minister of Austria-Hungary, for the purpose of insuring the protection of Spanish subjects and interests in the United States, which our Governments have simultaneously assumed, you were good enough to express to me the desire to receive the list of French consuls and consular agents designated to exercise such protection, under the conditions indicated in my above-mentioned note.

In order to comply with your request, I hasten to transmit to you, as an inclosure, the list of these agents, and I avail myself of this occasion to thank you for the instructions intended to facilitate their mission which you propose to issue to the competent authorities.

Pray accept, etc., JULES CAMBON.

[Inclosure.]

List of French consular posts charged with the protection of Spanish interests.

Consulates.—New Orleans, San Francisco.

Vice-consulates.—Philadelphia, Galveston.

Consular agencies.—Cincinnati, Detroit, Kansas City, Louisville, St. Louis, St. Paul, Brownsville, Dallas, El Paso, San Antonio, Baltimore, Boston; Charleston, S. C.; Norfolk; Portland, Me.; Apalachicola, Baton Rouge, Birmingham, Mobile, Pensacola, Savannah, Los Angeles; Portland, Oreg.; San Jose.

The Austro-Hungarian minister to the Secretary of State.

[Translation.]

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, April 26, 1898.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your note No. 218, of April 25 instant, and in compliance with the desire expressed therein to advise you, Mr. Secretary of State, that, in addition to the Austro-Hungarian consulate-general in New York and Chicago, the imperial and royal consulates at Pittsburg, Pa., and Richmond, Va., at which places the French Government maintains no consular representation, have been intrusted with the protection of Spanish subjects.

The list of names of the Austro-Hungarian officers thus called to the exercise of this friendly protection is:

New York, Consul-General Franz Stockinger.
Chicago, Consul Max von Proskowetz.
Pittsburg, Consul Thomas von Dessewffy.
Richmond, Consul Christof. Borchers.

Accept, etc., HENGELMÜLLER.

Mr. Thiébaut to Mr. Adee.

[Translation.]

EMBASSY OF FRANCE IN THE UNITED STATES,
Washington, April 27, 1898.

DEAR MR. ADEE: Referring to our conversation of day before yesterday, I have the honor to transmit to you herewith for your information copy of a telegram which the ambassador has received from the agent of the steamer *Buena Ventura*, recently captured by the Federal squadron in the Gulf of Mexico:

LIVERPOOL, *April 24, 1898.*

Not being able to communicate with our *Buena Ventura*, notwithstanding all efforts made, we beg you to be pleased to indicate to us in what way we can do so. Families anxious.

LARRANAGA.

The ambassador would be especially obliged to you if you could enable him to answer this telegram. News of the crew of this vessel might doubtless be obtained either from the Department of the Navy or the Treasury.

Be pleased to accept, etc., THIÉBAUT.

Mr. Adee to Mr. Thiébaut.

DEPARTMENT OF STATE, *April 28, 1898.*

MY DEAR MR. THIÉBAUT: In further acknowledgment of your personal note of yesterday, requesting permission, on behalf of the families and friends of the officers and crew of the steamer *Buena Ventura*, recently captured by the Federal squadron, to communicate with the said officers and crew, I beg to inform you that I am now in receipt of a reply to my letter to the Attorney-General on the subject. Mr. Griggs states that the persons seized on the various vessels recently captured as prizes of war are now being harbored and protected at Key West

Barracks, and that they are therefore at present in the custody and control of the War Department, but that he has directed the United States attorney for the southern district of Florida to cooperate with the officers of the War Department in permitting all proper communications from the respective families or friends to reach the officers and crew of the vessel in question.

In order to save any possible delay, I have, however, written the Secretary of War, requesting that the privilege you ask for the families and friends of the crew be granted, although I have little doubt that the instructions of the Attorney-General above referred to will have accomplished already the desired result.

I will again communicate with you on receiving any further information in the matter.

I am, etc., ALVEY A. ADEE.

Mr. Thiébaut to Mr. Adee.

WASHINGTON, *April 28, 1898.*

MY DEAR MR. ADEE: I hasten to acknowledge receipt of your personal note of to-day in which you inform me that the persons seized on the Spanish vessels recently captured by the Federal fleet are now in the custody and control of the War Department, at Key West Barracks, but that upon instructions of the Attorney-General, the United States attorney for the southern district of Florida will cooperate with military authorities in permitting all proper communications from families or friends to reach the officers and crew of the steamer *Buena Ventura.*

I have at once transmitted this information to the agent of the vessel in question at Liverpool.

I am directed by the ambassador to convey to you his thanks for your so courteous action in the matter, and I beg you to believe me, my dear Mr. Adee,

Most sincerely, yours, THIÉBAUT.

Memorandum from French embassy.

Could the Department of State inform the French ambassador whether the Spanish schooner *Sofia* is among the number of vessels captured by the Federal fleet?

WASHINGTON, *April 29, 1898.*

Mr. Moore to Mr. Cambon.

No. 15.] DEPARTMENT OF STATE, *April 29, 1898.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 26th instant, transmitting a list of the French officers who have been intrusted with the protection of Spanish subjects and interests in the United States, and to inclose herewith for your information and use six printed copies of the correspondence which has passed between your embassy, the Austro-Hungarian legation and this Department on this subject.

Accept, etc., J. B. MOORE,
Acting Secretary.

Mr. Moore to Mr. Cambon.

DEPARTMENT OF STATE, *May 3, 1898.*

EXCELLENCY: I have the honor to communicate to you for your information copies of notes just exchanged with the Mexican minister at this capital in relation to extending, at the request of the Spanish minister in Mexico, friendly protection in case of need to Spanish interests at Laredo, Tex., and Nogales, Ariz., through the Mexican consuls in those cities.

Be pleased to accept, etc.,

J. B. MOORE, *Acting Secretary.*

[Inclosure.—Translation.]

Mr. Romero to Mr. Moore.

MEXICAN LEGATION,
Washington, May 2, 1898.

MR. ACTING SECRETARY: I have the honor to inform you that the Government of Mexico has advised me by telegraph that at the request of the Spanish minister in Mexico, and for the reason that there is no other than a Mexican consul at Laredo, Tex., and Nogales, Ariz., those consuls have been authorized to protect Spanish interests.

The Mexican Government accordingly gives me instructions to communicate this fact to you, and in so doing I have the honor to state to you that I have spoken in regard to the matter with the ambassador of France in Washington, who I understand has charge of the protection of Spanish interests in the United States, and if the case arises I shall proceed in accord with him.

Be pleased to accept, etc.,

M. ROMERO.

[Inclosure 2.]

Mr. Moore to Mr. Romero.

No. 333.] WASHINGTON, *May 3, 1898.*

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant relative to the authorization given by the Mexican Government to the Mexican consuls at Laredo, Tex., and Nogales, Ariz., to protect Spanish interests in their respective localities, this step having been taken at the instance of the Spanish minister in Mexico, inasmuch as there are in those places no consuls of any other nation.

You state that you have spoken in regard to this matter with the French ambassador, who, you understand, is charged with the protection of Spanish interests in the United States and will proceed in accord with him should a case arise. As you will perceive by the inclosed copy of recent correspondence with the representatives of France and Austria-Hungary in this capital, you are right as to Mr. Cambon's announcement that in all cases other than those originating through a French or Austro-Hungarian consulate he will charge himself alone with any matters of Spanish protection involving representations to the Government of the United States.

I presume you will have arranged with Mr. Cambon so that any question affecting Spanish interests in the United States which may arise at Laredo or Nogales may, if the case require, take the regular course so agreed upon.

The State and Treasury authorities at those two points will be advised of the permission which your Government has given to the Mexican consuls there.

Be pleased to accept, etc.,

J. B. MOORE, *Acting Secretary.*

(Inclosure: Printed correspondence as above.)

Mr. Cambon to Mr. Moore.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, May 4, 1898.

MR. SECRETARY OF STATE: In reply to your communication of the 3d of this month, I have the honor to inform you that the Mexican minister has made known to me that his Government has, at the request of the cabinet at Madrid, consented to commit to the Mexican consuls the protection of Spanish subjects and interests at Nogales (Arizona) and at Laredo (Texas), where neither France nor Austria are represented.

For the purpose of preserving the arrangement which the minister of Austria-Hungary and I have adopted for the protection of the Spanish interests in the United States, and with which our communications dated 22d of April last acquainted your honorable predecessor, it has been agreed between Mr. Romero and myself that such correspondence relative to Spanish affairs as he might receive from the Mexican consuls at Nogales and Laredo would be turned over by him to me, and I would give them such action as might be expedient.

Accept, Mr. Secretary, etc.,

JULES CAMBON.

[Personal.]

Mr. Moore to Mr. Cambon.

DEPARTMENT OF STATE, *May 4, 1898.*

MY DEAR MR. THIÉBAUT: Referring to previous correspondence relative to measures for permitting all proper communications from families or friends to reach the officers and crew of the steamer *Buena Ventura*, I beg to inform you that the Department has received a letter from the Secretary of War stating that the proper military officers will be directed to cooperate with the United States attorney for the southern district of Florida in permitting all proper communications from families and friends to reach the officers and crew of the vessel in question, subject to such restrictions as it may be deemed proper to impose.

I am, etc.,

J. B. MOORE.

Mr. Day to Mr. Cambon.

No. 19.] DEPARTMENT OF STATE, *May 7, 1898.*

EXCELLENCY: Referring to the memorandum left at this Department on the 29th ultimo by the secretary of the French embassy on your behalf, inquiring whether the Spanish schooner *Sofia* was among the number of the vessels captured by the Federal fleet, I have the honor to inform you that I am advised by the Secretary of the Navy that the *Sofia* was captured by the United States torpedo boat *Porter* off the northern coast of Cuba on the morning of April 24.

Accept, etc.,

WILLIAM R. DAY.

[Personal.]

Mr. Adee to Mr. Thiébaut.

DEPARTMENT OF STATE, *May 7, 1898.*

MY DEAR MR. THIÉBAUT: With further reference to your personal note to me of the 27th ultimo, I beg to inform you that if the owners of the captured steamer *Buena Ventura* desire to correspond with her officers and crew the Secretary of the Navy suggests that if communications, open for inspection, be sent to the commandant of the United States naval station at Key West there would probably be no objection to their delivery, provided the contents of the communications do not render such action inadvisable.

Very truly, yours, ALVEY A. ADEE.

Mr. Cambon to Mr. Day.

[Translation.]

FRENCH EMBASSY, *May 17, 1898.*

MR. SECRETARY OF STATE: The wife of Commander Guevedo, captain of the Spanish packet boat *Panama*, captured by the Federal fleet and now actually detained at Key West, solicits my Government to obtain for her authority to correspond with her husband, about whom she is without news.

Likewise, the minister of colonies informs me of the desire, which has been expressed to him by interested families, to have news of the health and situation of the crew of this boat. I should be greatly obliged to you to be able to authorize the commander to address to his family and to receive from it, through the medium of this embassay, open correspondence, and to be able to accord the same favors which were extended to the crew of the *Buena Ventura*.

I recommend likewise to the kind consideration of the Department of State the request of the families of the crew and of the passengers of the *Panama*, begging it to put me, if possible, in a situation to reply to the proper requests made by them.

Be pleased to accept, etc., JULES CAMBON.

Mr. Day to Mr. Cambon.

No. 27.] WASHINGTON, *May 18, 1898.*

EXCELLENCY: Acknowledging the receipt of your note of yesterday's date, asking that permission be accorded the captain and crew of the Spanish vessel *Panama* to correspond, through the medium of your embassy, with their families, who are anxious to learn of their welfare, I have the honor to state that copy of your note was at once communicated to the proper departments of this Government, with the request that, if possible, the permission you ask be granted. Upon being informed of the decision reached in the matter I shall be pleased to immediately advise you.

WILLIAM R. DAY.

Mr. Day to Mr. Cambon.

No. 31.] WASHINGTON, *May 31, 1898.*

EXCELLENCY: With reference to the inquiries as to the situation of the master and crew of the captured Spanish steamer *Panama*, I have the honor to inform you that instructions have been sent to the authorities of the United States at Key West to transmit to the proper authorities of the United States in this capital any open letters addressed by the officers and crew of the steamer in question to their families, to the end that such letters may be forwarded to their destination through your embassy.

Accept, etc., WILLIAM R. DAY.

Mr. Day to Mr. Cambon.

No. 33.] DEPARTMENT OF STATE, *June 9, 1898.*

EXCELLENCY: With reference to your inquiries in relation to the Spanish subject, Mr. Jiminez Zapatero, who is reported in Madrid to be held in the United States as a spy, I have the honor to inform you that I am advised by the Navy Department that a prisoner captured on the *Panama*, and supposed to be the person to whom your excellency's inquiries refer, has been sent north on the U. S. S. *Cincinnati* and is now at Fort Monroe. It appears that when the *Panama* was captured he had in his possession a lot of coast charts, which he threw overboard; that he had in his trunk epaulets and a sword, and that he admitted having been some years ago an officer in the Spanish navy. The evidence, therefore, indicated that he was a military person; and he was sent to Fort Monroe merely as a prisoner of war, and not as a spy. Orders were given to furnish him with accommodations and to treat him according to the rank that he should claim. On his arrival at Fort Monroe he gave the name of F. J. Jiminez, but refused to make any further statement. In consequence he is now held as a private.

Accept, etc.,

WILLIAM R. DAY.

Mr. Day to Mr. Cambon.

No. 34.] DEPARTMENT OF STATE, *June 20, 1898.*

EXCELLENCY: I have just received a communication from my colleague the Attorney-General, in which he asks for information as to the consular officers to whom Spanish subjects at Key West who have been seized on prizes, or who have been paroled as prisoners of war, should be delivered.

I shall be greatly obliged to your excellency if you will be so good as to enable me to answer the inquiry of the Attorney-General.

Accept, etc.,

WILLIAM R. DAY.

Mr. Day to Mr. Cambon.

No. 37.] DEPARTMENT OF STATE, *June 24, 1898.*

EXCELLENCY: With reference to my note of the 20th instant, in relation to the disposition of certain Spanish subjects taken on vessels captured as prizes, I have the honor to inform you that the Department has just received from the Attorney-General a further communication on the subject.

By this communication it appears that it is the intention of the United States authorities at Key West to send the prisoners in question on the steamers *Catalina* and *Jover* to Spain, if those steamers shall return to that country; but that, if appeal bonds should not be given, the steamers would then be sent to New York, and carry the prisoners to that port. It is stated that at least one hundred of them have families in Cuba and do not wish to go to Spain, and that something must be done to provide for them if they are detained beyond the sailing of the vessels on the 27th of the present month.

In view of these circumstances it seems desirable that some definite arrangement should immediately be made for the transportation of the prisoners in question from the United States.

With reference to the question raised as to the safety of the prisoners on their way to any place of embarkation, the Attorney-General states that he will give suitable instructions for their subsistence and protection on their way to or in charge of any consular officer to a place of departure.

Accept, etc., WILLIAM R. DAY.

Mr. Cambon to Mr. Day.

EMBASSY OF THE FRENCH REPUBLIC,
Washington, June 25, 1898.

Mr. SECRETARY OF STATE: In reply to the note which you did me the honor to address to me on the 24th instant, relative to the repatriation of the Spaniards who have been taken prisoners on board of the vessels captured as prizes since the beginning of the war, I have the honor to inform you that I think, as you do, that it is desirable that a final arrangement should be concluded as speedily as possible.

But before taking the measures necessary to this end, allow me to call your attention to the fact that the information which you were pleased to communicate to me by your aforesaid note is still incomplete. You state that a certain number of prisoners whose families are in Cuba do not desire to be sent back to Spain, but you do not give the number of those who are to be sent to Europe on board of the steamers *Catalina* and *Jover*, or taken to New York by said vessels. Now, this number is indispensable to enable me to ask of the Spanish Government an appropriation sufficient for the repatriation of these prisoners.

I have, moreover, reason to infer from your note that the steamers *Catalina* and *Jover* will sail direct from Key West to Spain, if security is given in case an appeal should be taken from the decision which has released them, and that, in the contrary case, they will not take the prisoners farther than New York. No decision can therefore be

reached until it is known whether this security has been furnished, and yet you likewise inform me that these vessels are to sail on the 27th instant—that is to say, day after to-morrow—which would, indeed, allow us too little time to settle these different questions.

I feel that I must thank you and the Attorney-General for all the measures that you have taken and that you will be pleased to take hereafter in order to secure the subsistence and safety of these prisoners.

Be pleased to accept, etc.,

JULES CAMBON.

Mr. Moore to Mr. Cambon.

DEPARTMENT OF STATE, *June 29, 1898.*

EXCELLENCY: With reference to previous correspondence in relation to the removal from the United States of the crews of the Spanish prize vessels at Key West, I have the honor to say that I am just advised by the Attorney-General that the vessels *Catalina* and *Miguel Jover* are to remain in the custody of the United States marshal pending an appeal which has been taken to the Supreme Court of the United States, and that it will consequently be necessary to provide for the transportation of the Spanish subjects in question by some other means.

The Attorney-General is advised by the United States marshal at Key West that 284 of the men desire to be sent to Spain, 22 to the Canary Islands, 52 either to Cuba or to Mexico, and 21 to England. There are 11 as to whose wishes no information has been obtained.

The Attorney-General desires to be advised as to whether the information which he has now been able to furnish will be sufficient for the purpose of making arrangements for the transportation of the men in question.

Accept, etc.,

J. B. MOORE,
Acting Secretary.

Mr. Moore to Mr. Cambon.

No. 42.] DEPARTMENT OF STATE, *June 30, 1898.*

EXCELLENCY: With reference to previous correspondence as to the disposition of the crews of prizes at Key West, I now have the honor to say that this Government will attend to their transportation from Key West to New York, and that it is hoped that you may be able soon to arrange for their transportation from the United States at that point.

Accept, etc.,

J. B. MOORE.

Mr. Cambon to Mr. Day.

[Translation.]

FRENCH EMBASSY,
Washington, July 1, 1898. (Received July 2, 3.38 p. m.)

Mr. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your letters dated the 27th, 29th, and 30th of last month, relative to the prisoners coming from Spanish captured vessels and

whom the Federal Government has decided to send away from the territory of the Union.

I have hastened to inform my Government that the Federal authority will take charge of transporting these 400 men from Key West to New York, whence they will be dispatched to their respective destinations through the care of the consul-general of Austria-Hungary, to whom the protection of Spanish interests in that port is intrusted. I have, at the same time, begged the minister for foreign affairs to ask the Madrid cabinet to send with urgency to the consul-general of Austria the necessary instructions and funds.

Be pleased to accept, etc., JULES CAMBON.

Mr. Cambon to Mr. Day.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, July 12, 1898.

The ambassador of France has the honor to inform the Secretary of State of the United States that he received yesterday, through the War Department at Washington, a telegram from Havana, whereby Captain-General Blanco expresses a desire to receive a detailed official list of the Spanish officers who were taken prisoners after the naval battle which was fought off Santiago de Cuba between Admiral Cervera's squadron and the Federal squadron.

Furthermore, at the request of the Spanish Government, the department of foreign affairs at Paris has requested the ambassador of France to send it a list of the dead, wounded, and survivors of Admiral Cervera's squadron. As the crew lists were probably lost with the vessels, it is to be presumed that an exact list of the dead can not be prepared here; that of the survivors will, however, doubtless suffice to enable the Spanish authorities to prepare a list of those who have disappeared.

This information being intended for the families of the persons concerned, who are naturally anxious to be informed as to their fate, the ambassador of France will be grateful to the Secretary of State if he will have the kindness to send him, as speedily as possible, a list of the Spanish officers, noncommissioned officers, and seamen who have been made prisoners, together with a statement of the vessels to which they respectively belonged, and also one of the localities where they are held or of the hospitals where they are being treated.

Mr. Jules Cambon avails himself of this occasion to renew to Mr. W. R. Day the assurances of his highest consideration.

Mr. Day to Mr. Cambon.

DEPARTMENT OF STATE,
Washington, July 13, 1898.

The Secretary of State of the United States, with reference to the request of the ambassador of France of the 12th instant for information as to the Spanish officers who were taken prisoners by the

United States fleet off Santiago de Cuba, and as to the Spanish dead and wounded in that engagement, has the honor to inclose herewith a copy which he has just received of a list of the Spanish prisoners brought north on board the U. S. S. *St. Louis*. This list of survivors contains all the information which the Navy Department is at the moment able to afford as to the officers and crews of the Spanish ships in question. The Department will take pleasure in communicating to the ambassador of France any other information that may be obtained on the subject.

Mr. W. R. Day avails himself of this occasion to renew to Mr. J. Cambon the assurances of his highest consideration.

Mr. Day to Mr. Cambon.

DEPARTMENT OF STATE,
Washington, July 13, 1898.

The Secretary of State of the United States has the honor to inclose herewith to the ambassador of France a copy of a letter of the 9th instant, addressed by Admiral Cervera to Captain Goodrich, of the U. S. S. *St. Louis*, as to the treatment of the Spanish prisoners on board of that ship.

Mr. W. R. Day has the honor to renew to Mr. J. Cambon the assurances of his highest consideration.

Capt. CASPER F. GOODRICH,
U. S. M. S. St. Louis.

MY DEAR SIR: I have the greatest pleasure in acknowledging by the present, in my own name and also in that of all captains and officers actually on board this ship, that we consider ourselves under the greatest obligation to you for the many kindness and excellent treatment which you and all the officers under your command have shown to us during this passage. I must also mention the careful and most valuable medical assistance which has been given to our wounded and sick men; your kind feelings are gone as far in this respect as to order them to be put in one of the saloons of the ship, in order to provide more effectually to their comfort.

I know nothing which does not agree with what I have just written, the case of D. Enrique Capriles being wholly unknown to me, since neither you nor him have spoken me about.

I thank you again for the delicate and manifold acts of kindness through which you have endeavored to alleviate the sore burden of our great misfortune. I assure you that I shall never forget them, and I am, sir,

Your most obedient servant, PASCUAL CERVERA.

AT SEA, *July 9, 1898.*

Mr. Day to Mr. Cambon.

No. 55.] DEPARTMENT OF STATE, *July 20, 1898.*

EXCELLENCY: With reference to previous correspondence in relation to the case of Mr. Jiminez Zapatero, the Spanish subject who was captured on the steamer *Panama* while having in his possession the evidences of his being in the military service of Spain, I have the honor to inform you that I am advised by the Secretary of War that it has

been decided, after a full investigation, that the Spanish subject in question is properly held as a prisoner of war.

He will receive during his detention the consideration and treatment due to an officer.

Accept, etc., WILLIAM R. DAY.

Mr. Cambon to Mr. Day.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, July 25, 1898.

MR. SECRETARY OF STATE: I am informed that the Spanish sailing vessel *Amapala*, on her way to Mexico from Havana, had, by reason of bad weather, to take shelter at Tampa, where she was held as a prize.

The situation of the passengers landed at Tampa will attract the attention of the Federal Government, which will undoubtedly be of opinion that they must be transported to Mexico by some means similar to those previously adopted in the case of the crews and passengers of vessels captured by the Navy of the United States.

However, in view of the vis major circumstances which led the *Amapala* to seek a shelter in the harbor of Tampa, I am fain to believe that the Federal Government will not consider that vessel as a prize taken in consequence of an act of war, but will allow her to proceed on her voyage, as other governments have generously decided under similar circumstances.

Be pleased to accept, etc., JULES CAMBON.

Mr. Cambon to Mr. Day.

EMBASSY OF THE FRENCH REPUBLIC,
Washington, July 28, 1898.

MR. SECRETARY OF STATE: The consul of France at San Juan de Porto Rico telegraphs me that at the joint request of the consuls the captain-general has recognized, in writing, the neutrality of a point selected outside of the city where the foreigners have taken refuge.

Our consul adds that as soon as the Federal vanguard shall make its appearance he intends to notify the general commanding the American army of this humane arrangement.

I have the honor to bring this fact to your knowledge in order that you may be able to send General Miles such instructions as you may think proper.

Be pleased to accept, etc., JULES CAMBON.

Mr. Day to Mr. Cambon.

DEPARTMENT OF STATE, *August 2, 1898.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 28th ultimo by which you advise me that the consul of France at San Juan, Porto Rico, has telegraphed you that at the joint

request of the consuls, the Captain-General has recognized in writing the neutrality of a place outside the city where foreigners have taken refuge, and that as soon as the United States forces make their appearance a notification of this humane arrangement will be given to the general in command. This fact you state you bring to my knowledge in order that such instructions may be sent to General Miles as may be thought proper.

I have accordingly communicated a copy of your note to the Secretary of War.

Accept, etc., WILLIAM R. DAY.

Mr. Day to Mr. Cambon.

No. 74.] DEPARTMENT OF STATE, *August 4, 1898.*

EXCELLENCY: With further reference to your note of the 25th ultimo, in relation to the Spanish brig *Amapala*, I have the honor to inform you that I am just in receipt of a letter from my colleague, the Attorney-General, inclosing a copy of a report of the United States district attorney at Jacksonville, Fla., on the case in question.

By the report of the district attorney it appears that the statement made to your excellency by the parties in interest that the *Amapala* was compelled by bad weather to seek shelter at Tampa is wholly incorrect. The evidence taken in preparatorio discloses the fact that the brig was captured off Havana while flying the colors of the Republic of Honduras and attempting to run the blockade. The brig has accordingly been condemned and ordered to be sold.

It appears that there is no desire on the part of the authorities of the United States to detain the passengers who were on board of the brig at the time of the capture. It is thought, however, that this Government is not under any obligation to provide them with the means of transportation, especially as the devices resorted to by the brig for the purpose of escaping lawful capture must have been known to those on board.

Accept, etc. WILLIAM R. DAY.

Mr. Day to Mr. Cambon.

DEPARTMENT OF STATE, *August 6, 1898.*

EXCELLENCY: Referring to your note of the 28th ultimo advising me that at the request of the consuls the captain-general of Porto Rico had recognized, in writing, the neutrality of a point outside the city of San Juan for the refuge of foreigners, I have the honor to inform you that the Secretary of War has telegraphed General Miles so far as practicable to recognize this arrangement.

Accept, etc., WILLIAM R. DAY.

[On August 12, 1898, there was signed by the Secretary of State on behalf of the United States and by the Ambassador of France at Washington on behalf of Spain a Protocol of Agreement preliminary to the final establishment of peace between the United States and Spain, printed p. 828.]

Memorandum left at the Department of State.

AMBASSADE DE FRANCE, *August 15, 1898.*

May the postal service by Spanish steamers be reestablished between Spain and Cuba, Porto Rico, Philippines?

Will Spanish merchants be permitted to send supplies in Spanish bottoms to Cuba, Porto Rico, Philippines?

Will Spanish tank steamer *Cadagna*, chartered by French merchants and now lying in Havre, be permitted to proceed to Philadelphia to take mineral oil for industrial purposes?

The French embassy has been unofficially requested by the Spanish Government to learn the names, rank, number of American commissioners for the evacuation of Cuba and Porto Rico, for the peace negotiation at Paris, as it is the desire of the Spanish Government to appoint commissioners of same rank, etc.

In which delay should a claimant appeal from a decision of United States prize court to the United States Supreme Court?

Mr. Moore to Mr. Cambon.

DEPARTMENT OF STATE, *August 16, 1898.*

DEAR MR. CAMBON: In response to one of the inquiries left at the Department yesterday in behalf of the embassy by Mr. Thiébaut, I have the pleasure to inform you, by direction of the President, that the American commissioners for the evacuation of Cuba and Porto Rico are as follows:

For Cuba: Major-General Wade, Admiral Sampson, Major-General Butler.

For Porto Rico: Major-General Brooke, Admiral Schley, Brigadier-General Gordon.

Believe me, etc., J. B. MOORE.

Mr. Moore to Mr. Cambon.

DEPARTMENT OF STATE, *August 16, 1898.*

EXCELLENCY: This Government is advised that the Eastern Telegraph Company will at once proceed to restore cable communication between Hongkong and Manila if the United States and Spain will consent to that measure.

This Government desires such communication to be reopened and, as we have restored Spain to full telegraphic communication with Cuba, it is not supposed that she will object to the reestablishment of cable communication between Hongkong and Manila.

The Department will be greatly obliged to your excellency if you will be so good as to communicate with the Spanish Government on the subject.

Accept, etc., J. B. MOORE, *Acting Secretary.*

Mr. Cambon to Mr. Day.

[Translation.]

FRENCH EMBASSY,
Washington, August 17, 1898.

MR. SECRETARY OF STATE: The Spanish Government, not wishing to make use any longer of the good offices which the Government of the Republic has rendered it in its diplomatic communications with the Federal Government, wishes to send to Washington one of its consuls in Canada, who would be authorized to attend to all the questions of detail the settlement of which the cessation of hostilities will, of course, permit or necessitate.

By order of my Government, I have the honor to notify you of this wish of the cabinet of Madrid, and I would be much obliged to you if you would inform me whether the Federal Government is disposed to permit such consul to be sent to Washington in the capacity of an unofficial agent.

Accept, etc., JULES CAMBON.

Mr. Moore to Mr. Cambon.

DEPARTMENT OF STATE, *August 17, 1898.*

EXCELLENCY: In a memorandum left at the Department on the 15th instant, in behalf of your embassy, I note the following inquiries:

1. May the postal service by Spanish steamers be reestablished between Spain and Cuba, Porto Rico, and the Philippines?

2. Will Spanish merchants be permitted to send supplies in Spanish bottoms to Cuba, Porto Rico, and the Philippines?

3. Will the Spanish tank steamer *Cadagna*, chartered by French merchants and now lying in Havre, be permitted to proceed to Philadelphia to take mineral oil for industrial purposes?

It is understood that these inquiries are made with reference to the fact that, although a suspension of hostilities between the United States and Spain has been proclaimed, the state of war between the two countries still continues, and that intercourse between them not having been formally restored must, so far as it is allowed, be the subject of special understanding.

With this observation I proceed to answer your inquiries in the order in which they have been stated.

1. This Government will interpose no obstacle to the reestablishment of the postal service by Spanish steamers between Spain on the one side and Cuba, Porto Rico, and the Philippines on the other.

2. The United States will not object to the importation of supplies in Spanish bottoms to Cuba and the Philippines, but it has been decided to reserve the importation of supplies from the United States to Porto Rico to American vessels.

3. The Spanish tank steamer *Cadagna*, chartered by French merchants and now lying at Havre, will be permitted to proceed to Philadelphia and to take mineral oil for industrial purposes, provided such oil is not to be transported to Porto Rico.

The concessions contained in these answers are made upon the understanding that American vessels will not for the time being be excluded from Spanish ports, as well as upon the understanding that, if hostilities should at any time be renewed, American vessels that might happen to be in Spanish ports would be allowed thirty days in which to

load and depart with noncontraband cargo, and that any American vessel which, prior to the renewal of hostilities, should have sailed for any Spanish port or place would be permitted to enter such port or place and discharge her cargo, and afterwards forthwith to depart without molestation, and, if met at sea by any Spanish ship, to continue her voyage to any port or place not blockaded. These rules were observed by the United States at the outbreak of the war and would again be observed by this Government in the event of a renewal of hostilities.

Accept, etc., J. B. MOORE,
Acting Secretary.

Mr. Moore to Mr. Cambon.

DEPARTMENT OF STATE, *August 19, 1898.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 17th instant, in which you state that the Spanish Government, not wishing to make use any longer of the good offices which the Government of France has rendered it in its diplomatic communications with the United States, wishes to send to Washington one of its consuls from Canada, who would be authorized to attend to all the questions of detail the settlement of which the cessation of hostilities will naturally permit or necessitate. You therefore inquire, by order of your Government, whether the Government of the United States is disposed to permit such a consul to be sent to Washington in the capacity of an unofficial agent.

The general terms in which the Spanish Government has caused its suggestion to be conveyed leave the Department in some doubt as to the precise object with which it is made or as to the precise capacity in which the proposed unofficial agent is to act, but the statement that the Spanish Government does not wish any longer to make use of the good offices which your Government has rendered it in its diplomatic communications with the United States indicates that such agent, who, although a consul accredited to another Government, would have no official standing with reference to this Government, would be expected to discharge in some sense diplomatic functions.

To such a measure there are, it is conceived, two objections. In the first place, although hostilities have been suspended, the state of war between the United States and Spain still continues.

In the second place, the Department is not informed as to the questions of detail to which the suggestion of the Spanish Government refers. Arrangements have already been made for the treatment of the particular matters with reference to which the suspension of hostilities was proclaimed. The immediate evacuation of Cuba, Porto Rico, and other Spanish islands in the West Indies is to be carried out by commissioners specially appointed for that purpose, and the question of peace is to be treated of by specially appointed commissioners who are to meet in Paris.

Under these circumstances, it seems to this Government to be desirable that diplomatic communications between the United States and Spain in relation to any questions other than those above mentioned should for the present continue to be conducted through the very acceptable channel through which they have heretofore been made since the beginning of the war.

Accept, etc., J. B. MOORE, *Acting Secretary.*

Mr. Moore to Mr. Cambon.

Personal.] DEPARTMENT OF STATE, *August 19, 1898.*

MY DEAR MR. AMBASSADOR: Referring to your oral request, I have now the pleasure to transmit herewith, for the files of your embassy, a typewritten copy in English of the peace protocol signed August 12, 1898, of the President's order directing the Secretary of State to sign that instrument, and of the President's proclamation.

I am, etc.,

J. B. MOORE.

Mr. Cambon to Mr. Day.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, August 20, 1898.

MR. SECRETARY OF STATE: In response to the wish which I had the honor to express to you verbally, you did me the favor, on the 19th of this month, to transmit to me, for the archives of my embassy, a copy of the protocol signed on the 12th of August, of the powers conferred upon the Secretary of State to sign this instrument, and of the proclamation suspending hostilities issued by the President of the United States on the same day.

I have the honor to thank you for the transmission of these documents, and I avail myself of this occasion to renew to you, Mr. Secretary of State, the assurances of my very high consideration.

JULES CAMBON.

Mr. Cambon to Mr. Day.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, August 20, 1898.

MR. SECRETARY OF STATE: In a communication under date of the 19th of this month you made known to me the objections which would be entertained by the Federal Government to the sending to Washington of a Spanish consul under the conditions indicated in my note of the 17th of August. You add that the settlement of the principal questions to which the suspension of hostilities gives rise having been intrusted to special commissions designated to meet, respectively, in Cuba, Porto Rico, and at Paris, it seems to you desirable that diplomatic communications relative to other questions should continue for the present to be exchanged between the Cabinets of Washington and Madrid by the same intermediary through which they have passed since the commencement of the war.

I have the honor to inform you that I have communicated this information to the Spanish Government, and I avail myself of this occasion to renew to you, Mr. Secretary of State, the assurances of my very high consideration.

JULES CAMBON.

Mr. Cambon to Mr. Day.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, August 20, 1898.

MR. SECRETARY OF STATE: I have the honor to acknowledge the receipt of your communication, under date of the 17th of this month, in which you inform me, in response to the inquiries contained in my note of the 15th, that—

First. The Federal Government will oppose no obstacle to the reestablishment of the royal mail postal service between Spain, Cuba, Porto Rico, and the Philippines.

Second. That it will permit Spanish merchants to transport, under the Spanish flag, provisions destined for Cuba and the Philippines, but that the importation into Porto Rico of provisions from the United States will be reserved to American vessels.

Third. That the Spanish reservoir ship *Cadagna*, freighted by French merchants, may proceed to Philadelphia and there receive on board a cargo of distilled petroleum for industrial purposes, on the condition that this cargo is not taken to Porto Rico.

You add that, the suspension of hostilities allowing a state of war to subsist between the two countries, the above concessions are granted with the following reservations:

First. During the present period access to Spainish ports shall not be denied to American vessels.

Second. Should hostilities be resumed, American vessels shall enjoy the immunities accorded to Spanish vessels by articles 4 and 5 of the President's proclamation of April 26 last.

I have hastened to communicate the foregoing information to the Spanish Government.

Be pleased to accept, etc., JULES CAMBON.

Mr. Cambon to Mr. Day.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, August 22, 1898.

The telegram by which the French ambassador communicated to the Spanish Government the objections stated by the Secretary of State of the United States, in his letter of August 19, with regard to the proposed dispatch to Washington of a Spanish consul, crossed a dispatch from the Madrid cabinet, proposing, for the execution of that unofficial mission, M. Torroja, ex-consul of Spain at Philadelphia, who speaks English very well, and who is said to have left a very good impression in the United States.

The French ambassador would be thankful to the Secretary of State if he would inform him as speedily as possible whether there appears to be any prospect that this new proposition of the Madrid cabinet will be favorably entertained by the Federal Government.

Mr. J. Cambon avails himself, etc.

Mr. Cambon to Mr. Day.

[Translation.]

FRENCH EMBASSY,
Washington, August 22, 1898.

At the request of the Spanish Government, the French ambassador has the honor to inform the Secretary of State of the United States that the royal commissioners who have been designated to arrange the details of the evacuation of the Spanish Antilles are:

For Cuba: The General of Division Gonzales Parrado, Rear-Admiral Pastor y Landero, and Marquis de Montoro.

For Porto Rico: General of Division Ortega y Diaz, Naval Captain of the First Class Vallarino y Carasco, and Auditor of Division (military judge) Sanchez del Aguila y Leon.

Mr. J. Cambon takes advantage of this opportunity, etc.

Mr. Day to Mr. Cambon.

No. 102.] DEPARTMENT OF STATE,
Washington, August 23, 1898.

EXCELLENCY: Referring to your inquiry of the 15th instant, I have the honor to inform you that by the statutes of the United States an appeal may be taken to the Supreme Court from all final decrees of any district court in prize cases where the matter in dispute, exclusive of costs, exceeds the sum or value of $2,000; and that an appeal is allowed in such cases, without reference to the value of the matter in dispute, on a certificate of the district judge that the adjudication involves a question of general importance. The law requires that the Supreme Court shall receive, hear, and determine such appeals, and shall always be open for the entry thereof. Power is vested in the Supreme Court also, if, in its judgment, the purposes of justice require it, to allow any amendment either in form or substance of any appeal in prize cases.

It is provided that appeals in such causes shall be made within thirty days after the rendering of the decree appealed from, unless the court previously extends the time for cause shown in the particular case. The Supreme Court is empowered if, in its judgment, the purposes of justice require it, to allow an appeal in any prize case if it appears that any notice of appeal or of intention to appeal was filed with the clerk of the district court within thirty days after the rendition of the final decree therein.

This answer to your inquiry is based in substance upon sections 695, 1006, and 1009 of the Revised Statutes of the United States.

Accept, etc.,

WILLIAM R. DAY.

Mr. Day to Mr. Cambon.

DEPARTMENT OF STATE,
Washington, August 24, 1898.

The Secretary of State of the United States has had the honor to receive the communication of the French ambassador of the 22d instant, in which it is stated that the Spanish Government, in pursuance of its

previous proposal to send a consul to Washington to conduct in an unofficial capacity diplomatic correspondence with this Government, has designated for that function Mr. Torroja, ex-consul of Spain at Philadelphia, who speaks English, and who is said to have left a good impression in the United States.

In view of the fact that the telegraphic dispatch of the Spanish Government, conveying this designation, is understood to have crossed the telegram of the French embassy conveying our objections, as stated in our note of the 19th instant, to the original proposal, it does not appear to be necessary for the Department now to do more than refer to that note as having answered by anticipation the present communication.

Mr. William R. Day avails himself of this opportunity to renew to M. Cambon the assurances of his highest consideration.

Mr. Day to Mr. Cambon.

DEPARTMENT OF STATE,
Washington, August 24, 1898.

The Secretary of State of the United States has the honor to inform the embassy of the Republic of France that it is expected that the commissioners appointed on the part of the United States for the purpose of arranging and executing the details of the evacuation of Cuba by Spain will soon depart for Habana in a public ship. It is deemed proper to give notice of this intention in order that the mines in the harbor of Habana may now be removed, if, indeed, this has not already been done.

The Secretary of State will be greatly obliged if the embassy will cause the substance of this communication to be conveyed by telegraph to the Spanish Government, and advise him of that Government's reply, in order that preparations may immediately be made for the departure of the United States commissioners.

Mr. Cambon to Mr. Day.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, August 24, 1898.

In order to comply with the wish expressed by the Secretary of State of the United States in his note of August 24, the Embassy of France this day informed the Spanish Government, by cable, that the United States commissioners charged with the arrangements to be made for the evacuation of Cuba were shortly to proceed to Habana, and asked that orders be issued for the removal of mines from that harbor, in the event of this not having already been done.

The Embassy of France will have the honor of communicating to the Department of State the reply of the Spanish Government as soon as it receives it.

Mr. Day to Mr. Cambon.

DEPARTMENT OF STATE,
Washington, August 26, 1898.

The Secretary of State has the honor to acknowledge the receipt of the note of the ambassador of France of the 22d instant, advising him of the composition of the commission designated on the part of Spain to arrange the details of the evacuation of the Spanish Antilles, and to say in reply that translations thereof have been communicated to the Secretaries of War and the Navy.

Mr. William R. Day has the honor to renew to Mr. Jules Cambon the assurances of his highest consideration.

Mr. Cambon to Mr. Day.

[Translation.]

FRENCH EMBASSY,
Washington, August 29, 1898.

Referring to a communication from the honorable Secretary of State of the United States, dated August 24, concerning the approaching departure of the American commissioners charged with settling the details of the evacuation of Cuba, the French embassy has the honor to state that the Spanish Government has given orders to the Habana authorities for the removal of any mines which may still be in that harbor.

In this connection the Madrid cabinet has expressed a wish to know in what kind of vessel the American commission will take passage. It would prefer that it should not be a Federal war vessel, the presence of which in Habana Harbor might, by calling up the recollection of the *Maine*, give rise to demonstrations which would not be easy to prevent and which both parties would evidently be interested in avoiding.

Mr. Cambon to Mr. Day.

[Translation.]

FRENCH EMBASSY,
Washington, August 29, 1898.

The French embassy has just received a telegram from Habana in which Captain-General Blanco expresses the wish to know whether the Federal Government would see any objection to officers of the Spanish army returning singly to Spain by way of the United States.

The French embassy would be much obliged to the Department of State if it would enable it to reply to this question by telegram.

Mr. Cambon to Mr. Day.

[Translation.]

FRENCH EMBASSY,
Washington, August 29, 1898.

According to news received at Madrid from the Philippines, the insurrection is spreading more and more in the archipelago. By the help of five vessels at their disposal, the insurgents are said to be

threatening various points where the Spanish forts are not able to oppose a successful resistance, and the peaceable population is thus exposed, without defense, to the barbarous treatment of the rebel bands.

The Royal Government, whose duty it is to provide for the protection of the life and property of the Spanish subjects in the Philippines, has expressed the wish that the Federal Government be informed of the fears which this situation causes it, and which might be advantageously remedied in the following manner:

The Spanish troops whom the capitulation of the city of Manila has reduced to inaction might be placed at once at the disposal of Spain, who would use them for the defense of the islands against the insurgents.

The minister of state at Madrid thinks that if the United States Government sees any objections to this arrangement, it will, at least, have no reason to oppose the dispatch of troops directly from the Peninsula to the Philippines.

Mr. Cambon to Mr. Day.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, August 29, 1898.

The French embassy has been requested to inform the Federal Government that the families of the officers of the garrison of the archipelago of the Ladrones are in a state of entire destitution.

The Spanish Government is confident that as soon as the attention of the Department of State has been called to this painful situation the United States will act in accordance with the feelings of humanity and the responsibility which it has assumed in sending those officers to Manila, and will take the necessary steps to have their families sent to Cavite.

Mr. Moore to Mr. Cambon.

DEPARTMENT OF STATE,
Washington, August 30, 1898.

EXCELLENCY: Referring to previous correspondence concerning Mr. Jimenez Zapatero, I have the honor to advise you that he has been released from confinement as a prisoner of war at Fortress Monroe, but that he still remains at the post because of lack of funds.

Accept, etc.,

J. B. MOORE, *Acting Secretary.*

DEPARTMENT OF STATE, *September 1, 1898.*

The Department of State, replying to the inquiry of the French embassy of the 29th ultimo, has the honor to say that this Government does not, under the present circumstances, object to officers of the Spanish army returning singly to Spain by way of the United States.

Mr. Thiébaut to Mr. Moore.

Personal.] FRENCH EMBASSY,
Washington, September 3, 1898.

DEAR MR. MOORE: In reference with the informal note of this embassy, dated August 29, and with our conversation of this morning, I have the honor to call your attention to the following statements:

From advices received at Madrid, negotiations are said to be carried on by the Federal authorities for the purpose of chartering at Hongkong ships for the transportation to Spain of the Spanish troops surrendered at Manila.

These troops or part thereof are needed by Spain to protect the Philippine Islands in her possession against the insurgents.

A ship with some 700 insurgents on board is said to have left Manila with a view of attacking some of the islands in Spain's possession.

Similar expeditions are said to be preparing in Luzon and starting therefrom with the same purpose. These vessels are flying a flag which has not been recognized by the maritime powers, and are therefore liable of being denounced as pirates.

These expeditions can hardly be carried on without the knowledge of the commander of the American forces in the bay of Manila; as Spain is scrupulously observing the dispositions of the protocol, it is believed by the Spanish Government that the Government of the United States will, on the other hand, cause the hostilities, from whatever quarter, to be suspended in the Philippines pending the peace negotiations.

Yours, most sincerely, THIÉBAUT.

Mr. Moore to Mr. Thiebaut.

Personal.] DEPARTMENT OF STATE,
Washington, September 5, 1898.

DEAR MR. THIÉBAUT: Since the receipt of your informal note of the 29th ultimo and your personal letter of the 3d instant consideration has been given to the matters therein referred to, and pertinent advices have been received from our military and naval commanders in the Philippines.

As the result of our investigations it appears that some of the reports which you have brought to our attention in behalf of the Government at Madrid have no solid foundation, while others relate to matters that occurred before the signing of the protocol of August 12.

The rumor that the authorities of this Government are carrying on negotiations for the purpose of chartering at Hongkong ships for the transportation to Spain of the Spanish troops that surrender at Manila appears to be wholly groundless. No such negotiations have to our knowledge been undertaken. None have been authorized.

In our conversation of the 3d instant you disclaimed any intention on the part of the Spanish Government to impute to the commanders of the American forces at Manila connivance with any recent hostile proceedings of the insurgents. I am now able to say that they have no knowledge of the incidents referred to as having lately taken place at Manila.

As to the rumor that a ship with 700 insurgents on board has lately

left Manila with a view to attack some of the islands in the Philippines, we are advised that no insurgent vessel having troops on board has recently left either Manila or Manila Bay. It is stated, however, that about August 10, before the protocol was signed, two vessels with from one to two hundred troops left Manila Bay, destination unknown.

The report that similar expeditions are preparing in Luzon with a hostile purpose against other islands appears also to be inexact. Our advices are to the effect that the insurgents have three or four small vessels, only two of which have guns, and that the largest of these vessels will not carry more than 250 men.

In your informal note of the 29th ultimo it is stated that the Spanish Government suggests that, for the purpose of checking insurgent hostilities, the Spanish troops now held as prisoners of war by the American forces may be placed at the disposal of Spain, to be used against the insurgents; or, if this be objected to, that the Spanish Government may be allowed to send troops from the peninsula to the Philippines. It can scarcely be expected that this Government would even consider the question of adopting the first alternative, in view of the fact that for some time before the surrender of Manila the Spanish forces in that city were besieged by the insurgents by land while the port was blockaded by the forces of the United States by sea. As to the second alternative, it will be a matter for regret if it should be adopted on the strength of rumors, some of which have been shown to be groundless, while others yet are unconfirmed. The Government of the United States will, through its military and naval commanders in the Philippines, exert its influence for the purpose of restraining insurgent hostilities pending the suspension of hostilities between the United States and Spain.

It would be unfortunate if any act should be done by either Government which might, in certain aspects, be inconsistent with the suspension of hostilities between the two nations, and which might necessitate the adoption of corresponding measures of precaution by the other Government.

Very sincerely, yours, J. B. MOORE.

Mr. Cambon to Mr. Moore.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, September 6, 1898.

The ambassador of France has the honor to inform the Secretary of State of the United States that the Spanish Government has accepted, by way of reciprocity, the proposition for a *modus vivendi*, as regards navigation, which formed the subject of the communication of the Department of State of the 17th ultimo.

In consequence of this acceptance, and in order to reply to the inquiry made by the Department of State in its note of August 26, the Royal Government has given to the competent authorities in the Canary Islands the necessary orders to the end that the American schooner which the ship brokers in New York propose to send to Las Palmas may be at perfect liberty to enter that port.

Mr. Cambon avails himself of this occasion to renew to the Hon. J. B. Moore the assurances of his highest consideration.

Mr. Moore to Mr. Cambon.

DEPARTMENT OF STATE,
Washington, September 6, 1898.

By a note of the 29th ultimo, the French embassy communicated to the Department of State a report received from the Spanish Government to the effect that the families of the officers of the garrison of the archipelago of the Ladrones were in a state of destitution; and the embassy was so good as to say that the Spanish Government was confident that as soon as the attention of the Department was called to the painful situation, the United States would act in accordance with the feelings of humanity and the responsibility it had assumed in sending those officers to Manila, and would take the necessary steps to have their families sent to Cavite.

Immediately upon the receipt of the note of the embassy, the Department, desirous of heeding every dictate of humanity, caused inquiries to be made as to the situation of the families in question. A reply to those inquiries has just been received, in the form of a telegram from Admiral Dewey, dated at Manila on the 5th instant. Admiral Dewey states that the families of the Spanish officers are still at Guam, and that, according to the testimony of all the United States naval officers who have visited the island, the reports of their destitution are wholly groundless.

The Spanish governor informed Captain Glass that all the families were provided for before leaving. When the *Monterey* and *Monadnock* were there they found no signs of destitution and heard no complaints. Spanish officers now held as prisoners at Manila received letters from Guam by both vessels, and in these letters no mention was made of any destitution. It further appears that Spanish officers at Guam are still collecting taxes, and are able to relieve any want.

Mr. J. B. Moore takes this occasion to renew to his excellency, Mr. Jules Cambon, the assurances of his highest consideration.

Mr. Moore to Mr. Thiebaut.

SEPTEMBER 10, 1898.

DEAR MR. THIEBAUT: I have the pleasure to inform you that the President has selected the following peace commissioners: The honorable William R. Day, Secretary of State; the honorable Cushman K. Davis, a Senator of the United States and chairman of the Committee on Foreign Relations; the honorable William P. Frye, a Senator of the United States and a member of the Committee on Foreign Relations; the honorable George Gray, a Senator of the United States and a member of the Committee on Foreign Relations; the honorable Whitelaw Reid, lately envoy extraordinary and minister plenipotentiary of the United States to France. Of my own selection as secretary and counsel on the part of the United States you have, as you informed me, already been advised.

Very sincerely, yours, J. B. MOORE.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, September 19, 1898.

The ambassador of France in the United States has the honor to communicate to the Department of State the list of commissioners named by the Spanish Government to take part in the conference at Paris, as follows: Mr. Montero Rios, president of the Senate; Mr. Abarzuja, senator, formerly ambassador of the Spanish Republic at Paris; General Cerero; Mr. de la Villa-Urrutia, minister of Spain at Brussels; Mr. Garnica, judge of the court of appeals.

The ambassador of France embraces this occasion to renew to Mr. Secretary of State the assurances of his high consideration.

EMBASSY OF THE FRENCH REPUBLIC
TO THE UNITED STATES,
September 11, 1898.

At the request of the Spanish Government, the ambassador of France has the honor to communicate to the Government of the United States the following note from the Duke of Almodovar:

First. The Spanish Government is of the opinion that the occupation by the American forces of the city, bay, and harbor of Manila must be considered in virtue of the provisions of Article III of the protocol of August 12, and not in virtue of what was agreed to in the capitulation of the 14th of the same month, which is absolutely null by reason of its having been concluded after the belligerents had signed an agreement declaring the hostilities to be suspended.

Second. By virtue of the agreement, the Spanish Government is of the opinion that the occupation of the city, harbor, and bay of Manilia by the Americans does not confer upon the United States the faculty of altering the Spanish laws there in force, but that they are to respect these laws and provisions and maintain all the civil, administrative, judicial, and political institutions until the final treaty of peace shall determine the régime (control), disposition, and government of the Philippine Islands for the future, since it is a matter of occupation in which Spain has acquiesced without renouncing her sovereignty, and not of territory conquered *manu militari*.

Third. The Government of His Majesty, considering the Spanish troops that were garrisoned at Manila as free, proposes to avail itself of them during the suspension of hostilities by transporting them, with their colors, arms, and ammunition, to other parts of the island of Luzon which are not occupied by the Americans, or other islands in the archipelago, with a view of putting down rebellion, maintaining order, and protecting the lives and property of its subjects and of foreigners, in accordance with its rights and duties as a sovereign.

Fourth. The Spanish Government is also confident that the Government of the United States will not, during the period preceding the ratification of the treaty of peace, bring any change into the economics and fiscal administration of Manila, and that it will not divert for other purposes the customs revenues which are applied to the discharge of lawfully incurred obligations. Were it otherwise, legitimate private interests would be injuriously affected.

Fifth. The Spanish Government requests that the Federal Government will demand of the Tagal rebels the surrender of the Spanish prisoners now held by them, in order either to release them, as humane sentiments should suggest, or to hold them on the honor and guaranty of the United States. The Spanish prisoners are made to suffer every description of ill-treatment at the hands of the Tagal rebels, and inasmuch as the latter have not been recognized as belligerents, they can not be allowed the right to hold prisoners on territory which is, as a matter of fact, occupied by the American forces. Mercy demands the cessation of a condition of things repugnant to morality.

Sixth. The Spanish Government holds that the rebels in the Philippines, not having been recognized as belligerents, have also no right to charter armed vessels

and to display on such vessels a flag that possesses no kind of international representation, to the end of engaging in acts of aggression and in depredations on Spanish territorial land and waters. Consequently they will be considered by Spain as pirates and tried as such. In order to repel and chastise the attacks of such rebel vessels on Spanish merchant ships that may visit the Philippines, the Government of His Majesty has decided to provide said ships with adequate armament, and hopes that the Government of the United States will admit that this is a necessary and fair measure.

Seventh. The Spanish Government asks that the Government of the United States will cause the families of the Spanish officers who were taken from the Marianne Islands and brought into the bay of Manila to be transported to Cavite or returned to their homes in Spain. These families are without news from the said officers, and are said to be in deplorable circumstances, without even means of subsistence.

The ambassador of France seizes this opportunity of renewing to Hon. W. R. Day the assurances of his most high consideration.

DEPARTMENT OF STATE,
September 16, 1898.

The Secretary of State has had the honor to receive the communication from the Duke of Almodovar which the French ambassador communicated to the Department on the 11th instant.

A careful perusal of the communication in question leads to the conclusion that it was sent from Madrid before the receipt there of the note of this Department of the 5th instant, in reply to the communications of the French embassy of the 29th of August and the 3d of September.

The first four paragraphs of the communication now under consideration may be said to depend upon the opinion now expressed by the Spanish Government that the American forces must be considered to hold the city, bay, and harbor of Manila by virtue of the provisions of Article III of the protocol of August 12, and not by virtue of the capitulation of the 14th of the same month, since the protocol provided for the suspension of hostilities.

The Department is unable to concur in the opinion of the Spanish Government that the capitulation of Manila was null and void because after the signature of the protocol. It was expressly provided in the protocol that notice should be given of the suspension of hostilities, and it is the opinion of this Government that the suspension is to be considered as having taken effect at the date of the receipt of notice, which was immediately given by this Government. Indeed, it would seem that the suggestion made in the present communication of the nullity of the capitulation is in the nature of an afterthought, since nothing of the kind was suggested in the communications of the 29th of August and the 3d of September, which specifically related to the situation in the Philippines.

As to the nature of the right by which the United States holds the city, bay, and harbor of Manila, it is the opinion of this Government that it is immaterial whether the occupation is to be considered as existing by virtue of the capitulation or by virtue of the protocol, since in either case the powers of the military occupant are the same.

As to what is stated in the communication of the Duke of Almodovar in relation to the treatment of Spanish prisoners, it is proper to say that the information of the Department is that such prisoners have

for the most part been well treated. Within the last few days it has been reported that some of the prisoners have been released.

The reference to the families of Spanish officers in the Ladrones evidently is to be accounted for by the fact, to which the Department has heretofore adverted, that the Duke of Almodovar, in sending his communication, had not received the Department's note of the 5th of September.

Mr. William R. Day avails himself of this occasion to renew to the ambassador of France the assurances of his highest consideration.

Mr. Thiébaut to Mr. Hay.

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington, October 4, 1898.

MR. SECRETARY OF STATE: On different occasions, and especially by its notes of August 29 and of September 3 and 11, this embassy has had the honor to communicate to the Department of State various observations of the Spanish Government, having reference—

1. To the painful situation, at Guam, of the families of the Spanish officers of the garrison of the Marianas who were taken as prisoners to Cavite.

2. To the bad treatment suffered by the Spanish prisoners who have fallen into the hands of the Tagals.

3. To the necessity under which Spain is of using, in order to combat the progress of the insurrection in the Philippines, either the troops who have been rendered inactive in consequence of the capitulation of Manila, or troops sent directly from the Peninsula.

4. To the expeditions sent to various points of the archipelago by insurgent vessels armed for war and flying a flag which is not recognized by the maritime powers, which subjects them to being treated as pirates.

5. Finally, to Spain's right to expect that, during the peace negotiations, her institutions will be integrally maintained at Manila, whose bay, city, and harbor are occupied by the American forces in virtue of the protocol of August 12, and not in virtue of the capitulation of the 14th of that month.

The minister of state at Madrid, to whom the replies made by your honorable predecessor in his notes of September 5, 6, and 16 were communicated, has just requested me to lay the following observations before you:

1. The Spanish Government rejects, as contrary to international law and to the history of wars between civilized countries, the theory which the Federal Government announced in its note of September 16 relative to the effects of the protocol of August 12 and the capitulation of the 14th of that month concerning the occupation of Manila.

2. In opposition to this theory the Spanish Government maintains that according to the terms of Article VI of the protocol any act of hostility committed subsequently to the signing of that instrument is morally without legal value. If the belligerent forces could not be at once notified of the agreement made, this was merely due to a material impossibility, owing to the cutting by the Federal authorities of

the cable whereby telegraphic communication was maintained between Manila and Asia.

Under these circumstances the Spanish Government persists in its conviction that the capitulation of August 14 is null and void, and will consider it useless to make any reference thereto until certain acts of the American authorities at Manila shall come to its knowledge.

3. The Federal Government has expressed the opinion that it is unimportant whether the occupation of Manila originated in the protocol or the capitulation. The Spanish Government is unable to share this view. If the capitulation were really valid the United States would have all the rights which are conferred upon them by the clauses of that instrument; on the contrary, according to the terms of Article III of the protocol, the United States can not exercise, in the city, port, and bay of Manila, over which the sovereignty of Spain has not been relinquished, anything more than the jurisdiction which is indispensable to secure public order until the conclusion of the treaty of peace. Under these circumstances (as the Spanish Government remarked in paragraphs 2 and 4 of the note delivered to the Department of State by the ambassador of France on the 11th ultimo) the American authorities would not be justified in changing the laws, institutions of good order, the economical and fiscal régime established by Spain in the Philippines, or in devoting to other objects the customs revenues which have been set apart for the payment of legally contracted obligations.

4. According to recent information the Spanish prisoners who are in the hands of the Tagals continue to be subjected to the worst treatment, even in the territory occupied by the Americans. The Spanish Government is concerned about what the Federal Government proposes to do for the protection of these prisoners, and insists, in the name of humanity, that a stop be put to their sufferings.

The Spanish Government, moreover, renews the request which it has already made for the repatriation of the families of the officers of the garrison of the Marianas who were taken prisoners.

5. The Spanish Government has been informed that several insurgent vessels are navigating in the waters of the Visayas for the purpose of stirring up the natives of the country to rebellion, and that 1,500 Tagals have landed at Panay with sundry pieces of artillery. General Rios is obliged to oppose these rebels with insufficient forces. This information naturally causes deep anxiety to the Royal Government, and fully justifies the proposition made by the minister of state through this embassy (note of August 29, 1898). to transport to those points of the archipelago that are menaced by the insurrection either the troops who have been rendered inactive by the capitulation of Manila or troops sent directly from the Peninsula. The Spanish Government can but regret that the refusal of the United States to allow Spain to utilize her troops has contributed to the extension of the insurrection, and deems it to be its duty to refer to these facts in order that it may not be held responsible for the results.

In declining to entertain the double suggestion of the minister of state, the honorable Mr. Moore expressed himself in his note of September 5 as follows:

> It would be unfortunate if any act should be done by either Government which might, in certain aspects, be inconsistent with the suspension of hostilities between the two nations, and which might necessitate the adoption of corresponding measures of precaution by the other Government.

Almost on the day following that on which the Royal Government received communication of this reply, various organs of the European press announced that the American armored vessels *Oregon* and *Iowa* were to be sent to Manila. The Government of Her Majesty refuses to believe that the United States Government has really resolved to increase its land and sea forces in the Philippines, after having opposed the measures which Spain proposed to take in order to repress, as is its right and its duty, the progress of the insurgents in its possessions. If, according to the aforesaid reply of the honorable Mr. Moore, a shipment of Spanish troops to General Rios, who is attacked by superior forces, appears to the Federal Government to be inconsistent with the suspension of hostilities, is not the case the same with the shipment of reinforcements to Admiral Dewey, who is threatened by no enemy? In expressing the hope that each of the two Governments would abstain from any act that might "necessitate the adoption of corresponding measures of precaution by the other Government," did not your honorable predecessor assume, in a manner, for the United States the engagement not to modify the status quo in any way? Under these circumstances, Her Majesty's Government deems it to be its duty to cause a statement to be rectified which it can not but consider as being without foundation.

Be pleased to accept, Mr. Secretary of State, the assurances of my highest consideration.

THIÉBAUT.

No. 127.] *Mr. Hay to Mr. Thiebaut.*

OCTOBER 29, 1898.

SIR: I had the honor duly to receive the note which you addressed to me on the 4th instant, in which, at the request of the minister of state of Spain, you lay before me certain observations of the Spanish Government made in reply to this Department's notes to Mr. Cambon of the 5th, 8th, and 16th ultimo.

Among these observations are included several subjects which are now under discussion by the peace commission at Paris, and for that reason the Government of the United States does not think it convenient to discuss them here.

I deem it proper, however, to say:

1. That the Government of the United States is not able to accept the interpretation placed by the Government of Spain upon the respective effects in law and in fact of the protocol of August 12 and the capitulation of August 14 upon the military situation at Manila.

2. That the President has given orders to the American authorities in the Philippines to use their good offices, wherever possible, to prevent any excesses of the insurgents or any cruel treatment of prisoners or Spanish subjects.

3. That the American men-of-war to which your note referred as having been ordered to Manila are actually under orders to visit the coast of Brazil and afterwards to proceed to the Hawaiian Islands.

Accept, sir, etc.,

JOHN HAY.

[Translation.]

FRENCH EMBASSY,
Washington, October 11, 1898.

The minister of state at Madrid has been informed that the American commission of evacuation in Cuba has particularly insisted, with the Spanish commission, on the three following points:

1. By the terms of the protocol of August 12 the renunciation of Spain's sovereignty over Cuba is a condition precedent to the negotiation and conclusion of a treaty of peace.

2. In accordance with the same act the evacuation must be irremediable (absolute), which implies the entire abandonment of the country by all Spanish authorities, both civil and military.

3. The evacuation must be completely effected by December 1 next, at the latest.

The Government of Her Majesty the Queen Regent is of the opinion that Articles I and IV of the protocol are inseparably connected with Article V, and that, consequently, the evacuation before the signature of the treaty of peace can not involve the legal significance of the renunciation of the sovereignty. That legal significance will not be acquired until the treaty of peace shall been approved "in accordance with the constitutional forms of the two countries." It was for this reason that the future tense was employed in the protocol in stipulating, on the one hand, the renunciation by Spain of the sovereignty of Cuba, and, on the other hand, the cessions of territory made by her as a war indemnity. The evacuation provided by Article IV of the protocol can not, therefore, be confounded with the transfer of the sovereignty, which can only become legal after the exchange of the ratification of the treaty of peace. Hence it follows that it is evident that the substitution of American troops in Cuba does not put an end to the sovereign power of Spain, and that all the Spanish authorities shall continue to act after the evacuation so long as there shall not exist, by virtue of the ratification of the treaty of peace, another sovereign power.

Upon the hypothesis that her renunciation of the sovereignty is irremediable (absolute) and simultaneous with the evacuation, it is the duty of Spain, under penalty of incurring grave responsibilities, to know who will succeed her in that sovereignty, and what guaranties such successor will offer for the security of Spanish interests in Cuba.

Her Majesty's Government, far from placing difficulties in the way of the evacuation, desires that it be effected as speedily as possible, and is seeking the material means of effecting it; but it has not at its disposal the enormous fleet which would be required to complete it within so short a period. Spain, while promising to hasten, by all possible means, the return of her troops to their own country, hopes that the United States will grant her a reasonable extension of time.

The Royal Government would be gratified if the Federal Government would have the goodness to reply promptly to the present note.

Memorandum.

The Government of the United States is not able to accept the conclusions of the Royal Government of Spain in regard to the relinquishment of sovereignty by Spain in the island of Cuba under the

terms of the protocol of August 12, but, as this question is one of those under discussion by the peace commission now in session at Paris, it is not considered expedient to enter upon any such discussion here at this moment.

The subject of the limit of time to be allowed for the evacuation of Cuba has received the careful consideration of the President, and, in view of the material difficulties in the way of completing the repatriation of the Spanish troops by the 1st of December, he has extended the period to the 1st of January, 1899, and has informed the commission of evacuation of this conclusion.

PRELIMINARY NEGOTIATIONS FOR PEACE.

Message of the Government of Her Majesty the Queen Regent of Spain, submitted by His Excellency, Mr. J. Cambon, Ambassador of the French Republic, to William McKinley, President of the United States of America.

MADRID, *July 22, 1898.*

MR. PRESIDENT: Since three months the American people and the Spanish nation are at war, because Spain did not consent to grant independence to Cuba and to withdraw her troops therefrom.

Spain faced with resignation such uneven strife and only endeavored to defend her possessions with no other hope than to oppose, in the measure of her strength, the undertaking of the United States and to protect her honor.

Neither the trials which adversity has made us endure nor the realization that but faint hope is left us could deter us from struggling till the exhaustion of our very last resources. This stout purpose, however, does not blind us, and we are fully aware of the responsibilities which would weigh upon both nations in the eyes of the civilized world were this war to be continued.

This war not only inflicts upon the two peoples who wage it the hardships inseparable from all armed conflict, but also dooms to useless suffering and unjust sacrifices the inhabitants of a territory to which Spain is bound by secular ties that can be forgotten by no nation either of the old or of the new world.

To end calamities already so great, and to avert evils still greater, our countries might mutually endeavor to find upon which conditions the present struggle could be terminated otherwise than by force of arms.

Spain believes this understanding possible and hopes that this view is also harbored by the Government of the United States. All true friends of both nations share no doubt the same hope.

Spain wishes to show again that in this war, as well as in the one she carried on against the Cuban insurgents, she had but one object—the vindication of her prestige, her honor, her name. During the war of insurrection it was her desire to spare the great island from the dangers of premature independence. In the present war she has been actuated by sentiments inspired rather by ties of blood than by her interests, and by the right belonging to her as mother country.

Spain is prepared to spare Cuba from the continuation of the horrors of war if the United States are on their part likewise disposed.

The President of the United States and the American people may now learn from this message the true thought, desire, and intention of the Spanish nation.

And so do we wish to learn from the President of the United States upon which basis might be established a political status in Cuba, and might be terminated a strife which would continue without reason should both Governments agree upon the means of pacifying the island.

In the name of the Government of Her Majesty the Queen Regent I have the honor to address this message to your Excellency with the expression of my highest consideration.

DUC D'ALMODOVAR DEL RIO,
Ministre d'Etat.

Mr. Day to Duke of Almodovar del Rio.

DEPARTMENT OF STATE,
Washington, July 30, 1898.

EXCELLENCY: The President received on the afternoon of Tuesday, the 26th instant, from the hand of his excellency the ambassador of France, representing for this purpose the Government of Spain, the message signed by your excellency as minister of state in behalf of the Government of Her Majesty the Queen Regent of Spain, and dated the 22d instant, as to the possibility of terminating the war now existing between the United States and Spain.

The President received with satisfaction the suggestion that the two countries might mutually endeavor to ascertain the conditions on which the pending struggle may be brought to an end, as well as the expression of Spain's belief that an understanding on the subject is possible.

During the protracted negotiations that preceded the outbreak of hostilities, the President earnestly labored to avert a conflict, in the hope that Spain, in consideration of her own interests as well as those of the Spanish Antilles and the United States, would find a way for removing the conditions which had for half a century constantly disturbed the peace of the Western Hemisphere and on numerous occasions brought the two nations to the verge of war.

The President witnessed with profound disappointment the frustration of his peaceful efforts by events which forced upon the people of the United States the unalterable conviction that nothing short of relinquishment by Spain of a claim of sovereignty over Cuba which she was unable to enforce, would relieve a situation that had become unendurable.

For years the Government of the United States, out of regard for the susceptibilities of Spain, had by the exercise of its power and the expenditure of its treasure preserved the obligations of neutrality. But a point was at length reached at which, as Spain had often been forewarned, this attitude could no longer be maintained. The spectacle at our very doors of a fertile territory wasted by fire and sword and given over to desolation and famine, was one to which our people could not be indifferent. Yielding therefore to the demands of humanity, they determined to remove the causes, in the effects of which they had become so deeply involved.

To this end the President, with the authority of Congress, pre-

sented to Spain a demand for the withdrawal of her land and naval forces from Cuba, in order that the people of the island might be enabled to form a government of their own. To this demand Spain replied by severing diplomatic relations with the United States, and by declaring that she considered the action of this Government as creating a state of war between the two countries.

The President could not but feel sincere regret that the local question as to the peace and good government of Cuba should thus have been transformed and enlarged into a general conflict of arms between two great peoples. Nevertheless, having accepted the issue with all the hazards which it involves, he has, in the exercise of his duty, and of the rights which the state of war confers, prosecuted hostilities by land and sea, in order to secure at the earliest possible moment an honorable peace. In so doing he has been compelled to avail himself unsparingly of the lives and fortunes which his countrymen have placed at his command, and untold burdens and sacrifices, far transcending any material estimation, have been imposed upon them.

That, as the result of the patriotic exertions of the people of the United States, the strife has, as your excellency observes, proved unequal, inclines the President to offer a brave adversary generous terms of peace.

The President, therefore, responding to your excellency's request, will state the terms of peace which will be accepted by him at the present time, subject to the approval of the Senate of the United States hereafter.

Your excellency in discussing the question of Cuba, intimates that Spain has desired to spare the island the dangers of premature independence. The Government of the United States has not shared the apprehensions of Spain in this regard, but it recognizes the fact that in the distracted and prostrate condition of the island, aid and guidance will be necessary, and these it is prepared to give.

The United States will require:

First. The relinquishment by Spain of all claim of sovereignty over or title to Cuba, and her immediate evacuation of the island.

Second. The President, desirous of exhibiting signal generosity, will not now put forth any demand for pecuniary indemnity. Nevertheless, he can not be insensible to the losses and expenses of the United States incident to the war, or to the claims of our citizens for injuries to their persons and property during the late insurrection in Cuba. He must therefore require the cession to the United States, and the evacuation by Spain of the islands of Porto Rico and other islands now under the sovereignty of Spain in the West Indies, and also the cession of an island in the Ladrones to be selected by the United States.

Third. On similar grounds the United States is entitled to occupy, and will hold the city, bay, and harbor of Manilla pending the conclusion of a treaty of peace which shall determine the control, disposition, and government of the Philippines.

If the terms hereby offered are accepted in their entirety, commissioners will be named by the United States to meet similarly authorized commissioners on the part of Spain for the purpose of settling the details of the treaty of peace, and signing and delivering it under the terms above indicated.

I avail myself, etc.

WILLIAM R. DAY.

Message of His Excellency the Duke of Almodovar del Rio, minister of state of Spain, submitted by His Excellency Mr. J. Cambon, ambassador of the French Republic, to Honorable William R. Day, Secretary of State of the United States.

[Translation.]

MADRID, *August 7, 1898.*

MR. SECRETARY OF STATE: The French ambassador at Washington, whose good offices have enabled the Spanish Government to address a message to the President of the United States, has forwarded by cable your excellency's reply to this document.

In examining the arguments used as a preamble to the specification of the terms upon which peace may be restored between Spain and the United States, it behooves the Spanish Government to deduct from the order of events that the severance of diplomatic relations with the United States had no other purpose than to decline the acceptance of an ultimatum which Spain could only consider as an attempt against her rightful sovereignty over Cuba.

Spain did not declare war; she met it because it was the only means of defending her rights in the Greater Antilles. Thus did the Queen and the United States see fit to transform and enlarge the purely local question of Cuba.

From this fact your excellency draws the conclusion that the question at stake is no longer only the one which relates to the territory of Cuba, but also that the losses of American lives and fortunes incident to the war should in some manner be compensated.

As to the first condition, relating to the future of Cuba, the two Governments reach similar conclusions in regard to the natural inability of its people to establish an independent government. Be it by reason of inadequate development, as we believe, or on account of the present distracted and prostrate condition of the island, as your excellency states, the fact remains that Cuba needs guidance. The American people are willing to assume the responsibility of giving this guidance by substituting themselves to the Spanish nation, whose right to keep the island is indisputable; to this intimation we have nothing to oppose. The necessity of withdrawing from the territory of Cuba being imperative, the nation assuming Spain's place must, as long as this territory shall not have fully reached the conditions required to take rank among other sovereign powers, provide for rules which will insure order and protect against all risks the Spanish residents, as well as the Cuban natives still loyal to the mother country.

In the name of the nation the Spanish Government hereby relinquishes all claim of sovereignty over or title to Cuba, and engages to the irremeable evacuation of the island, subject to the approval of the Cortes—a reserve which we likewise make with regard to the other proffered terms—just as these terms will have to be ultimately approved by the Senate of the United States.

The United States require, as an indemnity for or an equivalent to the sacrifices they have borne during this short war, the cession of Porto Rico and of the other islands now under the sovereignty of Spain in the West Indies, and also the cession of an island in the Ladrones, to be selected by the Federal Government.

This demand strips us of the very last memory of a glorious past, and expels us at once from the prosperous island of Porto Rico and

from the Western Hemisphere, which became peopled and civilized through the proud deeds of our ancestors. It might, perhaps, have been possible to compensate by some other cession for the injuries sustained by the United States. However, the inflexibility of the demand obliges us to cede, and we shall cede, the island of Porto Rico and the other islands belonging to the Crown of Spain in the West Indies, together with one of the islands of the archipelago of the Ladrones, to be selected by the American Government.

The terms relating to the Philippines seem, to our understanding, to be quite indefinite. On the one hand, the ground on which the United States believe themselves entitled to occupy the bay, the harbor, and the city of Manila, pending the conclusion of a treaty of peace, can not be that of conquest, since in spite of the blockade maintained on sea by the American fleet, in spite of the siege established on land by a native supported and provided for by the American admiral, Manila still holds its own, and the Spanish standard still waves over the city. On the other hand, the whole archipelago of the Philippines is in the power and under the sovereignty of Spain. Therefore the Government of Spain thinks that the temporary occupation of Manila should constitute a guaranty. It is stated that the treaty of peace shall determine the control, disposition, and government of the Philippines; but as the intentions of the Federal Government by regression remain veiled, therefore the Spanish Government must declare that, while accepting the third condition, they do not *a priori* renounce the sovereignty of Spain over the archipelago, leaving it to the negotiators to agree as to such reforms which the condition of these possessions and the level of culture of their natives may render desirable.

The Government of Her Majesty accepts the third condition, with the above-mentioned declarations.

Such are the statements and observations which the Spanish Government has the honor to submit in reply to your excellency's communication. They accept the proffered terms, subject to the approval of the Cortes of the Kingdom, as required by their constitutional duties.

The agreement between the two Governments implies the irremeable suspension of hostilities and the designation of commissioners for the purpose of settling the details of the treaty of peace and of signing it, under the terms above indicated.

I avail myself of this occasion to offer to your excellency the assurances of my highest consideration.

ALMODOVAR DEL RIO.

Mr. Day to Mr. Cambon.

DEPARTMENT OF STATE,
Washington, August 10, 1898.

EXCELLENCY: Although it is your understanding that the note of the Duke of Almodovar, which you left with the President on yesterday afternoon, is intended to convey an acceptance by the Spanish Government of the terms set forth in my note of the 30th ultimo as the basis on which the President would appoint commissioners to negotiate and conclude with commissioners on the part of Spain a treaty of peace, I understand that we concur in the opinion that the Duke's note, doubtless owing to the various transformations which it has undergone in the

course of its circuitous transmission by telegraph and in cipher, is not, in the form in which it has reached the hands of the President, entirely explicit.

Under these circumstances it is thought that the most direct and certain way of avoiding misunderstanding is to embody in a protocol, to be signed by us as the representatives; respectively, of the United States and Spain, the terms on which the negotiations for peace are to be undertaken.

I therefore inclose herewith a draft of such a protocol, in which you will find that I have embodied the precise terms tendered to Spain in my note of the 30th ultimo, together with appropriate stipulations for the appointment of commissioners to arrange the details of the immediate evacuation of Cuba, Porto Rico, and other islands under Spanish sovereignty in the West Indies, as well as for the appointment of commissioners to treat of peace.

Accept, excellency, the renewed assurances of my highest consideration.

WILLIAM R. DAY.

PROTOCOL.

William R. Day, Secretary of State of the United States, and His Excellency Jules Cambon, ambassador extraordinary and plenipotentiary of the Republic of France at Washington, respectively possessing for this purpose full authority from the Government of the United States and the Government of Spain, have concluded and signed the following articles, embodying the terms on which the two Governments have agreed in respect to the matters hereinafter set forth, having in view the establishment of peace between the two countries, that is to say:

ARTICLE 1. Spain will relinquish all claim of sovereignty over or title to Cuba.

ARTICLE 2. Spain will cede to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and also an island in the Ladrones, to be selected by the United States.

ARTICLE 3. The United States will occupy and hold the city, bay, and harbor of Manila pending the conclusion of a treaty of peace which shall determine the control, disposition, and government of the Philippines.

ARTICLE 4. Spain will immediately evacuate Cuba, Porto Rico, and other islands under Spanish sovereignty in the West Indies; and to this end each Government will, within ten days after the signing of this protocol, appoint commissioners, and the commissioners so appointed shall, within thirty days after the signing of this protocol, meet at Havana for the purpose of arranging and carrying out the details of the aforesaid evacuation of Cuba and the adjacent Spanish islands; and each Government will, within ten days after the signing of this protocol, also appoint other commissioners, who shall, within thirty days after the signing of this protocol, meet at San Juan, in Porto Rico, for the purpose of arranging and carrying out the details of the aforesaid evacuation of Porto Rico and other islands under Spanish sovereignty in the West Indies.

ARTICLE 5. The United States and Spain will each appoint not more than five commissioners to treat of peace, and the commissioners so appointed shall meet at Paris not later than October 1, 1898, and proceed to the negotiation and conclusion of a treaty of peace, which treaty shall be subject to ratification according to the respective constitutional forms of the two countries.

ARTICLE 6. Upon the conclusion and signing of this protocol hostilities between the two countries shall be suspended, and notice to that effect shall be given as soon as possible by each Government to the commanders of its military and naval forces.

Mr. Day to Mr. Cambon.

DEPARTMENT OF STATE,
Washington, August 10, 1898.

EXCELLENCY: I have the honor to say, as I assured you orally this morning, that upon the suspension of hostilities between the United States and Spain, as the result of the signing and sealing of the protocol upon the terms of which we have agreed, it is the purpose of this Government to take prompt and efficient means to aid the introduction of food supplies into the ports of Cuba.

Accept, excellency, the renewed assurances of my highest consideration.

WILLIAM R. DAY.

The President to Mr. Day.

WILLIAM R. DAY,
Secretary of State:

You are hereby authorized to sign, on the part of the United States, the protocol of this date embodying the terms on which the United States and Spain have agreed to treat of peace.

WILLIAM MCKINLEY.

EXECUTIVE MANSION,
Washington, August 12, 1898.

Mr. Cambon to Mr. Day.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC
IN THE UNITED STATES,
Washington August 12, 1898.

MR. SECRETARY OF STATE: I have the honor to inform you that I have just received, through the intermediation of the department of foreign affairs at Paris, a telegram, dated Madrid, August 11, in which the Duke of Almodovar del Rio announces to me that, by order of Her Majesty the Queen Regent, the Spanish Government confers upon me full powers in order that I may sign, without other formality and with-

out delay, the protocol whereof the terms have been drawn up by common accord between you and me. The instrument destined to make regular the powers which are thus given to me by telegraph will be subsequently addressed to me by the post.

His excellency the minister of state adds that in accepting this protocol, and by reason of the suspension of hostilities which will be the immediate consequence of that acceptance, the Spanish Government has pleasure in hoping that the Government of the United States will take the necessary measures with a view to restrain (empecher) all aggression on the part of the Cuban separatist forces.

The Government of the Republic having, on the other hand, authorized me to accept the powers which are conferred upon me by the Spanish Government, I shall hold myself at your disposition to sign the protocol at the hour you may be pleased to designate.

Congratulating myself upon thus cooperating with you toward the restoration of peace between two nations, both friends of France, I beg you to accept, Mr. Secretary of State, the fresh assurances of my very high consideration.

JULES CAMBON.

Mr. Day to Mr. Cambon.

No. 94.] DEPARTMENT OF STATE,
Washington, August 15, 1898.

EXCELLENCY: I have the honor to make formal acknowledgment of the note you addressed to me, under date of the 12th instant, informing me of your receipt, through the medium of the department of foreign affairs at Paris, of a telegram, dated Madrid, August 11, in which the Duke of Almodovar del Rio, minister of state of Spain, by order of Her Majesty the Queen Regent, conferred upon you full powers to sign, without other formality and without delay, the protocol already drawn up by you and me, leaving the documentary confirmation of your said full powers to follow by mail; and adding that, the Government of the Republic having authorized you to accept the powers so conferred upon you by the Spanish Government, you were ready to sign the protocol at such time as I might designate.

The signing of the protocol on the afternoon of the 12th instant by you and me, in the presence of the President, followed by the immediate action of the President in issuing his proclamation suspending hostilities, in accordance with the appropriate stipulation of that protocol, testified in a most gratifying manner the full recognition by this Government of the powers conferred upon you, and, I am glad to believe, marked the first and most effective step toward the happy restoration of peace between the United States and Spain. It is especially gratifying to the President and to this Government that you, as the honored representative of the French Republic, allied to our American Commonwealth by the unbroken ties of more than a century of close friendship and to the Kingdom of Spain by propinquity and intimate association, should have been thus instrumental in contributing to this auspicious result.

Referring to the observation contained in your note relative to the internal order of Cuba during the suspension of hostilities, I may remark

that the forces of the United States, in proportion as they occupy Cuban territory in the course of the evacuation thereof by Spain and its delivery to the arms of the United States under the terms of the protocol, will, it is believed, be adequate to preserve peace and order, and no doubt is entertained of their ability to restrain any possible injury to the inhabitants of the island in the country which shall by degrees come under their control.

Be pleased, Mr. Ambassador, to accept the renewed assurances of my highest consideration.

WILLIAM R. DAY.

[Translation.]

The French ambassador, referring to his communication of the 12th instant, has the honor to inform the Secretary of State of the United States that he has just received, through the department of foreign affairs at Paris, the full powers which had been conferred upon him, in the name of the King of Spain, by Her Majesty the Queen Regent, to enable him to sign the preliminary protocol of the negotiations for the reestablishment of peace between Spain and the United States.

Mr. J. Cambon requests the Hon. William R. Day to please to find inclosed the said document, and avails himself of the occasion to renew the assurances of his highest consideration.

WASHINGTON, *August 30, 1898.*

Hon. WM. R. DAY,
Secretary of State of the United States, etc., Washington.

[Translation.]

DON ALFONSO XIII.

BY THE GRACE OF GOD AND THE CONSTITUTION, KING OF SPAIN AND IN HIS NAME AND DURING HIS MINORITY,

DOÑA MARIA CRISTINA,

QUEEN REGENT OF THE KINGDOM.

Whereas it has become necessary to negotiate and sign at Washington a protocol in which the preliminaries of peace between Spain and the United States of America shall be settled, and as it is necessary for me to empower for that purpose a person possessing the requisite qualifications: Therefore, I have decided to select, after procuring the consent of His Excellency the President of the French Republic, you, Don Julio Cambon, ambassador extraordinary and plenipotentiary of the French Republic in the United States of America, as I do, by these presents, select and appoint you to proceed, invested with the character of my plenipotentiary to negotiate and sign with the plenipotentiary whom His Excellency the President of the United States of America may designate for that purpose the aforesaid protocol. And I declare, from the present moment, all that you may agree upon, negotiate, and sign

in the execution of this commission acceptable and valid, and I will observe it and execute it, and will cause it to be observed and executed as if it had been done by myself, for which I give you my whole full powers in the most ample form required by law. In witness whereof I have caused these presents to be issued, signed by my hand, duly sealed and countersigned by the undersigned, my minister of state. Given in the palace at Madrid, August 11, 1898.

[L. S.] MARIA CRISTINA.
JUAN MANUEL SANCHEZ Y GUTIERREZ DE CASTRO,
Minister of State.

PROTOCOL OF AGREEMENT BETWEEN THE UNITED STATES AND SPAIN, EMBODYING THE TERMS OF A BASIS FOR THE ESTABLISHMENT OF PEACE BETWEEN THE TWO COUNTRIES.

Signed at Washington, August 12, 1898.

PROTOCOL.

William R. Day, Secretary of State of the United States, and His Excellency Jules Cambon, Ambassador Extraordinary and Plenipotentiary of the Republic of France at Washington, respectively possessing for this purpose full authority from the Government of the United States and the Government of Spain, have concluded and signed the following articles, embodying the terms on which the two Governments have agreed in respect to the matters hereinafter set forth, having in view the establishment of peace between the two countries, that is to say:

ARTICLE I.

Spain will relinquish all claim of sovereignty over and title to Cuba.

ARTICLE II.

Spain will cede to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and also an island in the Ladrones to be selected by the United States.

PROTOCOLE.

William R. Day, Secrétaire d'Etat des Etats-Unis, et Son Excellence M. Jules Cambon, Ambassadeur Extraordinaire et Plénipotentiaire de la République Française à Washington, ayant respectivement reçu à cet effet pleine autorisation du Gouvernement des Etats-Unis et du Gouvernement d'Espagne, ont conclu et signé les articles suivants qui précisent les termes sur lesquels les deux Gouvernements se sont mis d'accord en ce qui concerne les questions ci-après désignées et ayant pour objet l'établissement de la paix entre les deux pays, savior:

ARTICLE I.

L'Espagne renoncera à toute prétention à sa souveraineté et à tout droit sur Cuba.

ARTICLE II.

L'Espagne cédera aux Etats-Unis l'île de Porto-Rico et les autres îles actuellement sous la souveraineté Espagnole dans les Indes Occidentales, ainsi qu'une île dans les Ladrones qui sera choisie par les Etats-unis.

ARTICLE III.

The United States will occupy and hold the city, bay and harbor of Manila, pending the conclusion of a treaty of peace which shall determine the control, disposition and government of the Philippines.

ARTICLE IV.

Spain will immediately evacuate Cuba, Porto Rico and other islands now under Spanish sovereignty in the West Indies; and to this end each Government will, within ten days after the signing of this protocol, appoint Commissioners, and the Commissioners so appointed shall, within thirty days after the signing of this protocol, meet at Havana for the purpose of arranging and carrying out the details of the aforesaid evacuation of Cuba and the adjacent Spanish islands; and each Government will, within ten days after the signing of this protocol, also appoint other Commissioners, who shall, within thirty days after the signing of this protocol, meet at San Juan, in Porto Rico, for the purpose of arranging and carrying out the details of the aforesaid evacuation of Porto Rico and other islands now under Spanish sovereignty in the West Indies.

ARTICLE V.

The United States and Spain will each appoint not more than five commissioners to treat of peace, and the commissioners so appointed shall meet at Paris not later than October 1, 1898, and proceed to the negotiation and conclusion of a treaty of peace, which treaty shall be subject to ratification according to the re-

ARTICLE III.

Les Etats-Unis occuperont et tiendront la ville, la baie et le port de Manille en attendant la conclusion d'un'traité de paix qui devra déterminer le contrôle, la disposition et le Gouvernement des Philippines.

ARTICLE IV.

L'Espagne évacuera immédiatement Cuba, Porto Rico et les autres îles actuellement sous la souveraineté Espagnole dans les Indes Occidentales; à cet effet chacun des deux Gouvernements nommera, dans les dix jours qui suivront la signature de ce protocole, des commissaires, et les commissaires ainsi nommés devront, dans les trente jours qui suivront la signature de ce protocole, se rencontrer à la Havane afin d'arranger et d'exécuter les détails de l'évacuation sus-mentionée de Cuba et des îles Espagnoles adjacentes; et chacun des deux Gouvernements nommera également, dans les dix jours qui suivront la signature de ce protocole, d'autres commissaires qui devront, dans les trente jours de la signature de ce protocole, se rencontrer à San Juan de Porto-Rico afin d'arranger et d'exécuter les détails de l'évacuation sus-mentionnée de Porto-Rico et des autres îles actuellement sous la souveraineté Espagnole dans les Indes Occidentales.

ARTICLE V.

Les Etats-Unis et l'Espagne nommeront, pour traiter de la paix, cinq commissaires au plus pour chaque pays; les commissaires ainsi nommés devront se rencontrer à Paris, le 1er Octobre 1898, au plus tard, et procéder à la négociation et à la conclusion d'un traité de paix; ce traité sera sujet à ratification, selon les formes

spective constitutional forms of the two countries.

ARTICLE VI.

Upon the conclusion and signing of this protocol, hostilities between the two countries shall be suspended, and notice to that effect shall be given as soon as possible by each Government to the commanders of its military and naval forces.

Done at Washington in duplicate, in English and in French, by the Undersigned, who have hereunto set their hands and seals, the 12th day of August 1898.

[SEAL.] WILLIAM R. DAY
[SEAL.] JULES CAMBON

constitutionnelles de chacun des deux pays.

ARTICLE VI.

A la conclusion et à la signature de ce protocole, les hostilités entre les deux pays devront être suspendues, et des ordres à cet effet devront être donnés aussitôt que possible par chacun des deux Gouvernements aux commandants de ses forces de terre et de mer.

Fait à Washington, en double exemplaire, anglais et français, par les Soussignés qui y ont apposé leur signature et leur sceau, le 12 Août 1898.

[SEAL.] WILLIAM R. DAY
[SEAL.] JULES CAMBON

Suspension of hostilities.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA:

A PROCLAMATION.

Whereas by a protocol concluded and signed August 12th, 1898, by William R. Day, Secretary of State of the United States, and his excellency Jules Cambon, ambassador extraordinary and plenipotentiary of the Republic of France at Washington, respectively representing for this purpose the Government of the United States and the Government of Spain, the United States and Spain have formally agreed upon the terms on which negotiations for the establishment of peace between the two countries shall be undertaken; and

Whereas it is in said protocol agreed that upon its conclusion and signature hostilities between the two countries shall be suspended, and that notice to that effect shall be given as soon as possible by each Government to the commanders of its military and naval forces:

Now, therefore, I, William McKinley, President of the United States, do, in accordance with the stipulations of the protocol, declare and proclaim on the part of the United States a suspension of hostilities, and do hereby command that orders be immediately given through the proper channels to the commanders of the military and naval forces of the United States to abstain from all acts inconsistent with this proclamation.

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

Done at the city of Washington, this 12th day of August, in the year of our Lord one thousand eight hundred and ninety-
[SEAL.] eight, and of the Independence of the United States the one hundred and twenty-third.

WILLIAM MCKINLEY.

By the President:
WILLIAM R. DAY, *Secretary of State.*

TREATY OF PEACE BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF SPAIN.

Signed at Paris, December 10, 1898.
Ratification advised by the Senate, February 6, 1899.
Ratified by the President, February 6, 1899.
Ratified by Her Majesty the Queen Regent of Spain, March 19, 1899.
Ratifications exchanged at Washington, April 11, 1899.
Proclaimed, Washington, April 11, 1899.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, a Treaty of Peace between the United States of America and Her Majesty the Queen Regent of Spain, in the name of her August Son, Don Alfonso XIII, was concluded and signed by their respective plenipotentiaries at Paris on the tenth day of December, 1898, the original of which convention being in the English and Spanish languages, is word for word as follows:

The United States of America and Her Majesty the Queen Regent of Spain, in the Name of Her August Son Don Alfonso XIII, desiring to end the state of war now existing between the two countries, have for that purpose appointed as Plenipotentiaries:

The President of the United States,

William R. Day, Cushman K. Davis, William P. Frye, George Gray, and Whitelaw Reid, citizens of the United States;

and Her Majesty the Queen Regent of Spain,

Don Eugenio Montero Ríos, President of the Senate,

Don Buenaventura de Abarzuza, Senator of the Kingdom and ex-Minister of the Crown,

Don José de Garnica, Deputy to the Cortes and Associate Justice of the Supreme Court;

Don Wenceslao Ramirez de Villa-Urrutia, Envoy Extraordinary and Minister Plenipotentiary at Brussels, and

Don Rafael Cerero, General of Division;

Who, having assembled in Paris, and having exchanged their full powers, which were found to be in due and proper form, have,

Los Estados Unidos de America y S. M. la Reina Regente de España, en nombre de Su Augusto Hijo Don Alfonso XIII, deseando poner término al estado de guerra hoy existente entre ambas Naciones, han nombrado con este objeto por sus Plenipotenciarios á saber:

El Presidente de los Estados Unidos de America á:

William R. Day, Cushman K. Davis, William P. Frye, George Gray y Whitelaw Reid, ciudadanos de los Estados Unidos;

Y su Majestad la Reina Regente de España, á

Don Eugenio Montero Ríos, Presidente del Senado,

Don Buenaventura de Abarzuza Senador del Reino, Ministro que ha sido de la Corona,

Don José de Garnica, Diputado á Cortes, Magistrado del Tribunal Supremo.

Don Wenceslao Ramirez de Villa-Urrutia, Enviado Extraordinario y Ministro plenipotenciario en Bruselas, y

Don Rafael Cerero, General de devisión;

Los cuales reunidos en Paris, después de haberse comunicado sus plenos poderes que fueron hallados en buena y debida forma,

after discussion of the matters before them, agreed upon the following articles:

ARTICLE I.

Spain relinquishes all claim of sovereignty over and title to Cuba.

And as the island is, upon its evacuation by Spain, to be occupied by the United States, the United States will, so long as such occupation shall last, assume and discharge the obligations that may under international law result from the fact of its occupation, for the protection of life and property.

ARTICLE II.

Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the island of Guam in the Marianas or Ladrones.

ARTICLE III.

Spain cedes to the United States the archipeligo known as the Philippine Islands, and comprehending the islands lying within the following line:

A line running from west to east along or near the twentieth parallel of north latitude, and through the middle of the navigable channel of Bachi, from the one hundred and eighteenth (118th) to the one hundred and twenty seventh (127th) degree meridian of longitude east of Greenwich, thence along the one hundred and twenty seventh (127th) degree meridian of longitude east of Greenwich to the parallel of four degrees and forty five minutes (4° 45′) north latitude, thence along the parallel of four degrees and forty five minutes (4° 45′) north latitude to

y previa la discussión de las materias pendientes, han convenido en los siguientes artículos:

ARTÍCULO I.

España renuncia todo derecho de soberanía y propiedad sobre Cuba.

En atención á que dicha isla, cuando sea evacuado por España, va á ser ocupada por los Estados Unidos, los Estados Unidos mientras dure su ocupación, tomarán sobre sí y cumplirán las obligaciones que por el hecho de ocuparla, les impone el Derecho Internacional, para la protección de vidas y haciendas.

ARTÍCULO II.

España cede á los Estados Unidos la Isla de Puerto Rico y las demás que están ahora bajo su soberanía en las Indias Occidentales, y la Isla de Guam en el Archipiélago de las Marianas ó Ladrones.

ARTÍCULO III.

España cede á los Estados Unidos el archiepiélago conocido por las Islas Filipinas, que comprende las islas situadas dentro de las líneas siguientes:

Una línea que corre de Oeste á Este, cerca del 20° paralelo de latitud Norte, á través de la mitad del canal navegable de Bachi, desde el 118° al 127° grados de longitud Este de Greenwich; de aquí á lo largo del ciento vienti y siete (127) grado meridiano de longitud Este de Greenwich al paralelo cuatro grados cuarenta y cinco minutos (4° 45′) de latitud Norte; de aquí siguiendo el paralelo de cuatro grados cuarenta y cinco minutos de latitud Norte (4° 45′) hasta su intersección con el meridiano de longitud ciento diez y nueve grados y treinta y

its intersection with the meridian of longitude one hundred and nineteen degrees and thirty five minutes (119° 35′) east of Greenwich, thence along the meridian of longitude one hundred and nineteen degrees and thirty five minutes (119° 35′) east of Greenwich to the parallel of latitude seven degrees and forty minutes (7° 40′) north, thence along the parallel of latitude seven degrees and forty minutes (7° 40′) north to its intersection with the one hundred and sixteenth (116th) degree meridian of longitude east of Greenwich, thence by a direct line to the intersection of the tenth (10th) degree parallel of north latitude with the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich, and thence along the one hundred and eighteenth (118th) degree meridian of longitude east of Greenwich to the point of beginning.

The United States will pay to Spain the sum of twenty million dollars ($20,000,000) within three months after the exchange of the ratifications of the present treaty.

cinco minutos (119° 35′) Este de Greenwich; de aquí, siguiendo el meridiano de longitud ciento diez y nueve grados y treinta y cinco minutos (119° 35′) Este de Greenwich, al paralelo de latitud siete grados cuarenta minutos (7° 40′) Norte; de aquí siguiendo el paralelo de latitud siete grados cuarenta minutos (7° 40′) Norte, á su intersección con el ciento diez y seis (116°) grado meridiano de longitud Este de Greenwich, de aquí por una línea recta, á la intersección del décimo grado paralelo de latitud Norte, con el ciento diez y ocho (118°) grado meridiano de longitud Este de Greenwich, y de aquí siguiendo el ciento diez y ocho grado (118°) meridiano de longitud Este de Greenwich, al punto en que comienza esta demarcacion.

Los Estados Unidos pagarán á España la suma de veinte milliones de dollars ($20,000,000) dentro de los tres meses después del canje de ratificaciones del presente tratado.

ARTICLE IV.

The United States will, for the term of ten years from the date of the exchange of the ratifications of the present treaty, admit Spanish ships and merchandise to the ports of the Philippine Islands on the same terms as ships and merchandise of the United States.

ARTÍCULO IV.

Los Estados Unidos durante el término de diez años á contar desde el canje de la ratificación del presente tratado admitiran en los puertos de las Islas Filipinas los buques y las mercancías españoles, bajo las mismas condiciones que los buques y las mercancías de los Estados Unidos.

ARTICLE V.

The United States will, upon the signature of the present treaty, send back to Spain, at its own cost, the Spanish soldiers taken as prisoners of war on the capture of Manila by the American forces.

ARTÍCULO V.

Los Estados Unidos, al ser firmado el presente tratado, trasportarán á España, á su costa, los soldados españoles que hicieron prisioneros de guerra las fuerzas Americanas al ser capturada Ma-

The arms of the soldiers in question shall be restored to them.

Spain will, upon the exchange of the ratifications of the present treaty, proceed to evacuate the Philippines, as well as the island of Guam, on terms similar to those agreed upon by the Commissioners appointed to arrange for the evacuation of Porto Rico and other islands in the West Indies, under the Protocol of August 12, 1898, which is to continue in force till its provisions are completely executed.

The time within which the evacuation of the Philippine Islands and Guam shall be completed shall be fixed by the two Governments. Stands of colors, uncaptured war vessels, small arms, guns of all calibres, with their carriages and accessories, powder, ammunition, livestock, and materials and supplies of all kinds, belonging to the land and naval forces of Spain in the Philippines and Guam, remain the property of Spain. Pieces of heavy ordnance, exclusive of field artillery, in the fortifications and coast defences, shall remain in their emplacements for the term of six months, to be reckoned from the exchange of ratifications of the treaty; and the United States may, in the mean time, purchase such material from Spain, if a satisfactory agreement between the two Governments on the subject shall be reached.

nila. Las armas de estos soldados les serán devueltas.

España, al canjearse las ratificaciones del presente tratado, procederá á evacuar las Islas Filipinas, así como la de Guam, en condiciones semejantes á las acordadas por las Comisiones nombradas para concertar la evacuación de Puerto Rico y otras Islas en las Antillas Occidentales, según el Protocolo de 12 de Agosto de 1898, que continuará en vigor hasta que sean completamente cumplidas sus disposiciones.

El término dentro del cual será completada la evacuación de las Islas Filipinas y la de Guam, será fijado por ambos Gobiernos. Serán propriedad de España banderas y estandartes, buques de guerra no apresados, armas portátiles, cañones de todos calibres con sus montajes y accesorios, pólvoras, municiones, ganado, material y efectos de toda clase pertenecientes á los Ejércitos de mar y tierra de España en las Filipinas y Guam. Las piezas de grueso calibre, que no sean artillería de campaña, colocadas en las fortificaciones y en las costas, quedarán en sus emplazamientos por el plazo de seis meses á partir del canje de ratificaciones del presente tratado, y los Estados Unidos podrán, durante ese tiempo, comprar á España dicho material, si ambos Gobiernos llegan á un acuerdo satisfactorio sobre el particular.

ARTICLE VI.

Spain will, upon the signature of the present treaty, release all prisoners of war, and all persons detained or imprisoned for political offences, in connection with the insurrections in Cuba and the Philippines and the war with the United States.

Reciprocally, the United States will release all persons made pris-

ARTÍCULO VI.

España al ser firmado el presente tratado, pondrá en libertad á todos los prisioneros de guerra y á todos los detenidos ó presos por delitos políticos á consecuencia de las insurrecciones en Cuba y en Filipinas y de la guerra con los Estados Unidos.

Recíprocamente, los Estados Unidos pondrán en libertad á todos

oners of war by the American forces, and will undertake to obtain the release of all Spanish prisoners in the hands of the insurgents in Cuba and the Philippines.

The Government of the United States will at its own cost return to Spain and the Government of Spain will at its own cost return to the United States, Cuba, Porto Rico, and the Philippines, according to the situation of their respective homes, prisoners released or caused to be released by them, respectively, under this article.

los prisioneros de guerra hechos por las fuerzas Americanas, y gestionarán la libertad de todos los prisioneros españoles en poder de los insurrectos de Cuba y Filipinas.

El Gobierno de los Estados Unidos trasportará, por su cuenta á España, y el Gobierno de España trasportará por su cuenta á los Estados Unidos, Cuba, Puerto Rico y Filipinas, con arreglo á la situación de sus respectivos hogares, los prisioneros que pongan ó que hagan poner en libertad respectivamente, en vertud de este Artículo.

ARTICLE VII.

The United States and Spain mutually relinquish all claims for indemnity, national and individual of every kind, of either Government, or of its citizens or subjects, against the other Government, that may have arisen since the beginning of the late insurrection in Cuba and prior to the exchange of ratifications of the present treaty, including all claims for indemnity for the cost of the war.

The United States will adjudicate and settle the claims of its citizens against Spain relinquished in this article.

ARTÍCULO VII.

España y los Estados Unidos de América renuncian mutuamente, por el presente tratado, á toda reclamación de indemnización nacional ó privada de cualquier género de un Gobierno contra el otro, ó de sus súbditos ó ciudadanos contra el otro Gobierno, que pueda haber surgido desde el comienzo de la última insurrección en Cuba y sea anterior al canje de ratificaciones del presente tratado, así como á toda indemnización en concepto de gastos ocasionados por la guerra.

Los Estados Unidos juzgarán y resolverán las reclamaciones de sus ciudadanos contra España, á que renuncia en este artículo.

ARTICLE VIII.

In conformity with the provisions of Articles I, II, and III of this treaty, Spain relinquishes in Cuba, and cedes in Porto Rico and other islands in the West Indies, in the island of Guam, and in the Philippine Archipelago, all the buildings, wharves, barracks, forts, structures, public highways and other immovable property which, in conformity with law, belong to the public

ARTÍCULO VIII.

En cumplimiento de lo convenido en los Artículos I, II y III de este tratado, España renuncia en Cuba y cede en Puerto Rico y en las otras islas de las Indias Occidentales, en la Isla de Guam y en el Archipiélago de las Filipinas, todos los edificios, muelles, cuarteles, fortalezas, establecimientos, vías públicas y demás bienes inmuebles que con arreglo á derecho son del dominio púb-

domain, and as such belong to the Crown of Spain.

And it is hereby declared that the relinquishment or cession, as the case may be, to which the preceding paragraph refers, cannot in any respect impair the property or rights which by law belong to the peaceful possession of property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civic bodies, or any other associations having legal capacity to acquire and possess property in the aforesaid territories renounced or ceded, or of private individuals, of whatsoever nationality such individuals may be.

The aforesaid relinquishment or cession, as the case may be, includes all documents exclusively referring to the sovereignty relinquished or ceded that may exist in the archives of the Peninsula. Where any document in such archives only in part relates to said sovereignty, a copy of such part will be furnished whenever it shall be requested. Like rules shall be reciprocally observed in favor of Spain in respect of documents in the archives of the islands above referred to.

In the aforesaid relinquishment or cession, as the case may be, are also included such rights as the Crown of Spain and its authorities possess in respect of the official archives and records, executive as well as judicial, in the islands above referred to, which relate to said islands or the rights and property of their inhabitants. Such archives and records shall be carefully preserved, and private persons shall without distinction have the right to require, in accordance with law, authenticated copies of the contracts,

lico, y como tal corresponden á la Corona de España.

Queda por lo tanto declarado que esta renuncia ó cesión, según el caso, á que se refiere el párrafo anterior, en nada puede mermar la propriedad, ó los derechos que correspondan, con arreglo á las leyes, al poseedor pacífico, de los bienes de todas clases de las provincias, municipios, establecimientos públicos ó privados, corporaciones civiles ó eclesiasticas, ó de cualesquiera otras colectividades que tinen personalidad jurídica para adquirir y poseer bienes en los mencionados territorios renunciad ó cedidas, y los de los individuos particulares, cualquiera que sea su nacionalidad.

Dicha renuncia ó cesión, según el caso, incluye todos los documentos que se refieran exclusivamente á dicha Soberanía renunciada ó cedida, que existan en los Archivos de la Península.

Cuando estos documentos existentes en dichos Archivos, solo en parte correspondan á dicha Soberanía, se facilitarán copias de dicha parte, siempre que sean solicitadas. Reglas análogas habran recíprocamente de observarse en favor de España, respecto de los documentos existentes en los Archivos de las Islas antes mencionadas.

En las antecitadas renuncia ó cesión, según el caso, se hallan comprendidos aquellos derechos de la Corona de España y de sus Autoridades sobre los Archivos y Registros oficiales, así administrativos como judiciales de dichas islas, que se refieran á ellas y á los derechos y propiedades de sus habitantes. Dichos Archivos y Registros deberán ser cuidadosamente conservados y los particulares sin excepción, tendrán derecho á sacar, con arreglo á las Leyes, las copias autorizadas de los contrados, testamentos y de-

wills and other instruments forming part of notarial protocols or files, or which may be contained in the executive or judicial archives, be the latter in Spain or in the islands aforesaid.

más documentos que formen parte de los protocolos notariales ó que se custodien en los Archivos administrativos ó judiciales, bien estos se hallen en España, ó bien en las Islas de que se hace mención anteriormente.

ARTICLE IX.

Spanish subjects, natives of the Península, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty, may remain in such territory or may remove therefrom, retaining in either event all their rights of property, including the right to sell or dispose of such property or of its proceeds; and they shall also have the right to carry on their industry, commerce and professions, being subject in respect thereof to such laws as are applicable to other foreigners. In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making, before a court of record, within a year from the date of the exchange of ratifications of this treaty, a declaration of their decision to preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which they may reside.

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

ARTÍCULO IX.

Los súbditos españoles, naturales de la Península, residentes en el territorio cuya soberanía España renuncia ó cede por el presente tratado, podrán permanecer en dicho territorio ó marcharse de el, conservando en uno ú otro caso todos sus derechos de propiedad, con inclusión del derecho devender ó disponer de tal propiedad ó de sus productos; y además tendrán el derecho de ejercer su industria, comercio ó profesión, sujetándose á este respecto á las leyes que sean aplicables á los demás extrangeros. En el caso de que permanezcan en el territorio, podrán conservar su nacionalidad española haciendo ante una oficina de registro, dentro de un año después del cambio de ratificaciones de este tratado, una declaración de su propósito de conservar dicha nacionalidad: á falta de esta declaración, se considerará que han renunciado dicha nacionalidad y adoptado la del territorio en el cual pueden residir.

Los derechos civiles y la condición política de los habitantes naturales de los territorios aquí cedidos á lo Estados Unidos se determinarán por el Congreso.

ARTICLE X.

The inhabitants of the territories over which Spain relinquishes or cedes her sovereignty shall be secured in the free exercise of their religion.

ARTÍCULO X.

Los habitantes de los territorios cuya soberanía España renuncia ó cede, tendrán asegurado el libre ejercicio de su religión.

ARTICLE XI.

The Spaniards residing in the territories over which Spain by this treaty cedes or relinquishes her sovereignty shall be subject in matters civil as well as criminal to the jurisdiction of the courts of the country wherein they reside, pursuant to the ordinary laws governing the same; and they shall have the right to appear before such courts, and to pursue the same course as citizens of the country to which the courts belong.

ARTÍCULO XI.

Los Españoles residentes en los territorios cuya soberanía cede ó renuncia España por este tratado, estarán sometidos en lo civil y en lo criminal á los tribunales del pais en que residan con arreglo á las leyes comunes que regulen su competencia, pudiendo comparecer ante aquellos, en la misma forma y ampleando los mismos procedimientos que deban observar los ciudadanos del pais á que pertenezca el tribunal.

ARTICLE XII.

Judicial proceedings pending at the time of the exchange of ratifications of this treaty in the territories over which Spain relinquishes or cedes her sovereignty shall be determined according to the following rules:

1. Judgments rendered either in civil suits between private individuals, or in criminal matters, before the date mentioned, and with respect to which there is no recourse or right of review under the Spanish law, shall be deemed to be final, and shall be executed in due form by competent authority in the territory within which such judgments should be carried out.

2. Civil suits between private individuals which may on the date mentioned be undetermined shall be prosecuted to judgment before the court in which they may then be pending or in the court that may be substituted therefor.

3. Criminal actions pending on the date mentioned before the Supreme Court of Spain against citizens of the territory which by this treaty ceases to be Spanish shall continue under its jurisdiction until final judgment; but, such judgment having been rendered, the execution thereof shall

ARTÍCULO XII.

Los procedimientos judiciales pendientes al canjearse las ratificaciones de este tratado, en los territorios sobre los cuales España renuncia ó cede su soberanía, se determinarán con arreglo á las reglas siguientes:

1. Las sentencias dictadas en causas civiles entre particulares ó en materia criminal, antes de la fecha mencionada, y contra las cuales no haya apelación ó casación con arreglo á las leyes españolas, se considerarán como firmes, y se.án ejecutadas en debida forma por la autoridad competente en el territorio dentro del cual dichas sentencias deban cumplirse.

2. Los pleitos civiles entre particulares que en la fecha mencionada no hayan sido juzgados, continuarán su tramitación ante el tribunal en que se halle el proceso, ó ante aquel que lo sustituya.

3. Las acciones en materia criminal pendientes en la fecha mencionada ante el Tribunal Supremo de España contra ciudadanos del territorio que según este tratado deja de ser español, continuaran baja su jurisdicción hasta que recaiga la sentencia definitiva; pero una vez dictada esa sentencia, su ejecución será

be committed to the competent authority of the place in which the case arose.

ARTICLE XIII.

The rights of property secured by copyrights and patents acquired by Spaniards in the Island of Cuba, and in Porto Rico, the Philippines and other ceded territories, at the time of the exchange of the ratifications of this treaty, shall continue to be respected. Spanish scientific, literary and artistic works, not subversive of public order in the territories in question, shall continue to be admitted free of duty into such territories, for the period of ten years, to be reckoned from the date of the exchange of the ratifications of this treaty.

ARTICLE XIV.

Spain shall have the power to establish consular officers in the ports and places of the territories, the sovereignty over which has been either relinquished or ceded by the present treaty.

ARTICLE XV.

The Government of each country will, for the term of ten years, accord to the merchant vessels of the other country the same treatment in respect of all port charges, including entrance and clearance dues, light dues, and tonnage duties, as it accords to its own merchant vessels, not engaged in the coastwise trade.

This article may at any time be terminated on six months' notice given by either Government to the other.

ARTICLE XVI.

It is understood that any obligations assumed in this treaty by

encomendada á la autoridad competente del lugar en que la acción se suscitó.

ARTÍCULO XIII.

Continuarán respetándose los derechos de propiedad literaria, artística é industrial, adquiridos por españoles en las Islas de Cuba y en las de Puerto Rico, Filipinas y demás territorios cedidos, al hacerse el canje de las ratificaciones de este tratado. Las obras españolas científicas, literarias y artísticas, que no sean peligrosas para el orden público en dichos territorios, continuarán entrando en los mismos, con franquicia de todo derecho de aduana por un plazo de diez años á contar desde el canje de ratificaciones de este tratado.

ARTÍCULO XIV.

España podrá establecer Agentes Consulares en los puertos y plazas de los territorios cuya renuncia y cesión es objeto de este tratado.

ARTÍCULO XV.

El Gobierno de cada pais concederá, por el término de diez años, á los buques mercantes del otra el mismo trato en cuanto á todos los derechos de puerto, incluyendo los de entrada y salida, de faro y tonelaje, que concede á sus propios buques mercantes no empleados en el comercio de cabotaje.

Este artículo puede ser denunciado en cualquier tiempo dando noticia previa de ello cualquiera de los dos Gobiernos al otro con seis meses de anticipación.

ARTÍCULO XVI.

Queda entendido que cualquiera obligación aceptada en este tratado

the United States with respect to Cuba are limited to the time of its occupancy thereof; but it will upon the termination of such occupancy, advise any Government established in the island to assume the same obligations.

ARTICLE XVII.

The present treaty shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by Her Majesty the Queen Regent of Spain; and the ratifications shall be exchanged at Washington within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate at Paris, the tenth day of December, in the year of Our Lord one thousand eight hundred and ninety-eight.

[SEAL] WILLIAM R. DAY
[SEAL] CUSHMAN K. DAVIS
[SEAL] WM P FRYE
[SEAL] GEO. GRAY
[SEAL] WHITELAW REID.

por los Estados Unidos con respecto á Cuba, está limitada al tiempo que dure su ocupación en esta isla, pero al terminar dicha ocupación, aconsejarán al Gobierno que se establezca en la isla que acepte las mismas obligaciones.

ARTÍCULO XVII.

El presente tratado será ratificado por el Presidente de los Estados Unidos, de acuerdo y con la aprobación del Senado, y por Su Majestad la Reina Regente de España; y las ratificaciones se canjearán en Washington dentro del plazo de seis meses desde esta fecha, ó antes si posible fuese.

En fé de lo cual, los respectivos Plenipotenciarios firman y sellan este tratado.

Hecho por duplicado en París á diez de Diciembre del año mil ochocientos noventa y ocho.

[SEAL] EUGENIO MONTERO RÍOS
[SEAL] B. DE ABARZUZA
[SEAL] J. DE GARNICA
[SEAL] W R DE VILLA URRUTIA
[SEAL] RAFAEL CERERO

And whereas, the said Convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the City of Washington, on the eleventh day of April, one thousand eight hundred and ninety-nine;

Now, therefore, be it known that I, William McKinley, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

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

Done at the City of Washington, this eleventh day of April, in the year of Our Lord one thousand eight hundred and ninety-
[SEAL.] nine, and of the Independence of the United States the one hundred and twenty-third.

WILLIAM MCKINLEY

By the President:
JOHN HAY
Secretary of State

PROCLAMATIONS AND DECREES OF NEUTRALITY.

Mr. Jones to Mr. Sherman.

No. 497.] LEGATION OF THE UNITED STATES,
Buenos Ayres, April 28, 1898.

SIR: Referring to my No. 491, of the 6th instant, I have the honor to inclose herewith copy and translation of a note from the minister of foreign relations of yesterday's date, wherein in reply to my note of the day before announcing that Congress has declared a state of war to exist between the United States and Spain, he promptly advises me of his Government's attitude of neutrality.

I also confirm on the overleaf my telegram of yesterday's date advising you of this fact.

I have, etc., FRANÇOIS S. JONES.
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 497—Translation.]

MINISTRY OF FOREIGN RELATIONS,
Buenos Ayres, April 27, 1898

MR. CHARGÉ D'AFFAIRES: I have had the honor to receive your note of yesterday's date by which, in compliance with orders from your Government, you are good enough to communicate to me that, in view of the joint resolution of the Congress of the United States, approved the 20th instant, directing intervention to secure the independence of the island of Cuba, the Spanish Government informed the minister of the United States at Madrid on the following day that it considered the above-mentioned resolution equivalent to a declaration of war.

In taking cognizance of the deplorable circumstance which compromises the stability of two nations with which this Republic entertains the most cordial relations, His Excellency the President charges me to inform you, for communication to your Government, that he will at all times observe neutrality in accordance with the principles consecrated by international law.

Praying for the early termination of the war, I reiterate the assurances of my distinguished consideration.

A. ALCORTA.

Mr. Storer to Mr. Sherman.

No. 106.] LEGATION OF THE UNITED STATES,
Brussels, April 30, 1898.

SIR: I have the honor to acknowledge the receipt of your cablegrams of April 22 and 26, 1898, as follows:

No. 1.

STORER, *American Legation, Brussels:*

In event of hostilities between the United States and Spain the policy of this Government will be not to resort to privateering, but to adhere to the following recognized rules of international law:

First. The neutral flag covers enemy's goods, with the exception of contraband of war;

Second. Neutral goods, with the exception of contraband of war, are not liable to capture under an enemy's flag; and

Third. Blockades in order to be binding must be effective.

SHERMAN.

No. 2.

STORER, *American Legation, Brussels:*

By proclamation to-day, under resolution of Congress approved 20th, President announces blockade of ports on north side of Cuba, between Cardenas and Bahia Honda; also Cienfuegos, south side. Notify minister for foreign affairs.

SHERMAN.

No. 3.

STORER, *Minister, Brussels:*

A joint resolution of Congress, approved April 20, directed intervention for the pacification and independence of the island of Cuba.

The Spanish Government, on April 21, informed our minister at Madrid that it considered this resolution equivalent to a declaration of war, and that it had accordingly withdrawn its minister from Washington and terminated all diplomatic relations.

Congress has therefore, by an act approved to-day, declared that a state of war exists between the two countries since and including April 21. You will inform the Government to which you are accredited so that its neutrality may be assured in the existing war.

SHERMAN.

The contents of your three cablegrams were immediately conveyed to the knowledge of the minister of foreign affairs, who, as yet, has not acknowledged receipt of my communications.

In the Moniteur Belge, however, published for April 25 and 26, 1898, I find an official statement from the Belgian Government notifying the Belgians of the existence of the war between the United States and Spain, and recalling the perpetual neutrality of Belgium. I inclose a copy and translation of this statement.

A copy of your cablegram marked No. 1 was transmitted at once by me to each of our consuls in Belgium, that the instructions contained therein might be available for the information of the commercial world.

I have, etc., BELLAMY STORER.

[Inclosure—Translation.]

OFFICIAL NOTICE.

Spain and the United States of America being in a state of war, the Government recalls to its citizens that Belgium is always neutral, and that every act against the obligations of neutrality must be carefully avoided.

The penal code contains the following section, to which the attention of the public should be called:

"ARTICLE 123. Whosoever by hostile proceedings, not approved by the Government, shall expose the State to (liability of) hostilities from any foreign power shall be punished by imprisonment for from five to ten years, and should hostilities be the result, by imprisonment from ten to fifteen years."

The following was received at the Department of State on May 2, 1898, from the consul of the United States at Hamilton, Bermuda:

BERMUDA, ALIAS SOMERS' ISLANDS.

[*L. S. M.*]
G. Digby Barker, Lieut.-General, Governor, and Commander in Chief.

By His Excellency George Digby Barker, Companion of the Most Honorable Order of the Bath, Lieutenant-General, Governor, Commander in Chief, and Ordinary in and over these Islands, etc.

A PROCLAMATION.

Whereas a state of war exists between Spain and the United States of America; and whereas I, the said governor and commander in chief, have received notification that it is Her Majesty's pleasure and command that a strict and impartial neutrality in the said state of war shall be maintained by all Her Majesty's subjects and all persons whatsoever entitled to her protection; and

Whereas Her Majesty has been further pleased to command that six days from the day of the date of publication the following rules shall be in force:

RULES.

Rule A.—No ship of war of either belligerent may use British waters as place of resort for warlike purposes or equipment, or may leave British waters until twenty-four hours after any ship of the other belligerent.

Rule B.—Subject to Rule A, every such vessel of war shall be required to put to sea within twenty-four hours after entrance unless in the event of stress of weather or necessity for repair or provisioning, in which case she must leave as soon as possible and certainly within twenty-four hours of completion of repairs.

Rule C.—No supplies will be allowed beyond provisions and subsistence for crew necessary for immediate use and no coal beyond what will take the ship to the nearest port of her own country or nearest destination, nor will coal be supplied to the same ship in any British port twice within three months.

Rule D.—No prizes will be brought into British waters.

Now I, the said governor and commander in chief, do hereby warn all persons in this colony to take notice hereof, and do hereby proclaim that the aforesaid rules will take effect in this colony six days from the date hereof and are to be obeyed by all persons.

Given under my hand and the great seal of these islands this 23d day of April, A. D. 1898, and in the sixty-first year of Her Majesty's reign.

By his excellency's command:

ARCHIBALD ALISON,
Colonial Secretary.

God save the Queen.

BERMUDA, ALIAS SOMERS' ISLANDS.

[*L. S. M.*]

G. Digby Barker, Lieut.-General, Governor, and Commander in Chief.

By His Excellency George Digby Barker, Companion of the Most Honorable Order of the Bath, Lieutenant-General, Governor, Commander in Chief, and Ordinary in and over these Islands, etc.

A PROCLAMATION.

Whereas by a proclamation issued this day, I, the said governor and commander in chief, did proclaim that certain rules for the enforcement of neutrality in the state of war existing between Spain and the United States of America should come into force six days from the date thereof; and

Whereas Her Majesty has been pleased to command that such rules shall come into force forthwith:

Now I, the said governor and commander in chief, do hereby further proclaim that the said rules are now in force, of which all persons in this colony are directed to take notice and govern themselves accordingly.

Given under my hand and the great seal of these islands this 23d day of April, A. D. 1898, and in the sixty-first year of Her Majesty's reign.

By his excellency's command:

ARCHIBALD ALISON,
Colonial Secretary.

God save the Queen.

COLONIAL SECRETARY'S OFFICE,
Hamilton, Bermuda, April 23, 1898.

With reference to the above proclamations, attention is drawn to the extract from the London Gazette published in a notification from this office dated the 24th May, 1897, which notification contains information respecting the requirements of the

imperial act passed in the thirty-third and thirty-fourth year of Her Majesty's reign, entitled "An act to regulate the conduct of Her Majesty's subjects during the existence of hostilities between foreign States with which Her Majesty is at peace."

By his excellency's command:

ARCHIBALD ALISON,
Colonial Secretary.

The following was received at the Department of State on May 21, 1898, from the Consul of the United States at Hamilton, Bermuda:

BERMUDA, ALIAS SOMERS' ISLANDS.

[*L. S. M.*] *G. Digby Barker, Lieut.-General, Governor, and Commander in Chief*

By His Excellency George Digby Barker, Companion of the Most Honorable Order of the Bath, Lieutenant-General, Governor, Commander in Chief, and Ordinary in and over these Islands, etc.

A PROCLAMATION.

Whereas by a proclamation published on the 23d day of April, 1898, by me, the said governor and commander in chief, certain rules made for the guidance of all persons in maintaining a strict and impartial neutrality in the state of war existing between Spain and the United States of America were declared to be in force in this colony; and

Whereas it is expedient to modify one of these rules:

Now I, the said governor and commander in chief, do hereby issue this my proclamation and do publish and declare that the following rule is substituted for Rule C as contained in the said previous proclamation:

Rule C.—No supplies will be allowed to any such ship beyond provisions and subsistence for crew necessary for immediate use and no coal except for the specific purpose (to be satisfactorily shown) of enabling her to proceed direct to the nearest port of her own country or other named nearer neutral destination, nor will coal be supplied to the same ship in any British port twice within three months.

Of which all persons in this colony are directed to take notice and govern themselves accordingly.

Given under my hand and the great seal of these islands this 6th day of May, A. D. 1898, and in the sixty-first year of Her Majesty's reign.

By his excellency's command:

ARCHIBALD ALISON,
Colonial Secretary.

God save the Queen.

Mr. Bridgman to Mr. Sherman.

No. 28.] LEGATION OF THE UNITED STATES,
La Paz, Bolivia, May 19, 1898.

SIR: I have the honor to announce that after considerable delay the note came from the minister of foreign relations at Sucre containing the assurance of the neutrality of Bolivia in relation to the existing war between the United States and Spain.

I inclose herewith a copy of the original note and a translation of the same. The announcement arrived at the legation late on May 16 and I cabled the fact to Washington on the morning of May 17, as follows:

Neutrality assurance just received from Bolivian Government.

I have, etc., G. H. BRIDGMAN.

[Inclosure 1—Translation.]

MINISTRY OF FOREIGN RELATIONS,
Sucre, May 11. 1898.

SIR: In response to your note of the 27th of April, I have the honor to announce to your excellency that the Government of Bolivia, deploring deeply the war which exists between the United States of America and the Kingdom of Spain, has kept from the first moment, and will continue to keep, the strictest neutrality in the said conflict.

I should have preferred to make this declaration personally to your excellency, but unfortunately the circumstances to which your note refers prevent me from so doing.

I renew, etc., M. M. GOMEZ.

Mr. Bryan to Mr. Sherman.

No. 15.] LEGATION OF THE UNITED STATES,
Petropolis, April 29, 1898.

SIR: I have the honor to confirm your telegram of April 26, as follows:

WASHINGTON, *April 26, 1898.*

BRYAN, *Minister, Rio:*

A joint resolution of Congress, approved April 20, directed intervention for the pacification and independence of the island of Cuba. The Spanish Government on April 21 informed our minister at Madrid that it considered this resolution equivalent to a declaration of war, and that it had accordingly withdrawn its minister from Washington and terminated all diplomatic relations. Congress has therefore to-day declared that a state of war exists between the two countries since and including April 21. You will inform the Government to which you are accredited so that its neutrality may be assured in the existing war.

SHERMAN.

And to state that upon the receipt of same I called upon the minister for foreign affairs and verbally informed him of its receipt and of its contents. He told me he would communicate at once with the President of the Republic and assured me that his Government would observe a strict and impartial neutrality.

I have the further honor to confirm my cipher telegram to you stating this fact, as follows:

PETROPOLIS, *April 27, 1898.*

SHERMAN, *Washington:*

Brazilian minister for foreign affairs verbally assures impartial neutrality.

BRYAN.

I also in a written note, of which I inclose a copy, made a formal communication to the same effect, and received a reply expressing the regret of the Brazilian President that a peaceful solution had not been possible, and stating that Brazil would maintain a neutral position during the continuance of hostilities. I inclose copy thereof.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure—Translation.]

FOREIGN OFFICE,
Rio de Janeiro, April 27, 1898.

I have before me the note which Mr. Charles Page Bryan, envoy extraordinary and minister plenipotentiary of the United States of America, directed to me on the 26th instant, bringing to my attention the communication he had received from his

Government concerning the motive that had determined Congress to declare a state of war existing with Spain, beginning with the 21st day of this month.

His Excellency the President of the Republic, to whom I presented the said communication, regrets sincerely that the question which has caused the breaking off of diplomatic relations between the two countries could not have been solved by pacific means, and has charged me to declare that Brazil will observe the strictest neutrality during this war.

I have, etc., DIONISIO E. DE CASTRO CERQUEIRA.

Mr. Bryan to Mr. Sherman.

No. 20.] LEGATION OF THE UNITED STATES,
Petropolis, May 5, 1898.

SIR:

* * * * * * *

The neutrality proclamation, a copy of which I have the honor to inclose, permits coaling for the continuance of the voyage by war ships of belligerents.

* * * * * * *

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure.—Translation.]

MINISTRY OF FOREIGN AFFAIRS,
Rio de Janeiro, April 29, 1898.

To the MINISTERS OF MARINE, WAR, JUSTICE, TREASURY, AND INDUSTRY.

MR. MINISTERS: The legation of the United States of America, in the name of its Government, communicated to me on the 26th instant that the American Congress, by a joint resolution approved on the 20th, authorizing the intervention of the said States to the end of securing the pacification and independence of the island of Cuba, and that this resolution was considered a declaration of war by the Government of Spain, which ordered its legation to withdraw from Washington and interrupted diplomatic relations. Consequently, Congress declared that a state of war exists between the two nations, commencing the 21st. The President of the Republic, to whose knowledge I brought this communication, profoundly regretting that the question which caused the breaking off of relations between the two countries could not be solved by pacific means, determined that during this war Brazil would maintain the strictest neutrality, and, in order that this should be made effective, commands that the following regulations should be rigorously observed in all the territory of the Republic:

I.

Individuals residing in Brazil, citizens or foreigners, must abstain from all participation and aid in favor of either of the belligerents, and may not do any act which might be considered as hostile to either one of the two parties and, therefore, contrary to the obligations of neutrality.

II.

The Federal Government does not consent that privateers may be prepared or armed in the ports of the Republic.

III.

Neither belligerent will be permitted to promote enlistment in Brazil, not only of its own citizens, but also of the citizens of other countries, for the purpose of incorporating them with its forces of land and sea.

IV.

The exportation of material of war from the ports of Brazil to those of either of the belligerent powers, under the Brazilian flag, or that of any other nation, is absolutely prohibited.

V.

It is prohibited citizens or aliens residing in Brazil to announce by telegraph the departure or near arrival of any ship, merchant or war, of the belligerents, or to give to them any orders, instructions, or warnings, with the purpose of prejudicing the enemy.

VI.

No war ship or privateer shall be permitted to enter and remain, with prizes, in our ports or bays during more than twenty-four hours, except in case of a forced putting into port, and in no manner shall it be permitted to it to dispose of its prizes or of articles coming out of them.

By the words "except in case of a forced putting into port" should also be understood that a ship shall not be required to leave port within the said time:

First. If it shall not have been able to make the preparations indispensable to enable it to go to sea without risk of being lost.

Second. If there should be the same risk on account of bad weather.

Third. And, finally, if it should be menaced by an enemy.

In these cases it shall be for the Government, at its discretion, to determine, in view of the circumstances, the time within which the ship should leave.

VII.

Privateers, although they do not conduct prizes, shall not be admitted to the ports of the Republic for more than twenty-four hours, except in the cases indicated in the preceding section.

VIII.

No ship with the flag of one of the belligerents, employed in the war, or destined for the same, may be provisioned, equipped, or armed in the ports of the Republic, the furnishing of victuals and naval stores which it may absolutely need and the things indispensable for the continuation of its voyage not being included in this prohibition.

IX.

The last provision of the preceding section presupposes that the ship is bound for a certain port, and that it is only en route and puts into a port of the Republic through stress of circumstances. This, moreover, will not be considered as verified if the same ship tries the same port repeated times, or after having been relieved in one port should subsequently enter another, under the same pretext, except in proven cases of compelling circumstances. Therefore, repeated visits without a sufficiently justified motive would authorize the suspicion that the ship is not really en route, but is frequenting the seas near Brazil in order to make prizes of hostile ships. In such cases asylum or succor given to a ship would be characterized as assistance or favor given against the other belligerent, being thus a breach of neutrality.

Therefore, a ship which shall once have entered one of our ports shall not be received in that or another shortly after having left the first, in order to take victuals, naval stores, or make repairs, except in a duly proved case of compelling circumstances, unless after a reasonable interval which would make it seem probable that the ship had left the coast of Brazil and had returned after having finished the voyage she was undertaking.

X.

The movements of the belligerent will be under the supervision of the customs authorities from the time of entrance until that of departure, for the purpose of verifying the proper character of the things put on board.

XI.

The ships of belligerents shall take material for combustion only for the continuance of their voyage.

Furnishing coal to ships which sail the seas near Brazil for the purpose of making prizes of an enemy's vessels or prosecuting any other kind of hostile operations is prohibited.

A ship which shall have once received material for combustion in our ports shall not be allowed a new supply there, unless there shall have elapsed a reasonable interval which makes it probable that said ship has returned after having finished its voyage to a foreign port.

XII.

It will not be permitted to either of the belligerents to receive in the ports of the Republic goods coming directly for them in the ships of any nation whatever.

This means that the belligerents may not seek ports en route and on account of an unforeseen necessity, while having the intention of remaining in the vicinity of the coasts of Brazil, taking thus beforehand the necessary precautions to furnish themselves with the means of continuing their enterprises. The tolerance of such an abuse would be equivalent to allowing our ports to serve as a base of operations for the belligerents.

XIII.

The belligerents will not be permitted in the ports of Brazil—

First. To increase their crews, hiring seamen of any nationality whatsoever, including their own citizens.

Second. To increase the number and the caliber of their artillery, or by any means to perfect it; to buy or embark small arms or munitions of war.

There will be indicated to them an anchorage where they shall be under the immediate observation of the police, far from suspected places and circumstances.

XIV.

The belligerents, while they remain in the ports of the Republic, shall be forbidden—

To employ force or stratagem to recover prizes made from their fellow-citizens, or which may be made in the same harbor, or to liberate prisoners of their nation.

To undertake the sale or ransom of prizes made from the enemy before the validity of the prize shall have been recognized by competent courts.

To dispose of things taken from prizes they have on board.

XV.

The ships of either of the belligerents, however, which may be admitted to anchorage or harbor in the Republic, must remain in perfect quiet and complete peace with all the ships which may be there, especially those of war or armed for war, belonging to the hostile power.

The Brazilian forts and war ships will be ordered to fire upon a ship which shall attack its enemy within Brazilian harbors or territorial waters.

XVI.

No ship shall be allowed to leave port immediately after a ship belonging to a hostile nation or a neutral nation.

If the vessel leaving, as well as that left behind, be a steamer, or both be sailing vessels, there shall remain the interval of twenty-four hours between the sailing of one and the other. If the one leaving be a sailing vessel and that remaining a steamer, the latter may only leave reventy-two hours thereafter.

Brazilian forts and war ships shall fire upon any armed vessel which may be preparing to leave before the expiration of the indicated interval, after the departure of a ship belonging to the other belligerent.

XVII.

Merchant ships of one of the belligerents which may wish to leave port must give advice, in writing, twenty-four hours in advance to the commandant of the naval station of the day and hour for weighing anchor. In this advice shall be a statement whether they are steam or sail.

The commandant of the naval station, if he shall not have been advised of the departure of any war ship of the other belligerent, shall send and inform the respective commanders that they may leave port only after the expiration of the time fixed in the preceding number. He shall give, besides this, the requisite advices to the forts and Government ships.

Merchant ships may not weigh anchor unless they have had an answer in writing declaring that the necessary measures have been taken and that therefore they may leave. The answer will be given with great promptness. In places where there is no commandant of the naval station, the advice of merchant ships shall be directed to the port captain; in default of this, to the commander of the Government fort; if there is no fort, to any Brazilian war ship which may be there.

The official to whom the advice, in the aforesaid terms, shall be directed is the authorized person to give the warning to belligerent war ships.

XVIII.

Belligerent war ships which shall not wish to have their departure impeded by the successive leaving of merchant vessels or hostile war ships should communicate twenty-four hours in advance, to one of the officials indicated in the preceding section and who shall be the authorized person on the occasion, an application for leaving. Priority of sailing will be determined by the receipt of advice.

XIX.

War ships may not leave port unless the merchant vessels of the other belligerent which may be at the bar or have been announced by telegraph or other means first enter, except the respective commanders give their word of honor to the commandant of the naval station, and, in default of him, to the authorized official, that they will do no harm to them; and if, besides this, they shall not be prevented by some other reason.

XX.

Neither of the belligerents may take prizes in the territorial waters of Brazil, or place themselves in ambuscade in the ports or anchorages, islands, or capes situated in those waters, to watch for hostile ships coming in or going out; try to get information in regard to those which are expected, or are to go out, or, finally, to make sail to chase a hostile ship sighted or signaled.

All necessary means, including force, will be employed to prevent prize taking in territorial waters.

XXI.

If prizes brought to the ports of the Republic shall have been taken in territorial waters, the things coming out of them shall be taken possession of by the competent authorities, in order to restore them to their lawful owners, the sale of such things being always taken and considered as void.

XXII.

Ships which shall try to violate neutrality shall be immediately warned to leave the maritime jurisdiction of Brazil, and nothing shall be furnished them.

The belligerent who shall infringe the requirements of this circular shall be no more admitted into the ports of Brazil.

XXIII.

For the repression of violations which may be made, force shall be employed and, in default or insufficiency of that, protest shall be made against the belligerent that, advised and warned, shall not have desisted from violating the neutrality of Brazil, knowledge of the fact being immediately given to the Federal Government, with which the competent authorities should communicate by telegraph in cases not provided for herein.

I ask of you the speedy sending of orders that this circular be faithfully observed by each ministry, in those parts which refer to it, by the authorities subordinate to it.

Greeting.

DIONISIO E. DE CASTRO CERQUEIRA.

Mr. Moulton to Mr. Day.

No. 3.] CONSULATE OF THE UNITED STATES,
Demerara, British Guiana, May 4, 1898.

SIR: I have the honor to inform the Department that in obedience to superior authority a proclamation[1] of neutrality to be observed between Spain and the United States has been issued and published in British Guiana and Dutch Guiana.

I inclose the proclamation as published in British Guiana.

I am, etc.,

GEORGE H. MOULTON,
United States Consul.

Mr. Turner to Mr. Day.

No. 78.] CONSULATE-GENERAL OF THE UNITED STATES,
Ottawa, April 29, 1898.

SIR: On the 25th instant I wired you as follows:

Cabinet meeting to-day declares Canada to be neutral and in addition the ordinary enlistment act.

TURNER, *Consul-General.*

I have the honor to inclose herewith the Governor-General's proclamation[2] in reference to the above.

I have, etc.,

CHARLES E. TURNER,
Consul-General.

Mr. Stowe to Mr. Cridler.

No. 81.] CONSULATE OF THE UNITED STATES,
Cape Town, May 26, 1898.

SIR: I have the honor to transmit herewith copy[3] of the proclamation of Her Majesty's Government regarding the neutrality to be observed during the continuance of hostilities between the United States and the Kingdom of Spain.

I have, etc.,

J. G. STOWE,
United States Consul-General.

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[1] Not printed. The proclamation, after the formal preamble, quotes the terms of the act in regard to the conduct of British subjects and of the rules governing ships of belligerents given in the proclamation of neutrality of Great Britain, see p. 865.

[2] Not printed, but is in the same terms, mutatis mutandis, as that of Great Britain. (see p. 865), except as to preamble.

[3] Not printed. The proclamation, after the usual preamble, quotes the rules in regard to illegal enlistment and shipbuilding and the use of British ports by vessels of belligerents which were published in the proclamation of neutrality by Great Britain, see p. 865.

Mr. Morey to Mr. Day.

No. 567.] CONSULATE OF THE UNITED STATES AT CEYLON.
Colombo, April 26, 1898.

SIR: I inclose herewith in duplicate a proclamation by the governor of Ceylon respecting local neutrality during the present conflict between the United States and Spain.

* * * * * * *

I am, etc.,

W. MOREY,
United States Consul.

[Inclosure.]

GOVERNMENT NOTIFICATION.

War having unhappily broken out between Spain and the United States of America, his excellency the governor hereby strictly charges and commands all British subjects and other persons within the island of Ceylon and its dependencies to observe the strictest and most impartial neutrality between the belligerents.

His excellency further calls the attention and desires the obedience of all persons to the requirements of the foreign enlistment act and of the following rules, which were published on two similar occasions in the Ceylon Government Gazette Extraordinary of the 30th August, 1894, and of the 29th May, 1897, and which, mutatis mutandis, shall forthwith apply to the present state of hostilities between Spain and the United States of America.

By his excellency's command:

E. NOEL WALKER,
Colonial Secretary.

COLONIAL SECRETARY'S OFFICE, *Colombo, April 25, 1898.*

(Then follows the term of the act in regard to the conduct of British subjects and the rules governing ships of belligerents, as given in the proclamation of neutrality of Great Britain, see p. 865.)

Mr. Denby to Mr. Sherman.

No. 2924.] LEGATION OF THE UNITED STATES,
Pekin, China, May 3, 1898.

SIR: I have the honor to inclose a translation of a communication from the Tsung-li Yamên wherein the princes and ministers inform me that China has declared her neutrality in the existing war between Spain and the United States.

I have, etc,

CHARLES DENBY.

The Tsung-li Yamên to Mr. Denby.

PEKIN, *May 2, 1898.*

YOUR EXCELLENCY: The princes and ministers have had the honor to receive a communication from the minister of the United States, stating that the Congress of the United States passed on the 20th of April a joint resolution directing intervention for the pacification and independence of Cuba. The Government of Spain on the 21st instant informed the minister of the United States at Madrid that it considered this resolution equivalent to a declaration of war, and that it had accordingly withdrawn its minister from Washington and terminated all diplomatic relations with the United States.

The Congress of the United States thereupon, by an act approved the 26th of April, declared that a state of war exists between the two countries since and including the 21st of April.

The minister of the United States is directed by his Government to give this information to the princes and ministers, so that the neutrality of the Empire of China may be assured in the existing war.

In reply, the princes and ministers have to observe that the Government of China will duly maintain the laws of neutrality. The Yamên have therefore telegraphed the viceroys, governors, and tartar-generals of the yangtze and maritime provinces to issue instructions to their subordinates that they are to observe the laws of neutrality. Further, instructions have been issued to the high authorities of all the provinces and to the inspector-general of customs to issue proclamations for general information.

The princes and ministers have the honor to send this reply for the information of the minister of the United States.

Mr. Denby to Mr. Sherman.

No. 2930.] LEGATION OF THE UNITED STATES,
Pekin, China, May 17, 1898.

SIR: I have the honor to inclose a translation of a communication from the Tsung-li Yamên relating to the neutrality of China.

It will be noticed that "war vessels of either belligerent can not remain in Chinese ports." The *Monocacy* is the only ship which could be affected by this order, but until some question is made as to her departure I shall take no action unless requested to do so by the admiral. The proclamation cited fixes no time in which vessels are required to leave and is therefore defective.

I have, etc., CHARLES DENBY.

The Tsung-li Yamên to Mr. Denby.

PEKIN, *May 9, 1898.*

YOUR EXCELLENCY: The princes and ministers have had the honor to receive a communication from the minister of the United States, announcing the fact that hostilities had commenced between the Government of the United States and the Government of Spain, and requesting that the neutrality of the Empire of China may be assured in the existing war.

On the 2d of May the Yamên telegraphed to the viceroys, governors, and tartar-generals of the various provinces to observe the laws of neutrality. Further, instructions were issued to the high authorities of all the provinces and to the inspector-general of customs to issue proclamations for general information. The Yamên duly informed the United States minister of the action taken by the Chinese Government as above. A decree has now been issued by the Emperor to the following effect:

"As war exists between the United States and Spain, it is right that China should observe the laws of neutrality. Severe injunctions must therefore be issued that no assistance to either of the belligerent powers shall be rendered by China. War vessels of either of the belligerent powers can not remain in Chinese ports, thus maintaining the rules of international law. Orders are therefore issued to take action accordingly."

The Yamên have therefore telegraphed the above decree to the minister-superintendent of southern and northern trade, and, as in duty bound, the princes and ministers send this communication for the information of the minister of the United States, asking him to telegraph to his Government that, as war exists between the United States and Spain, war vessels of either of the belligerent powers can not anchor in Chinese ports, in due observance of international law.

Mr. Goodnow to Mr. Day.

No. 79.] CONSULATE-GENERAL OF THE UNITED STATES,
Shanghai, May 22, 1898.

SIR: I have the honor to hand you herewith the "Proclamation for the observance of international law" issued by the taoti of Shanghai, and a translation thereof. I have forwarded the proclamation to Minister Denby and have given a translation to Capt. O. W. Farenholt, commanding the *Monocacy* in this port, together with my comments on it.

I have, etc.,

JOHN GOODNOW,
Consul-General.

[Enclosure.—Translation.]

PROCLAMATION FOR OBSERVANCE OF INTERNATIONAL LAW.

Tsai, taotai of Shanghai, in obedience to the imperial command, issues this proclamation:

We Chinese have during the past years been at peace with the United States and Spain. Just now these two nations are at war. We Chinese must observe the laws of strict neutrality, and must not furnish supplies of war to the two nations, nor interfere with present peaceful relations with either. We must not disobey international law. We ought to be more than careful to preserve friendship with citizens of both countries dwelling in this country; and our citizens residing in countries under jurisdiction of United States and Spain, doing business and having protection of said Governments, also must be careful not to violate international law; and until these two countries are restored to the blessings of peace you at home and abroad must avoid any concern with the warfare between them, lest you bring evil upon yourself.

I, the taotai of this port, in obedience to the Tsung-li Yamên, who have petitioned the Throne and have sent a telegram ordering me to issue a proclamation informing the people, respectfully obey this command and issue this proclamation for the information of the people residing in our country's seas, roads, harbors, thoroughfares, waterways, ports, and branch creeks under the control of the Chinese Government that, as the United States and Spain are now at war, they (the people) ought to obey the following regulations:

(1) The war ships of the two nations must not use Chinese-controlled waters and ports for anchorage or fighting purposes, or anchor there for lading war supplies. If the merchant or war ship of one belligerent leave a Chinese port, a ship of the other must not be permitted to leave within twenty-four hours afterwards.

(2) After issuance of this proclamation, should any war ship of either belligerent come into a Chinese port, except on account of heavy winds or storms or to obtain food for crew, or for repairs, it must not remain over twenty-four hours, and the officials in charge of the port or waterway must, at the end of twenty-four hours, compel said boat to leave, and must not permit the loading of more provisions than are actually needed by the crew. In case of repairs, the ship must leave within twenty-four hours after repairs are completed. No delay must be permitted. War or merchant ships, of whichever nation, in a Chinese port, must be separated in leaving by twenty-four hours' time, and must not leave before or remain longer than said time.

(3) Hereafter the ships of the two nations in ports or waterways of China must not take on a large amount of provisions or supplies. In provisions the amount must be regulated by the needs of the number of men aboard; in coal, only sufficient must be allowed to take it to its nearest port, and it must not return for coaling more than once in three months.

(4) War ships of either party must not bring goods taken in battle into Chinese ports. Our people must not use their own boats secretly to furnish food or war supplies to the belligerents. Chinese in places governed by foreigners also must not secretly assist them in war. After issue of this proclamation, if you dare to disobey this command and not observe the duties of neutrals, or presume to disobey laws of nations and enter or cross their lines of blockade by sending men, dispatches, weapons, or any other contraband material for making supplies, you will find that you have put your head in the net of the law. Not only will I not protect you, but will most surely punish without mercy. Let all carefully observe and not disobey.

Mr. Merry to Mr. Moore.

No. 82.] LEGATION OF THE UNITED STATES
(CENTRAL AMERICA),
San Jose, Costa Rica, May 14, 1898.

SIR: I have the honor to acknowledge the receipt of your No. 82 and No. 83 of April 28, No. 84 of April 29, and No. 85 of May 2; also yours of April 28, without number, inclosing proclamation of April 26, instructing me to forward "one copy to each of the Governments to which I am accredited," which instruction I immediately carried out. The Department cable of the 22d ultimo, advising Cuban blockade, was also forwarded to each of the Governments to which I am accredited, and I desire respectfully to call your attention to the replies received from Salvador, Nicaragua, and Costa Rica (inclosed).

* * * * * * *

I am, etc., WILLIAM L. MERRY,
United States Minister.

[Inclosure 1 in No. 82.—Translation.]

OFFICE OF FOREIGN RELATIONS,
San Jose, May 14, 1898.

MR. MINISTER: The estimable note of your excellency has been received, dated the 11th instant, in which, by order of your Government, you communicate to mine officially the existence of a state of war between the United States and Spain. With the same note your excellency has been pleased to send to this office a printed copy of the decree ordered by Mr. President McKinley on the 26th of April last, and also a printed copy of the correspondence passed between the cabinets of Washington and Madrid on the 21st of said month and days immediately preceding.

By instructions of the President, I have the honor to assure your excellency in reply that this Government, deploring that the United States and Spain, nations with which Costa Rica has cultivated and now cultivates relations of the most intimate friendship, have seen the painful necessity to have recourse to the arbitrament of arms to settle their differences, and that this Republic being, and not able to be less than, neutral, will comply strictly with the duties which as such it should observe.

Your excellency will accept, etc.,

P. PEREZ ZELEDON.

[Inclosure 2 in No. 82.—Translation.]

MANAGUA, *April 30, 1898.*

HON. WILLIAM L. MERRY,
San Jose, Costa Rica:

I acknowledge the receipt of your excellency's telegram dated yesterday, which serves to inform my Government that a state of war has been declared by North America with the Kingdom of Spain, from the 21st of the present month. Regretting the painful situation between two civilized countries, I declare the absolute neutrality of the Nicaraguan Government in the conflict alluded to.

I am, etc.,

ERASMO CALDERON.

[Inclosure 3 in No. 82.—Translation.]

SAN SALVADOR, *May 12.*

Señor MERRY,
United States Minister, San Jose:

Salvador, Honduras, and Nicaragua are the three countries which form the Greater Republic of Central America, recognized by all the countries of Europe and America, and, as you know already, the Diet is composed of the respective delegates who act

in Managua, representing the transient sovereignty of the States mentioned, and consequently having charge of their foreign relations. For this reason the Government of Salvador, as well as Honduras and Nicaragua, have no minister of foreign relations, by virtue of which, in answering the information in your telegram of April 30 ultimo, notifying this Government of the state of war between the United States and Spain, for which attention I am much obliged, I do so in personal form, not having the faculty according to diplomatic usage, for the reasons which I have explained.

With protests, etc.,

P. ALFARO,
Minister of the Interior, Charged with Foreign Relations.

* * * \

attempt will, in the Kingdom, be dealt with in accordance with the principles of the civil penal law; in the Danish West India Islands the principles of the general penal legislation become applicable.

The present law takes effect in the Kingdom at once.

With which all concerned have to comply.

Given at Amalienborg, the 29th of April, 1898, under our royal hand and seal.

CHRISTIAN R. [L. S.]

PUBLICATION FOR THE DANISH WEST INDIA ISLANDS WITH REFERENCE TO THE WAR EXISTING BETWEEN THE UNITED STATES OF NORTH AMERICA AND SPAIN.

For the information of Danish West India merchants and shipmasters in respect of their duty and position under general legislation and international law during the war between the United States and Spain, the following directions are by command of His Majesty the King published and enjoined:

SECTION 1. When a Danish West India merchant ship is on the sea hailed or stopped by any belligerent ship of war or authorized privateer, such ship shall, on the demand of the commanding officer, without fail present the ship's papers prescribed by section 2 of the registration ordinance, to wit: The certificate of nationality and registration, the ship's muster roll, clearance certificate, and cargo papers. Under international law, no vessel must be provided with a double set of ship's papers or carry any other flag than the flag of the country to which she belongs.

SEC. 2. Notwithstanding that neither of the belligerent powers have acceded to the Paris declaration of the 16th of April, 1856, both parties have expressed themselves officially to the effect that they recognize that the neutral flag covers the cargo, with the exception of contraband of war, and that neutral cargo, with the exception of contraband of war, in the enemy's ship is not subject to seizure. As contraband of war the following are considered: Arms, ammunition, articles of clothing and accouterment, and other articles manufactured and immediately applicable for and to purposes of war, in so far as they are intended for any of the belligerent powers or their subjects. Furthermore, dispatches from or to any of the governmental authorities of any of the belligerent powers are liable to be considered as contraband of war, which it is forbidden to carry. In case that alterations or additional rules in respect of contraband of war should become necessary, the ministry of finances will make such further publication as shall be required.

SEC. 3. It is the shipmaster's duty to inform himself as far as possible as to whether the belligerent port to which he is destined is blockaded. If, while going to enter a port the blockade of which was unknown to him, he is hailed or stopped by a ship of war belonging to the other belligerent power and the commanding officer informs him that the port is blockaded, it is his duty to withdraw at once, without attempting to enter the port secretly.

SEC. 4. If a shipmaster considers himself justified in complaining of the action in his case of any belligerent armed vessel, he must as soon as possible apply with his reclamation to the governor of the Danish West India Islands, or to the ministry of foreign affairs, or to a royal Danish embassy or consulate.

HÖRRING.

The MINISTRY OF FINANCES, *May 2, 1898.*

Mr. Brun to Mr. Day.

[Translation.]

LEGATION OF DENMARK,
Washington, May 14, 1898.

The undersigned envoy extraordinary and minister plenipotentiary of His Majesty the King of Denmark has just received instruction to bring to the knowledge of his excellency the Secretary of State of the United States, that the Government of His Majesty the King of Denmark, desiring to conserve his relations of friendship and of good understanding with the two belligerent parties, will observe, during

the war which has broken out between Spain and the United States, a strict and impartial neutrality. The remoteness of the theater of strife will hardly permit its effects to be felt in the territorial waters of the realm, properly so called, but the same is not true with respect to the Danish possessions in the Antilles, and for the purpose of preventing these islands from becoming a base of military operations, contrary to the laws of neutrality, the Government of the King deems it his duty to announce beforehand to the parties belligerent the conditions under which their vessels of war will be permitted to enter and sojourn in the territorial waters of the Danish Antilles.

First. Vessels of war of either belligerent or transport boats belonging to their fleets will be permitted to enter the ports and territorial waters of the islands, but to remain there only during twenty-four hours, except in case they find themselves in distress caused either by bad weather, lack of provisions, accident, or other cause. The sojourn of twenty-four hours will be counted from the moment when the cause of distress shall have ceased to exist and the necessary repairs or replenishment of stores have been made. An interval of twenty-four hours should in all cases intervene between the time of departure of the war ship or merchantman of one of the belligerent parties and the departure of a war ship of the other. Privateers will not be admitted into the ports or territorial waters except in case of manifest distress.

Second. Vessels belonging to the fleets of the belligerent parties will be permitted to provide themselves in the ports and territorial waters with all necessaries and merchandise of which they may have need, with the exception of articles which are contraband of war. Nevertheless, they shall not be able to provision themselves beyond the quantity necessary for the use of the vessel's crew, nor to take coal in greater quantity than is necessary to enable the vessel to arrive at the nearest port of its own country, or to some other destination nearer by. This privilege of coaling in a port or in the territorial waters of the islands shall be accorded to the same vessel only once in three months, except in case of special authorization of the governor.

Third. The ports and territorial waters of the islands shall be closed to the prizes of either belligerent, except when they are found in cases of distress.

Such are the rules which the Government of the King purposes to follow during the present war, and he trusts that the Government of the United States will enjoin upon its vessels and commanders to conform to the same.

The undersigned seeks this occasion, etc.,

C. BRUN.

Mr. Grimke to Mr. Day.

No. 187.] CONSULATE OF THE UNITED STATES,
Santo Domingo, May 11, 1898.

SIR: I have to inform you that I transmit herewith a copy of the proclamation of President Heureaux relative to the neutrality of the Dominican Republic during the war between the United States and Spain.

I am, etc.,

ARCHIBALD H. GRIMKE,
United States Consul.

[Inclosure.]

The United States and Spain are in a state of war, and as this formidable struggle, which must take place principally in our vicinity, will interfere at least temporarily with the business of the Republic, it becomes my duty, in my capacity as First Magistrate of the nation, to lay down rules for the guidance of the people from whom I hold so great responsibility.

First, I must counsel my fellow-citizens to observe the strictest neutrality in the

war which has commenced. Our international duties, the good faith due to the northern Republic and to its citizens, impose this upon us. The friend of both combatants, it would be treachery if, while expressing cordial sentiments, we should, secretly or openly, favor one party to the inevitable injury of the other. We must confine ourselves to deploring sincerely that two friendly peoples have been unable to find a peaceful solution of the differences which divide them, and that, compelled by circumstances to appeal to arms, the blood of their sons, which we would wish to spare, must flow in abundance, and the wealth laboriously accumulated in times of peace be dissipated.

The people of the Dominican Republic should be before all and above all Dominicans. The interests of their country should take precedence above all others; a national ideal should ever inspire their acts and thoughts. * * *

Our own security, the danger to which we would be exposed by compromising ourselves with either of the two nations, endowed with forces so greatly superior to our own, compels us to be neutral, absolutely neutral, between Spain and the United States. Justice and good faith are our safeguards, and it would be imprudent to separate ourselves voluntarily from them and to enter the lists without the only arms capable of protecting us.

By preserving strict neutrality we can succeed in avoiding the gravest contingencies of the bloody conflict, but we can not succeed in protecting ourselves from its fatal economic consequences. Misfortune can not knock at our neighbor's door without bequeathing to us a portion of the sorrow it brings. The close ties which progress establishes between civilized nations make tolerance and prosperity common property. The wound which bleeds the one exhausts both. I wish to call attention to these consequences of the war unfortunately inevitable, that, knowing the causes, public opinion may not be misled and that precious time may not be lost studying the situation from a false point of view and searching for relief where it can not be found. The first injurious result for us, one already experienced, is the reducing of credits, by which commercial interests are affected, resources depreciated, the sphere of action limited, and serious perturbation produced. Capital is timid, and at the first intimation of war everyone who could withdraw his money from the hazardous circulation of the times did so, reducing by so much the quantity available. The natural result is that the credits to Dominican merchants are reduced in the same proportion; everyone who has not ready money with which to make his purchases in the producing markets meets with loss, equilibrium being shaken at the very time when it is most difficult, on account of the natural fear of the capitalists in our markets, to find the funds needful to continue business with the same freedom as before.

On the other hand, the transportation and the sale of our fruits has become difficult while the war lasts, costs and risks being increased and profits diminished. Thus, the amount which the country annually spends for its purchases in foreign lands being diminished, exchange is higher than usual. The price of everything has increased and will continue to increase. The scarcity of the most necessary articles has begun to be felt, and will be accentuated if our people do not display the courage that circumstances demand. The provisioning of our markets can not, perhaps, be accomplished with the usual regularity; and, even if this adverse possibility were met, another more serious and more difficult to be overcome will remain in existence. The United States, our principal granary, is organizing a great army, for which the Government will be compelled to provide enormous quantities of provisions, reducing in this manner the quantity offered for export and causing an advance in the prices. In our land prices have already increased and will continue to rise, so that the laboring classes will suffer painful privations, the scarcity of food occurring at the same time as the reduction of the circulating medium, together with the decrease of occupation in export enterprises.

On account of the urgent needs, for the sake of our national honor, that we may not have the shame of suffering want in time of peace for lack of the grains and fruits which our soil produces with such liberality, I beg and entreat our agriculturists to devote themselves to the cultivation of small fruits, to confide to the generous bosom of the earth not only the capital they possess, but the fate and destiny of their country, seriously menaced by famine. Grains, potatoes, etc., that are easily preserved and yield an abundant yearly harvest, will repay with interest the labor devoted to their cultivation, and will save the country from suffering caused by lack of foresight and industry. The circular of the minister of the interior should receive the attention of everyone; and to the governors and municipal heads I especially recommend the reading and carrying out of his directions. Let us search with earnestness and intelligence for the remedy for the evils threatening us, and cease useless lamentations for misfortunes that man can not avert.

With the preservation and advancement of the Republic, civilized, united, and

self-governed as our sole ideal, we invoke the patriotism of our citizens to supply the calm and good sense necessary to permanent, absolute neutrality. The gravity of the situation, our national interests, the necessities of the hour, should inspire us, and wisdom and prudence will indicate the means of preventing misery, of producing the food we consume, of becoming our own providers. Our soil is capable of yielding an abundant harvest of rice, corn, beans, and potatoes, articles which to-day come to us from abroad. Thus we will not only prevent present want, but will save ourselves from even greater misfortunes. Times of hardship are the ones chosen by revolutionists for their wicked propaganda, as the mind of the people is then most ready to receive impressions. There is a fatal tendency in the heart of man to make someone responsible for his misfortunes, attributing them to fate or to some individual who perhaps did his best to avoid them. In the interests of our country let us reflect upon these observations. The Republic enjoys the most complete peace; under its protection obvious progress has been made, and the Government has prepared itself to meet any emergency that may arise; and to its beneficent influence the civil and political authorities owe the union of force and good will so necessary to the success of all undertakings intrusted to them. If, unfortunately, peace should be broken, the Government relies on all the necessary elements to reestablish it; but it would profoundly regret being obliged to exercise repressive action at the very time when its greatest anxiety is to favor all with its paternal aid. The most discreet, the most patriotic part is to maintain the tranquillity which the situation demands; to place our hearts, full of love for our country, at the service of reason, which must guide us in saving the Republic and making it prosperous. Thus we will succeed in conducting the affairs of state with prudence and skill that will reflect credit on a people which possesses such qualities and uses them at the critical hour when other states show their lack of calm and good sense. Labor in all its forms, agricultural labor especially, is our salvation. Let us place our trust, our energy, our perseverance in this, and, with the impetus that it gives to production, we will gain the great advantage of changing the position of our State from dependence to independence, providing the provisions the lack of which to-day exposes us to such misfortune.

U. HEUREAUX.

SANTO DOMINGO, *May 5, 1898.*

Mr. Smith to Mr. Day.

No. 6.] CONSULATE OF THE UNITED STATES,
Curaçao, West Indies, May 12, 1898.

SIR: I beg to inclose herewith two numbers of the official paper, De Curaçaosche Courant, of April 29 and May 6, containing some notifications[1] in relation to the conditions of affairs between the United States and Spain. The last notification (of April 3) is accompanied by a translation.

I am, etc.,

L. B. SMITH,
United States Consul.

[Translation.]

WARNING.

GOVERNMENT SECRETARY'S OFFICE,
Curaçoa, May 3, 1898.

In view of the breaking out of the war between Spain and the United States of America, all inhabitants are warned, in the name of the governor of the colony, to engage in no manner whatever in the sale or exchange of, or other transactions with, prizes; to furnish no assistance or material for repairing men-of-war or privateers of the above-named nations; to take no part in equipping vessels presumptively destined for war or privateer service; and they are at the same time warned for their own interest not to deliver coal to such vessels without the knowledge of the governor.

The Government's Secretary,
HELLMUND.

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[1] One inclosure; others not printed.

Mr. Smith to Mr. Moore.

No. 11.] CONSULATE OF THE UNITED STATES,
Curaçao, West Indies, June 20, 1898.

SIR: I beg to inclose herewith Publication Sheet No. 9, dated June 4, 1898, which has been published by the government of this colony, referring to transshipment of war materials in transit, and also Publication Sheets Nos. 11 and 12, both dated June 17, containing the rules of neutrality to be observed in the war between the United States and Spain.

I am, etc.

L. B. SMITH,
United States Consul.

1898. No. 9.

PUBLICATION SHEET.

Ordinance supplementing article 20 of the ordinance of July 28–December 20, 1881, "containing an amendment of the regulations in force concerning the importation, transit, and exportation of merchandise in the island of Curaçao, and the proof of the collection of the fire and light-house dues there." (Publication Sheet No. 22.)

In the Queen's name: The governor of Curaçao, considering that it is necessary to supplement article 20 of the ordinance of July 28–December 20, 1881, "containing an amendment of the regulations in force concerning the importation, transit, and exportation of merchandise in the island of Curaçao, and the proof of the collection of the fire and light-house dues there" (Publication Sheet No. 22), has, with the approbation of the colonial council, and by virtue of the second section of article 50 of the governmental regulations of this colony, decreed the following ordinance:

ARTICLE 1. The following is added to article 20 of the ordinance of July 28–December 20, 1881 (Publication Sheet No. 22), as a sixth paragraph:

"The transshipment of gunpowder, ammunition, firearms, side arms, or other war materials may be prohibited from time to time by decree of the governor."

ART. 2. This ordinance goes into effect on the day of its promulgation.

Given at Willemstad, June 4, 1898.

BARGE.

Promulgated June 4, 1898.

HELLMUND, *Secretary.*

1898. No. 11.

PUBLICATION SHEET.—PUBLICATION.

The governor of Curaçao, in view of the report of his excellency, the minister of the colonies, of May 24 of this year, hereby notifies all whom it may concern that, for the maintenance and exercise of a complete neutrality during the war which has arisen between powers in friendship with us, Spain on the one side and the United States of America on the other, the following regulations are decreed:

ARTICLE 1. It is forbidden to furnish the war vessels or privateers of the belligerents with arms or ammunition, or to assist them in any manner in increasing their crews, arms, or armament, and, generally, to perform intentionally any act by which the neutrality of the State may be endangered.

ART. 2. Are likewise prohibited:

(*a*) The fitting out in the colony of vessels of war or other vessels intended for military purposes, for the use of the belligerents, or to furnish or sell such vessels to the said parties.

(*b*) The exportation of arms, ammunition, or other war materials to the belligerents. This includes the exportation of everything that is adapted to immediate use in war, but not unmanufactured materials, provided they are not generally used for military purposes.

(*c*) The enlistment of soldiers or seamen for the belligerents within the territory of the colony.

(*d*) The organization in a military manner, in the territory of the colony, of volunteers, with the intent to proceed thence to the camp of either of the belligerents.

The governor further calls attention to articles 54 and 55 of the criminal code, and warns all the inhabitants of the colony not to engage in any manner in privateering and not to take out any foreign letters of marque, as those who engage in privateering in such manner, or lend their aid thereto, will be prosecuted before the courts.

The governor likewise calls the attention of the masters, owners, and freighters of vessels to the danger and losses to which they will expose themselves by failing, in violation of the duties imposed upon neutral powers, to respect an effective blockade or by carrying contraband of war or military dispatches for either of the belligerents.

Those rendering themselves guilty of such acts will be liable to all the consequences arising therefrom, and can not count upon any protection whatever through the intervention of Her Majesty's Government.

BARGE, *Governor.*

WILLEMSTAD, *June 17, 1898.*

1898. No. 12.

PUBLICATION SHEET.—PUBLICATION.

The governor of Curaçao, in view of the report of May 24 of this year of the minister of the colonies, notifies all whom it may concern that, for the observance and exercise of a complete neutrality during the war which has arisen between powers in friendship with us, Spain on the one side and the United States of America on the other, the following regulations are decreed:

ARTICLE 1. Ships and vessels of war of the belligerents will be admitted to the harbors and roadsteads of the colony for a stay of twenty-four hours at most, unless it is shown to be necessary to grant them a longer stay to enable them to provide themselves with provisions or coal, or in cases of distress or dangers of the sea. In such cases, however, they must depart as soon as they have finished taking in provisions or coal, within the first twenty-four hours, if possible; otherwise, as quickly as practicable, as soon as the danger is past, and in the case of repairs, within twenty-four hours, at the furthest, after the repairs have been finished. The period of twenty-four hours at the utmost fixed for the stay in port shall be exceeded only when necessary to the execution of the provisions of article 5 of this publication. Such quantity of provisions may be taken on board as is sufficient for the subsistence of the crew, but the supply of coal must not be more than sufficient to enable the ship or vessel to reach the nearest port of the country to which it belongs, or that of one of its allies in the war. The same vessel shall not be supplied a second time with coal until at least three months have elapsed since the former supply, unless special permission be granted to that effect.

ART. 2 Privateers shall not be admitted to the ports or roadsteads of the colony, except in the cases of accidents at sea, dangers of the sea, or want of provisions. They must depart immediately, as soon as the reasons for their admission have ceased to exist. They will not be allowed to take on board more provisions than are required to enable them to reach the nearest port of the country to which they belong, or that of one of its allies in the war, nor more coal than is needed for their consumption for twenty-four hours at a maximum speed of 10 English miles per hour. They shall not be supplied with coal again within three months.

ART. 3. The vessels of war or privateers of the belligerents are not permitted to enter the ports or roadsteads of the colony with prizes, except in the case of accidents of the sea or want of provisions. As soon as the reasons for their admission have ceased to exist, they must depart immediately. They will not be permitted to take on board more provisions than they require in order to reach the nearest port of the country to which the[y] belong, or that of one of its allies in the war. They shall not be supplied wit[h] coal so long as they are in possession of prizes. If vessels of war chased by the enemy take refuge in the territory of the colony, their prizes must be released.

ART. 4. The sale, exchange, or giving away of prizes or of articles taken therefrom, as also of captured goods, is prohibited in the ports, the roadsteads, and the territorial waters of the colony.

ART. 5. Ships and vessels of war, admitted in accordance with articles 1, 2, and 3, must not remain in the ports or roadsteads of the colony longer than therein provided. If, however, ships or vessels of war or others belonging to the belligerents should happen to be in the same port or roadstead of the colony, an interval of at least twenty-four hours must elapse between the departure of a ship or ships or of a vessel or vessels of one of the belligerents and the subsequent departure of a ship

or ships or of a vessel or vessels of the other. This interval may be lengthened according to circumstances.

ART. 6. The crews of ships or vessels of the belligerents must not come ashore armed—officers and under officers are excepted herefrom, as relates to the sword or hanger forming part of their uniform—and the boats must likewise not go about armed. If it should be desired, on the occasion of funeral ceremonies on shore, to be released from this prohibition, permission to that effect must be obtained from the governer.

BARGE, *Governor.*

WILLEMSTAD, *June 17, 1898.*

Mr. Carbo to Mr. Day.

[Translation.]

LEGATION OF ECUADOR,
New York, June 24, 1898.

MR. SECRETARY: Having brought to the knowledge of my Government the contents of the various communications which your Department has addressed to me relative to the state of war which exists between the United States of America and the Kingdom of Spain, I have received instructions to state to you that the Government of Ecuador, while deploring the armed contest between two powers with which it maintains relations of good friendship and commerce, declares its absolute neutrality in accordance with the law of nations.

I avail, etc.,

L. F. CARBO.

Mr. Porter to Mr. Day.

No. 225.] EMBASSY OF THE UNITED STATES,
Paris, April 27, 1898.

SIR: I inclose herewith a copy and a translation of the declaration of neutrality of the French Government, which appeared in the Journal Officiel of this morning.

I have, etc., HORACE PORTER.

[Inclosure.—Translation.—Journal Officiel, April 27, 1898.]

The Government of the Republic declares and notifies whomsoever it may concern that it has decided to observe a strict neutrality in the war which has just broken out between Spain and the United States.

It considers it to be its duty to remind Frenchmen residing in France, in the colonies and protectorates, and abroad that they must refrain from all acts which, committed in violation of French or international law, could be considered as hostile to one of the parties or as contrary to a scrupulous neutrality. They are particularly forbidden to enroll themselves or to take service either in the army on land or on board the ships of war of one or the other of the belligerents, or to contribute to the equipment or armament of a ship of war.

The Government decides in addition that no ship of war of either belligerent will be permitted to enter and to remain with her prizes in the harbors and anchorages of France, its colonies and protectorates, for more than twenty-four hours, except in the case of forced delay or justifiable necessity.

No sale of objects gained from prizes shall take place in the said harbors and anchorages.

Any person disobeying the above restrictions can have no claim to the protection of the Government or its agents against the acts or measures which the belligerents might exercise or decree in accordance with the rules of international law, and such persons will be prosecuted, should there be cause, according to the laws of the Republic.

Mr. Tourgée to Mr. Moore.

CONSULATE OF THE UNITED STATES,
52 Cours du Jardin Public,
Bordeaux, France, May 19, 1898.

SIR: Having been informed by the consul at Rotterdam that the Government of the Netherlands had refused to clear the Norwegian steamer *Fram* for a Spanish port with a cargo of refined saltpeter, and that the same had accordingly cleared for Bayonne, France, a port in this consular district, I directed the consular agent at Pau to lodge a protest with the prefect of the department of Basses Pyrenees against said steamer being allowed to clear for any Spanish port. I also lodged a like protest with the superintendent of the marine of this district.

In response to this protest the prefect of the Basses Pyrenees replies to-day (translated) as follows:

I have the honor to inform you that the minister of foreign affairs of the Republic of France, having been consulted by me by telegraph concerning the question of the detention of the *Fram*, advises me as follows:

"Neutral governments are formally prohibited from furnishing, themselves, directly, munitions of war to belligerents; but the neutral State is not required to prevent the sending of arms and munitions by its subjects, and, for a much stronger reason, by strangers. Under these conditions it is not incumbent on us to prevent the departure of the *Fram*, which you will allow to continue her voyage at her own risk and peril."

Thinking it may be a matter of interest to the Department to know exactly what are the instructions given to French officials in regard to the enforcement of its neutrality, I report the same direct.

A copy of this letter will also be sent to the embassy at Paris.

I have, etc.,

ALBION W. TOURGÉE,
United States Consul.

Mr. White to Mr. Day.

No. 416.] EMBASSY OF THE UNITED STATES,
Berlin, May 5, 1898.

SIR: I had last evening quite a long talk with Herr von Buelow, imperial secretary of state for foreign affairs, who volunteered some statements regarding the attitude of Germany during the present contention of the United States with Spain.

He said that the Imperial Government had been from the first determined to exercise the strictest neutrality, and that the sole reason why a public declaration was not made is that for twenty years Germany has abstained from anything of the kind. He also stated that, having so recently come into the imperial department of foreign affairs, and being naturally ignorant of its routine details, he had proposed at the

outbreak of the American-Spanish war to make a declaration, but was informed by one of the older officials especially intrusted with such matters that for twenty years Germany had abstained from everything of the kind; that no such proclamation had been issued during any of the various wars which have occurred within that time; and he reiterated to me that the absence of a declaration in this instance has no significance whatever as regards the feelings and intentions of the Imperial Government in the premises.

He then went on to speak of German public opinion, and said that, while there is undoubtedly on the part of a considerable number of people a sentiment of sympathy with Spain as a small power waging war with a great one, he was sure that there is a very large and influential body of opinion in the Empire in favor of the American side.

I am, etc.,

AND. D. WHITE.

Mr. White to Mr. Day.

No. 418.] EMBASSY OF THE UNITED STATES,
Berlin, May 6, 1898.

SIR:

* * * * * * *

At 10 o'clock this morning the first Reichstag, which has lasted through the constitutional period of five years, was closed by the Emperor in person by a speech, a printed copy of which, which has just been received from the foreign office, is inclosed herewith.[1] After referring to the work done during the past five years in a general way, and more particularly to the work of the session just ended, the Emperor spoke of the peaceful character of Germany's foreign policy, as a result of which the relations with all foreign powers were good, and said that in regard to the war which had broken out between Spain and the United States he considered it the task of his Government, first, to observe strict neutrality between the parties at war, and second, to prevent, as far as possible, injury to German trade and commerce.

Now that the Reichstag has been dissolved, there would no longer appear to be any doubt in regard to Germany's not issuing a declaration of neutrality. It is true that this has not been done in other wars, so that it may correctly be said that it is not her policy to make such declarations.

* * * * * * *

I am, etc.,

AND. D. WHITE.

Mr. Sprague to Mr. Moore.

No. 901.] CONSULATE OF THE UNITED STATES,
Gibraltar, May 3, 1898.

SIR: With reference to the proclamation issued on the 23d ultimo, regarding the duties of neutrality to be observed at Gibraltar and other British colonies during the existence of war between the United States

[1] Not printed.

and Spain, I have the honor to inclose herewith copy of the proclamation of neutrality[1] issued by Her Britannic Majesty, with a letter from the British foreign office, embodying the rules which are to be enforced according to Her Majesty's orders and directions.

I am, etc.,

HORATIO L. SPRAGUE,
United States Consul.

Mr. Hay to Mr. Sherman.

No. 367.] AMERICAN EMBASSY,
London, April 26, 1898.

SIR: I have the honor to inclose herewith two copies of the London Gazette Extraordinary of this date, containing Her Britannic Majesty's proclamation of neutrality in relation to the war between the United States and Spain.

I have, etc.,

JOHN HAY.

[Inclosure.]

THE LONDON GAZETTE EXTRAORDINARY—PUBLISHED BY AUTHORITY.

Tuesday, April 26, 1898.

BY THE QUEEN.—A PROCLAMATION.

VICTORIA, R.

Whereas we are happily at peace with all sovereigns, powers, and states; and

Whereas a state of war unhappily exists between His Majesty the King of Spain, and, in his name and during his minority, Her Majesty the Queen Regent of the Kingdom, and the United States of America, and between their respective subjects, citizens, and others inhabiting within their countries, territories, or dominions; and

Whereas we are on terms of friendship and amicable intercourse with each of these powers, and with their several subjects, citizens, and others inhabiting within their countries, territories, or dominions; and

Whereas great numbers of our loyal subjects reside and carry on commerce, and possess property and establishments, and enjoy various rights and privileges within the dominions of each of the aforesaid powers, protected by the faith of treaties between us and each of the aforesaid powers; and

Whereas we, being desirous of preserving to our subjects the blessings of peace, which they now happily enjoy, are firmly purposed and determined to maintain a strict and impartial neutrality in the said state of war unhappily existing between the aforesaid powers; and

Whereas we are resolved to insure, by every lawful means in our power, the due observance by our subjects towards both the aforesaid powers of the rules embodied in Article VI of the treaty of the 8th of May, 1871, between us and the United States of America, which said rules are as follows:

"A neutral government is bound—

"First. To use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

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[1] Not printed. The proclamation is expressed in the same terms as that of Great Britain. See this page.

"Secondly. Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

"Thirdly. To exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties."

We, therefore, have thought fit, by and with the advice of our Privy Council, to issue this our royal proclamation.

And we do hereby strictly charge and command all our loving subjects to govern themselves accordingly, and to observe a strict neutrality in and during the aforesaid war, and to abstain from violating or contravening either the laws and statutes of the realm in this behalf, or the law of nations in relation thereto, as they will answer to the contrary at their peril.

And whereas in and by a certain statute made and passed in a session of Parliament holden in the thirty-third and thirty-fourth year of our reign, intituled "An act to regulate the conduct of Her Majesty's subjects during the existence of hostilities between foreign states with which Her Majesty is at peace," it is, amongst other things, declared and enacted as follows:

This act shall extend to all the dominions of Her Majesty, including the adjacent territorial waters.

"*Illegal enlistment.*

"If any person, without the license of Her Majesty, being a British subject, within or without Her Majesty's dominions, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign state at war with any foreign state at peace with Her Majesty, and in this act referred to as a friendly state, or, whether a British subject or not, within Her Majesty's dominions, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign state as aforesaid—

"He shall be guilty of an offense against this act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labor.

"If any person without the license of Her Majesty, being a British subject, quits or goes on board any ship with a view of quitting Her Majesty's dominions, with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state, or, whether a British subject or not, within Her Majesty's dominions, induces any other person to quit or go on board any ship with a view of quitting Her Majesty's dominions with a like intent—

"He shall be guilty of an offense against this act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labor.

"If any person induces any other person to quit Her Majesty's dominions or to embark on any ship within Her Majesty's dominions under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state—

"He shall be guilty of an offense against this act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labor.

"If the master or owner of any ship, without the license of Her Majesty, knowingly either takes on board, or engages to take on board, or has on board such ship within Her Majesty's dominions any of the following persons, in this act referred to as illegally enlisted persons, that is to say:

"(1) Any person who, being a British subject within or without the dominions of Her Majesty, has, without the license of Her Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign state at war with any friendly state;

"(2) Any person, being a British subject, who, without the license of Her Majesty, is about to quit Her Majesty's dominions with intent to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state;

"(3) Any person who has been induced to embark under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign state at war with a friendly state,

"Such master or owner shall be guilty of an offense against this act, and the following consequences shall ensue; that is to say:

"(1) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labor; and

"(2) Such ship shall be detained until the trial and conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties to the satisfaction of two justices of the peace, or other magistrate or magistrates having the authority of two justices of the peace; and

"(3) All illegally enlisted persons shall immediately on the discovery of the offense be taken on shore, and shall not be allowed to return to the ship.

"Illegal shipbuilding and illegal expeditions.

"If any person within Her Majesty's dominions, without the license of Her Majesty, does any of the following acts; that is to say:

"(1) Builds or agrees to build, or causes to be built any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state; or

"(2) Issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state; or

"(3) Equips any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state; or

"(4) Dispatches, or causes or allows to be dispatched, any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign state at war with any friendly state,

"Such person shall be deemed to have commited an offense against this act, and the following consequences shall ensue:

"(1) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labor.

"(2) The ship in respect of which any such offense is committed, and her equipment, shall be forfeited to Her Majesty.

"Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, shall not be liable to any of the penalties imposed by this section in respect of such building or equipping if he satisfies the conditions following; that is to say:

"(1) If forthwith upon a proclamation of neutrality being issued by Her Magesty he gives notice to the Secretary of State that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract and of any matters relating to, or done, or to be done under the contract as may be required by the Secretary of State;

"(2) If he gives such security, and takes and permits to be taken such other measures, if any, as the Secretary of State may prescribe for insuring that such ship shall not be dispatched, delivered, or removed without the license of Her Majesty until the termination of such war as aforesaid.

"Where any ship is built by order of or on behalf of any foreign state when at war with a friendly state, or is delivered to or to the order of such foreign state, or any person who to the knowledge of the person building is an agent of such foreign state, or is paid for by such foreign state or such agent, and is employed in the military or naval service of such foreign state, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such ship of proving that he did not know that the ship was intended to be so employed in the military or naval service of such foreign state.

"If any person within the dominions of Her Majesty, and without the license of Her Majesty—

"By adding to the number of the guns, or by changing those on board for other guns, or by the addition of any equipment for war, increases or augments, or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the warlike force of any ship which at the time of her being within the dominions of Her Majesty was a ship in the military or naval service of any foreign state at war with any friendly state,

"Such person shall be guilty of an offense against this act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labor.

"If any person within the limits of Her Majesty's dominions, and without the license of Her Majesty—

"Prepares or fits out any naval or military expedition to proceed against the dominions of any friendly state, the following consequences shall ensue:

"(1) Every person engaged in such preparation or fitting out, or assisting therein, or employed in any capacity in such expedition, shall be guilty of an offense against this act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labor.

"(2) All ships and their equipments and all arms and munitions of war used in or forming part of such expedition shall be forfeited to Her Majesty.

"Any person who aids, abets, counsels, or procures the commission of any offense against this act shall be liable to be tried and punished as a principal offender."

And whereas by the said act it is further provided that ships built, commissioned, equipped, or dispatched in contravention of the said act may be condemned and forfeited by judgment of the court of admiralty; and that if the Secretary of State or chief executive authority is satisfied that there is a reasonable and probable cause for believing that a ship within our dominions has been or is being built, commissioned, or equipped contrary to the said act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be dispatched contrary to the act, such Secretary of State or chief executive authority shall have power to issue a warrant authorizing the seizure and search of such ship and her detention until she has been either condemned or released by process of law. And whereas certain powers of seizure and detention are conferred by the said act on certain local authorities;

Now, in order that none of our subjects may unwarily render themselves liable to the penalties imposed by the said statute, we do hereby strictly command that no person or persons whatsoever do commit any act, matter, or thing whatsoever contrary to the provisions of the said statute, upon pain of the several penalties by the said statute imposed and of our high displeasure.

And we do hereby further warn and admonish all our loving subjects, and all persons whatsoever entitled to our protection, to observe towards each of the aforesaid powers, their subjects, citizens, and territories, and towards all belligerents whatsoever with whom we are at peace, the duties of neutrality; and to respect, in all and each of them, the exercise of belligerent rights.

And we hereby further warn all our loving subjects, and all persons whatsoever entitled to our protection, that if any of them shall presume, in contempt of this our royal proclamation, and of our high displeasure, to do any acts in derogation of their duty as subjects of a neutral power in a war between other powers, or in violation or contravention of the law of nations in that behalf, as more especially by breaking, or endeavoring to break, any blockade lawfully and actually established by or on behalf of either of the said powers, or by carrying officers, soldiers, dispatches, arms, ammunition, military stores or materials, or any article or articles considered and deemed to be contraband of war according to the law or modern usages of nations, for the use or service of either of the said powers, that all persons so offending, together with their ships and goods, will rightfully incur and be justly liable to hostile capture and to the penalties denounced by the law of nations in that behalf.

And we do hereby give notice that all our subjects and persons entitled to our protection who may misconduct themselves in the premises will do so at their peril, and of their own wrong; and that they will in nowise obtain any protection from us against such capture or such penalties as aforesaid, but will, on the contrary, incur our high displeasure by such misconduct.

Given at our court at St. James's this 23d day of April, in the year of our Lord 1898, in the sixty-first year of our reign.

God save the Queen.

The Right Honorable Sir Matthew White Ridley, Bart., M. P., to the Lords Commissioners of the Admiralty.[1]

FOREIGN OFFICE, *April 23, 1898.*

MY LORDS: Her Majesty being fully determined to observe the duties of neutrality during the existing state of war between Spain and the United States of America; being, moreover, resolved to prevent, as far as possible, the use of Her Majesty's harbors, ports, and coasts, and the waters within Her Majesty's territorial jurisdiction, in aid of the warlike purposes of either belligerent, and to insure, by every lawful means in her power, the due observance by her subjects towards both belligerent powers of the rules embodied in Article VI of the treaty of Washington of May 8, 1871, copies of which are herewith inclosed, has commanded me to communicate to your lordships, for your guidance, the following rules, which are to be treated and enforced as Her Majesty's orders and directions:

Rule 1.—During the continuance of the present state of war all ships of war of either belligerent are prohibited from making use of any port or roadstead in the United Kingdom, the Isle of Man, or the Channel Islands, or in any of Her Majesty's colonies or foreign possessions or dependencies, or of any waters subject to the territorial jurisdiction of the British Crown, as a station or place of resort for any warlike purpose, or for the purpose of obtaining any facilities for warlike equipment; and no ship of war of either belligerent shall hereafter be permitted to leave any such port, roadstead, or waters from which any vessel of the other belligerent (whether the same shall be a ship of war or a merchant ship) shall have previously departed until after the expiration of at least twenty-four hours from the departure of such last-mentioned vessel beyond the territorial jurisdiction of Her Majesty.

Rule 2.—If there is now in any such port, roadstead, or waters subject to the territorial jurisdiction of the British Crown any ship of war of either belligerent, such ship of war shall leave such port, roadstead, or waters within such time not less than twenty-four hours as shall be reasonable, having regard to all the circumstances and the condition of such ship as to repairs, provisions, or things necessary for the subsistence of her crew; and if after the date hereof any ship of war of either belligerent shall enter any such port, roadstead, or waters subject to the territorial jurisdiction of the British Crown, such ship shall depart and put to sea within twenty-four hours after her entrance into any such port, roadstead, or waters, except in case of stress of weather, or of her requiring provisions or things necessary for the subsistence of her crew, or repairs; in either of which cases the authorities of the port, or of the nearest port (as the case may be), shall require her to put to sea as soon as possible after the expiration of such period of twenty-four hours, without permitting her to take in supplies beyond what may be necessary for her immediate use; and no such vessel which may have been allowed to remain within British waters for the purpose of repair shall continue in any such port, roadstead, or waters for a longer period than twenty-four hours after her necessary repairs shall have been completed. Provided, nevertheless, that in all cases in which there shall be any vessels (whether ships of war or merchant ships) of both the said belligerent parties in the same port, roadstead, or waters within the territorial jurisdiction of Her Majesty, there shall be an interval of not less than twenty-four hours between the departure therefrom of any such vessel (whether a ship of war or merchant ship) of the one belligerent and the subsequent departure therefrom of any ship of war of the other belligerent; and the time hereby limited for the departure of such ships of war, respectively, shall always, in case of necessity, be extended so far as may be requisite for giving effect to this proviso, but no further or otherwise.

Rule 3.—No ship of war of either belligerent shall hereafter be permitted, while in any such port, roadstead, or waters subject to the territorial jurisdiction of Her Majesty, to take in any supplies, except provisions and such other things as may be requisite for the subsistence of her crew, and except so much coal only as may be sufficient to carry such vessel to the nearest port of her own country, or to some nearer destination, and no coal shall again be supplied to any such ship of war in the same or any other port, roadstead, or waters subject to the territorial jurisdiction of Her Majesty, without special permission, until after the expiration of three months from the time when such coal may have been last supplied to her within British waters as aforesaid.

Rule 4.—Armed ships of either belligerent are interdicted from carrying prizes made by them into the ports, harbors, roadsteads, or waters of the United Kingdom,

[1] Similar letters have been addressed to the Treasury, Home Office, Colonial Office, War Office, India Office, Scottish Office, and Board of Trade.

the Isle of Man, the Channel Islands, or any of Her Majesty's colonies or possessions abroad.

The governor or other chief authority of each of Her Majesty's territories or possessions beyond the seas shall forthwith notify and publish the above rules.

I have, etc.,

M. W. RIDLEY.

[Inclosure.]

Rules annexed to Article VI of the treaty between Her Majesty and the United States of America, signed at Washington, May 8, 1871.

A neutral government is bound—

First. To use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

Secondly. Not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies of arms, or the recruitment of men.

Thirdly. To exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

Mr. Rockhill to Mr. Sherman.

No. 56, Greek series.] LEGATION OF THE UNITED STATES,
Belgrade, May 5, 1898.

SIR: I have the honor to transmit herewith a note from the minister of foreign affairs of Greece, dated the 28th of April, informing me that the strictest neutrality will be observed by Greece during the war between the United States and Spain.

Very respectfully, etc., W. W. ROCKHILL.

ATHENS, *April 16–28, 1898.*

MR. MINISTER: I had the honor to receive the telegram which you were pleased to send me from Constantinople the 14th–26th instant to inform me that the Congress of the United States of America, by an act approved the 13th–25th of April, had declared that a state of war exists with Spain since the 9th–21st of April, inclusively.

In the name of the Royal Government, I take note of this declaration, and I have the honor to inform you that the strictest neutrality will be observed by Greece during the war which has broken out between the United States of America and Spain.

Please accept, etc.,

ALEXANDRE ZAIMIS.

Mr. Rockhill to Mr. Day.

No. 62, Greek series.] LEGATION OF THE UNITED STATES,
Athens, May 30, 1898.

SIR: I have the honor to transmit herewith the declaration of neutrality during the war between the United States and Spain, made by the Greek Government and published in the Official Gazette of May 13.

Very respectfully, etc.,

W. W. ROCKHILL.

Greece maintaining friendly relations with the United States of America and Spain, the Greek Government will observe during the war between the two countries complete and strict neutrality, according to the laws of this country and international law. This has been declared to the Government of the United States, which had announced to this Government that the United States were now in a state of war with Spain.

Mr. Hunter to Mr. Sherman.

No. 47.] LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, April 28, 1898.

SIR: I have the honor to inform you that in compliance with Department's instructions by cable, dated April 26, 1898, I addressed a note to the minister for foreign relations on yesterday, to which he made response in the afternoon of the same day. A copy of my note, marked A, and a translation of the minister's reply, marked B, are hereto attached.

You will see from the minister's note that Guatemala will observe a strict neutrality in the war between the United States and Spain.

I have, etc.,

W. GODFREY HUNTER.

[Inclosure 1.—Translation.]

NATIONAL PALACE,
OFFICE OF THE SECRETARY OF FOREIGN RELATIONS,
REPUBLIC OF GUATEMALA,
Guatemala, April 27, 1898.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's attentive note of yesterday, in which you are pleased to communicate to me a dispatch from the Hon. John Sherman, Secretary of State, announcing that from the 21st instant there exists a state of war between the United States and Spain, and consequently desiring to know the attitude of the Government of Guatemala in the struggle.

In answer, I have the honor to inform your excellency, in order that through your worthy medium it may become known to the Cabinet at Washington, that the Government of Guatemala will faithfully comply with the laws of neutrality as prescribed by the universally accepted principles of international law.

I take advantage of this opportunity to renew to your excellency the assurance of my most distinguished consideration.

F. ANGUIANO.

His Excellency W. GODFREY HUNTER,
Envoy Extraordinary and Minister Plenipotentiary of the United States.

[Inclosure in dispatch No. 235.]

Mr. Powell to Mr. Sherman.

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, April 27, 1898.

A conflict regrettable in all points has just armed one against the other the two Governments of Spain and of the United States of America, to which the Government of the Republic of Haiti is bound by friendly relations that it desires to maintain and conserve in observing the most strict neutrality between the belligerents.

The Government recognizes its obligations and will conform to the principles that govern them.

Further, while its general duties, based on the law of nations, will be strictly observed, the conventional duties by which it finds itself bound toward one of the belligerents, and which a public treaty has fixed at a far remote period, will be equally observed.

Nevertheless, if the treaty of friendship, of commerce, of navigation, and of extradition with the United States, in force since 1864, at an epoch when the war could not have been foreseen, places the Government of the Republic under obligation to follow a certain line of conduct (fixed beforehand by articles 30 and 31), the principles from which the treaty has not derogated, relative to refuge and asylum of vessels of war in national ports, to wrecks of merchant vessels on the coast and in the ports of the country, to maritime commerce, and to contraband of war, will be equitably put into practice in favor of both of the belligerents.

But the Republic makes a pressing appeal to the Governments of the United States and of Spain not to lose sight of the obligations toward neutrals that the law of nations imposes on belligerents.

Mr. Powell to Mr. Day.

No. 259.] LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, May 18, 1898.

SIR: I respectfully transmit to the Department a copy of a letter of instructions forwarded by this Government to the several ports of this Republic as a guide to their officers regarding neutrality.

I have, etc.,

W. F. POWELL.

[Translation.]

PORT AU PRINCE, *May 9, 1898.*

To the SECRETARY OF WAR AND THE NAVY.

MY DEAR COLLEAGUE: The Government of the Republic, desiring to observe the strictest neutrality during the war which has just broken out between the United States of America and Spain, I communicate to you, as it has been decided, the following notes to serve as the basis for the instructions that the Government is to forward to the military commandants, including the delegates of the Government, to the chiefs of the ports, and to officials of the Government.

Our citizens, as well as the foreign residents of whatsoever nationality, should abstain from all acts that may invite reprisals. Popular manifestations in public places or in the streets; the raising of any emblems that may be considered offensive to one of the parties; the establishment of recruiting offices, secret or public, for natives or for foreigners; the embarkation on board of vessels of war in the service of the belligerents in passage in our ports, harbors, etc. (with the exception of pilots, whose services may be required at the entrance of the ports by one or the other party)—should be interdicted on all points of the territory.

Rigor must not, however, be pushed so far as to prevent the departure of the foreign residents on board of merchant vessels of neutral powers, for this might justly produce another, but none the less regrettable, source of conflict.

It shall be especially forbidden to foreign vessels to arm themselves as privateers, and to citizens to take part in supplying such equipment.

With confidence that reciprocity will be used in regard to the Haitian flag, the merchant vessels of the belligerents that enter our ports shall be authorized to take cargo and be cleared for foreign ports, on condition of not embarking either contraband of war or illicit merchandise of any kind.

It shall be equally prohibited to national vessels to carry articles called contraband of war, as well as regular troops or simple volunteers, for the account of one or the other of the belligerents.

It shall be permitted to vessels of war to take water, provisions, and coal in quantity necessary to reach the nearest port of their country.

If vessels of war in the service of the belligerents enter our ports, with or without prizes, these vessels may sail at any time, provided there be in the port no vessel of war of the other belligerent; and if, by chance, there should be one, a delay of twenty-four hours should intervene between the departure of the two vessels. The rule to be followed in the execution of this provision is: When two hostile vessels of war find themselves in the same port and desire to leave, international usage requires

that preference be given to the vessel that arrived first. However, as this usage subjects the vessel last arrived to the ill will of its adversary, an expedient, both simple and just, has been adopted.

It consists in authorizing the last arrived to put to sea at its convenience, notifying the competent authorities twenty-four hours in advance, so that its adversary may, in case of need, take advantage of the preference that it has acquired, the delay then beginning only from the moment when the vessel is in condition to leave port.

On the other hand, international law and the treaty of 1864 require that vessels of war, during their sojourn in a port, should commit no act of violence toward hostile vessels. They can not augment the number and caliber of their guns, or purchase or embark arms and ammunition. They are forbidden to reinforce their crew or to accept voluntary recruits, even among their citizens. They should abstain from all inquiry concerning the forces, the positions, or the resources of the enemy. They can not employ either force or stratagem to regain prizes taken from their fellow citizens, or to deliver prisoners of their country. They are prohibited to sell in our ports prizes they have brought in, or to leave them there, unless it is impossible for the captured to go to sea, in which case the question shall be immediately referred to the Government.

With the object of acting in concert with the military commandants and the chiefs of the ports in the execution of your instructions, the officials of the Government, and their substitutes (and I have just written in this sense to my colleague of the Department of Justice) shall hold themselves always at the disposition of these officers. If the official of the Government is required by the military officers of ports that are not open, in case vessels in distress should present themselves, the official of the Government, or one of his substitutes, should immediately go to the residence of the officer, but should never cause the officers of the foreign vessel to be brought, under an escort or otherwise, unless it be on their written request. In this case, they should be treated with all the respect due to their rank, and receive the necessary facilities for their voyage to an open port. The official shall immediately inform the Government, which shall take note thereof.

Wounded men, in case they are landed, should be treated with the respect due to their rank, and with all humanity.

After their recovery, they can not again embark on board of a vessel of war of their nation, but they shall have the privilege of leaving the country on board of a merchant vessel belonging to a neutral nation.

In regard to prisoners that vessels of war in distress desire to land, the authorities shall permit the same, but on condition that, once on shore, they regain their liberty, and have the option of leaving, when they desire, on board of merchant vessels of a neutral nation.

Permit me to insist on the following point, to wit, that the Government official, and the substitute that he may delegate to replace him in his relations to the military officers, or the chiefs of the ports, shall act as advisers to the said officers, and shall always be present at the conferences, interviews, and audiences, and take part in the discussions, when their presence is necessary; they are, in a word, expected to see and foresee everything, so as to avoid conflicts.

In any and every case, the usage and customs of maritime etiquette shall be observed by our vessels of war toward those of the two belligerents, on the footing of the most perfect equality.

Our vessels shall also abstain from all acts of violence toward a belligerent vessel that shall violate the principles of international law, until it shall have received instructions from the Government.

The secretary of state for foreign relations.

B. ST. VICTOR.

Mr. Draper to Mr. Sherman.

No. 189.] EMBASSY OF THE UNITED STATES,
Rome, Italy, April 26, 1898.

SIR: Having sent you word to-day by cable that the Italian Government has issued a proclamation of neutrality, I beg leave now to inclose to you a clipping from the Gazette Ufficiale, of April 25, containing the same. It is dated yesterday, but appeared this morning. To insure its speedy receipt by you, I do not translate it.

I have, etc.,

WILLIAM F. DRAPER.

[Translation.]

MINISTRY OF FOREIGN AFFAIRS.

I.

Proclamation of the neutrality of Italy in the war between Spain and the United States.

Spain and the United States of America finding themselves in a state of war, and Italy being in peace with both these powers, it behooves the Government of the King and the citizens of the Realm to scrupulously observe the obligations of neutrality, conformably to the laws in force and to the general principles of the laws of nations. If any Italian citizen shall violate these duties he shall not be able to invoke the protection of the Royal Government or of its agents, and will incur moreover the penalty imposed by the special and general laws of the State.

II.

The ambassador of the United States in Rome, under note of date 23d instant, has communicated to the Royal Minister of Foreign Affairs the following two telegrams of the Department of State:

First. By proclamation under date of to-day (April 22) and following the resolutions of Congress approved the 20th, the President proclaims the blockade of the ports of the north coast of Cuba between Cardenas and Bahia Honda, as well as the blockade of Cienfuegos on the south coast.

Second. In case of hostilities between the United States and Spain, the Federal Government intends not to resort to privateering, but to adhere to the following rules recognized by international law:

(1) The neutral flag covers the enemy's goods, with the exception of contraband of war.

(2) Neutral goods, with the exception of contraband of war,[1] are not subject to seizure under enemy's flag.

(3) A blockade to be obligatory must be effective.

Mr. Draper to Mr. Day.

No. 216.] EMBASSY OF THE UNITED STATES,
Rome, Italy, May 28, 1898.

SIR: I beg leave to inclose, as directed in your No. 178, of the 13th instant, two copies of the Gazetta Ufficiale containing the proclamation of neutrality issued by the Italian Government, and also the laws in regard to the enforcement of neutrality and the penalties for its transgression.

I have, etc., WILLIAM F. DRAPER.

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[1] In regard to contraband of war, Article XV of the treaty of commerce and navigation of the 26th of February, 1871, between Italy and the United States, thus declares:

"The liberty of navigation and commerce secured to neutrals by the stipulations of this treaty shall extend to all kinds of merchandise, excepting those only which are distinguished by the name of contraband of war. And, in order to remove all causes of doubt and misunderstanding upon this subject, the contracting parties expressly agree and declare that the following articles and no others, shall be considered as comprehended under this denomination.

"(1) Cannons, mortars, howitzers, swivels, blunderbusses, muskets, guns, rifles, carbines, pistols, pikes, swords, sabers, lances, spears, halberds, bombs, grenades, powder, matches, balls, and all other things belonging to, and expressly manufactured for the use of these arms.

"(2) Infantry belts, implements of war and defensive weapons, clothes cut or made up in a military form and for a military use.

"(3) Cavalry belts, war saddles, and holsters.

"(4) And generally, all kinds of arms and instruments of iron, steel, brass, and copper, or of any other materials, manufactured, prepared, and formed expressly to make war by sea or land."

[Inclosure—Translation.]

DECREE OF APRIL 6, 1864.

ARTICLE I. No vessel of war or armed for cruising of any belligerent State shall be allowed to enter and remain with prizes in the ports or roadsteads of the Kingdom, except in the case of arrival under stress.

ART. II. In case of arrival under stress, the men-of-war or cruisers mentioned in the preceding article, and in the conditions there specified, must leave the coasts of the Kingdom immediately on cessation of the cause that obliged them to take refuge there, saving the provision of Article XI.

ART. III. No sale, exchange, barter, or gift of articles derived from the prizes shall take place under any pretext in the ports or roadsteads or on the coasts of the Kingdom.

ART. IV. Every Italian subject soever is forbidden to take commission from the belligerent parties to arm vessels for warfare, or to accept letters of marque for maritime cruising, or to assist in any way whatever in fitting out, arming, or preparing a vessel for warfare, or cruiser belonging to the belligerent parties above mentioned.

ART. V. In accordence with Article XXXV of the penal code for the mercantile marine, every subject of the Kingdom of Italy is forbidden to enroll himself or to take service in the ships of war or in those armed for cruising belonging to one of the belligerent States.

ART. VI. Those subjects who may contravene the provisions of the preceding Articles IV and V, or commit any act in regard to one of the belligerent powers contrary to the obligations of the neutrality maintained by the Italian Government toward the aforesaid parties, can not claim protection against the acts or measures whatever they may be which the belligerent parties may think fit to do or to take concerning them, without prejudice to the penalties which by the effects of Article V of the present decree are threatened to them, by the provision in Article LXX of the penal code for the meacantile marine, dated January 13, 1827.

ART. VII. No belligerent ship of war or cruiser can remain more than twenty-four hours in a port or roadstead, or on the coasts of the Kingdom, or in the adjacent waters, even when it comes there alone, except in case of arrival under stress on account of bad weather, of damages, or want of the necessary provisions for the safety of the voyage.

ART. VIII. Ships of war belonging to a friendly power, even though belligerent, may come to and remain in the ports or roadsteads or on the coasts of the Kingdom, provided that the purpose of their mission be exclusively scientific.

ART. IX. In no case can a belligerent ship make use of an Italian port for purpose of warfare or to supply itself with arms or ammunition. It can not, under pretext of repairs, execute works in any way adapted to increase its warlike force.

ART. X. Nothing shall be supplied to belligerent ships of war or cruisers excepting provisions, commodities, and things for repairs, simply necessary for the subsistence of their crews and the safety of their voyage. Such belligerent ships of war or cruisers as wish to resupply themselves with coal shall not receive that supply until twenty-four hours after their arrival.

ART. XI. If ships of war, cruisers, or merchant vessels belonging to the two belligerent parties should be at the same time in a port or roadstead or on the coast of the Kingdom, there must be an interval of at least twenty-four hours between the departure of any vessel of one belligerent party and that following of any ship of the other party. This interval may be increased according to the circumstances by the maritime authority of the place.

ART. XIV.[1] The maritime authorities of the places specified in the preceding article,[2] on the arrival of foreign ships of war, are to transmit to the commanders or commanders in chief thereof a copy of the present regulations for their guidance, with an invitation to observe them.

ART. XV. The maritime authorities of the Kingdom are to see to the exact ful-

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[1] Articles XII and XIII of the present decree were abrogated by article 16 of the royal decree of June 16, 1895.

[2] The abrogated Article XIII of the present decree enumerated the sea fortresses of that time. The following were substituted by article 8 of the royal decree of April 21, 1895:

ART. 8. The following localities are sea fortresses: Vado, Savona, Genoa, Spezia, Monte, Argentario (Talamone), Port St. Stephen, Gaeta, La Maddelena, and the adjacent islands and coast of Sardinia, Messina, and the dependent anchorages, both sides of the Straits Tarentum, Ancona, Venice, and the anchorages in the lagoons.

fillment of the enactments of the present decree, which is to take effect from the day of its publication in the various ports of the Kingdom.

ART. XVI. All the enactments now in force are abrogated in such part as may be contrary to the present decree.

ARTICLES OF THE MERCANTILE MARINE CODE REGARDING THE NEUTRALITY OF PORTS AND THE PENALTIES FOR CITIZENS WHO VIOLATE NEUTRALITY.

ART. 246. In case of war among powers toward which the State has neutral relations, privateers, or men-of-war with prizes shall not be allowed to enter ports, roadsteads, or harbors of the State, except in case of arrival under stress. As soon as the danger is passed the ship must leave. No man-of-war or belligerent privateer will be permitted to remain more than twenty-four hours in any port, roadstead, or harbor of the State, or in the adjacent waters, even if it should present itself alone, except in case of stress of weather, or on account of injuries or lack of provisions necessary to safe navigation. In no case will the sale, exchange, barter, or gift of prizes be permitted in the ports, roadsteads, or harbors of the State.

ART. 247. War ships of a friendly power, even when belligerent, can enter or remain in the ports, roadsteads, or harbors of the State, provided the object of their mission be exclusively scientific.

ART. 248. In no case can a belligerent ship make use of an Italian port for war purposes or to provision itself with arms or munitions. No work can be executed under pretext of repairs which in any way could add to the fighting strength of the vessel.

ART. 249. To men-of-war or privateers of belligerents there will be furnished only food and provisions and means of repairs actually necessary to the sustenance of their crews and to the safety of their navigation. Men-of-war or privateers of belligerents wishing to recoal can not obtain this supply until after a delay of twenty-four hours from the time of their arrival.

ART. 250. When men-of-war, privateers, or mercantile vessels of the two belligerent parties meet in a port, roadstead, or harbor of the State, an interval of at least twenty-four hours must intervene between the departure of any boat of one belligerent and that of any boat of the other. This interval can be increased, according to circumstances, by the maritime authority of the place.

ART. 251. The taking of prizes or any act of hostility committed by ships of the belligerent nations in the territorial sea or in the waters adjacent to the State shall constitute a violation of territory.

ART. 380. The captain or master who shall assume command of a foreign war ship without having obtained permission of the Government will be dismissed, without prejudice to the other penalties which he may incur from the fact of having taken military service with a foreign nation.

ART. 381. All persons inscribed on the sailors' rolls or registers who embark on mercantile vessels belonging to a power at war with the State incur the penalty of imprisonment of from three months to a year.

ART. 382. Italians who shall enlist on privateers or war ships of powers at war with the State will be punished by imprisonment with forced labor. Whenever they take part in acts of depredation against ships of their own country, they incur the penalties prescribed for those who take up arms against the State.

EXTRACT FROM THE ROYAL DECREE OF JUNE 16, 1895, WHICH GOVERNS IN TIME OF PEACE THE LANDING AND THE STAY OF FOREIGN MEN-OF-WAR IN PORTS AND ON COASTS OF THE KINGDOM.

ART. 11. War ships of hostile powers which are in territorial waters are forbidden to commit acts of hostility toward each other. In case of violation of this rule, those ships which do not obey a notice to desist are treated as enemies by national forts and men-of-war.

ART. 12. Foreign ships of war and merchantmen armed for cruising are forbidden to bring prizes into, or to arrest and search vessels in, the territorial sea or in the sea adjacent to the Italian islands, as well as to commit other acts which constitute an offense to the rights of state sovereignty.

ART. 15. In case of transgression it is the duty of the local military marine authority or, in his absence, of the chief officer of the port, and in the absence of this official of the military authority on land, to notify foreign ships of war of the strict observance of the regulations contained in the present decree. In case of persistence in transgression or of refusal to comply with the notice, the said authorities will formally protest and will immediately telegraph the information to the proper head of the department, or to the naval or military commandant, or to the minister of war or of the navy according to the jurisdiction under which they may be placed.

Mr. Dent to Mr. Day.

No. 90.] CONSULATE OF THE UNITED STATES,
Kingston, Jamaica, April 26, 1898.

SIR: Referring to my telegraph cable of Saturday, 23d, I inclose herewith a copy of the Jamaica Gazette Extraordinary, containing the proclamation of the governor on the subject of neutrality.

I have, etc.,

LOUIS A. DENT,
United States Consul.

I confirm my cable above referred to as follows:

Governor to-day issued neutrality proclamation following prohibitory rules, war vessels British ports can not resort for equipment of warlike purposes. Can not remain even twenty-four hours except stress weather or when needing provisions or repairs, when must depart soon supplies secured immediate use, or twenty-four hours after repairs completed. Can not depart within twenty-four hours after war or merchant vessel opposing power. Can only take sufficient coal carry to nearest port or own country, or some nearer destination. Can not take coal again within three months without special permission. Can not carry prizes into British ports. Coal provision is evasive. Not according to statement of colonial secretary my telegram 16th.

[Inclosure.]

THE JAMAICA GAZETTE EXTRAORDINARY.

Saturday, April 23, 1898.

GOVERNMENT NOTICE.

COLONIAL SECRETARY'S OFFICE, *April 23, 1898.*

His excellency has received intimation from the secretary of state for the colonies that a state of war unhappily exists between the Kingdom of Spain and the Republic of the United States of America.

His excellency therefore hereby strictly charges and commands British subjects and others in the colony to observe a strict and impartial neutrality in and during the aforesaid war, and to abstain from violating or contravening the foreign enlistment act, and the rules following shall be in force and shall be strictly observed from this date:

1. During the continuance of the present state of war, all ships of war of either belligerent are prohibited from making use of any port or roadstead in the United Kingdom, the Isle of Man, or the channel islands, or in any of Her Majesty's colonies or foreign possessions or dependencies, or of any waters subject to the territorial jurisdiction of the British Crown, as a station or place of resort for any warlike purpose, or for the purpose of obtaining any facilities for warlike equipment; and no ship of war of either belligerent shall hereafter be permitted to sail out of or leave any port, roadstead, or waters subject to British jurisdiction, from which any vessel of the other belligerent (whether the same shall be a ship of war or a merchant ship) shall have previously departed, until after the expiration of at least twenty-four hours from the departure of such last-mentioned vessel beyond the territorial jurisdiction of Her Majesty.

2. If any ship of war of either belligerent shall, after the time when this order shall be first notified and put in force in the United Kingdom, the Isle of Man, and the Channel Islands, and in the several colonies and foreign possessions or dependencies of Her Majesty, respectively, enter any port, roadstead, or waters belonging to Her Majesty, either in the United Kingdom, the Isle of Man, or the Channel Islands, or in any of Her Majesty's colonies or foreign possessions or dependencies, such vessel shall be required to depart and to put to sea within twenty-four hours after her entrance into such port, roadstead, or waters, except in case of stress of

weather, or of her requiring provisions or things necessary for the subsistence of her crew, or repairs; in either of which cases the authorities of the port, or of the nearest port (as the case may be), shall require her to put to sea as soon as possible after the expiration of such period of twenty-four hours, without permitting her to take in supplies beyond what may be necessary for her immediate use, and no such vessel which may have been allowed to remain within British waters for the purpose of repair shall continue in any such port, roadstead, or waters, for a longer period than twenty-four hours after her necessary repairs shall have been completed. Provided, nevertheless, that in all cases in which there shall be any vessel (whether ships of war or merchant ships) of the said belligerent parties in the same port, roadstead, or waters within the territorial jurisdiction of Her Majesty, there shall be an interval of not less than twenty-four hours between the departure therefrom of any such vessel (whether a ship of war or merchant ship) of the one belligerent, and the subsequent departure therefrom of any ship of war of the other belligerent, and the time hereby limited for the departure of such ships of war respectively shall always, in case of necessity, be extended so far as may be requisite for giving effect to this proviso, but no further or otherwise.

3. No ship of war of either belligerant shall hereafter be permitted, while in any port, roadstead, or waters subject to the territorial jurisdiction of Her Majesty, to take in any supplies, except provisions and such other things as may be requisite for the subsistence of her crew, and except so much coal only as may be sufficient to carry such vessel to the nearest port of her own country, or to some nearer destination, and no coal shall again be supplied to any such ship of war in the same or any other port, roadstead, or waters subject to the territorial jurisdiction of Her Majesty, without special permission, until after the expiration of three months from the time when such coal may have been last supplied to her within British waters as aforesaid.

4. Armed ships of either party are interdicted from carrying prizes made by them into the ports, harbors, roadsteads, or waters of the United Kingdom, the Isle of Man, the Channel Islands, or any of Her Majesty's colonies or possessions abroad.

By command.

FRED. EVANS,
Colonial Secretary.

Mr. Buck to Mr. Sherman.

No. 132.] LEGATION OF THE UNITED STATES,
Tokyo, Japan, May 5, 1898.

SIR: Referring to my dispatch No. 128 of the 29th ultimo, and to my telegram of the 2d instant, reading of which is appended on the overleaf,[1] regarding Japan's neutrality, I have the honor to inclose herewith duplicate clippings from the Japan Times of the 3d instant, being a translation of the Imperial Rescript and Ordinances, dated April 30, which comprised the proclamation of neutrality officially announced on the 2d instant. The accuracy of this translation has been verified at the legation.

I have, etc., A. E. BUCK.

[Inclosure.]

IMPERIAL RESCRIPT.

War having unfortunately broken out between the United States of America and Spain, and being desirous of maintaining the amicable and friendly relations existing between this Empire and the belligerent powers, we hereby order the promulgation of regulations relating to neutrality. Our subjects and other persons resident within the dominion of the Empire shall, until the end of hostilities, observe the obligations of a strict neutrality in conformity with the general principles of international law

[1] Not printed.

and the provisions of the regulations herewith promulgated. Any person failing to observe these obligations shall not only forfeit the protection of this Empire against the proceedings of one or the other of the belligerent powers, but also be liable to prosecution at the imperial courts of law in accordance with the provisions of the law.

[Imperial sign manual.]
[Privy seal.]

April 30, 1898.

(Countersigned,) Marquis Hirobumi Ito,
Minister President of State.
Marquis Tsukumichi Saigo,
Minister of the Navy.
Count Kaoru Inouye,
Minister of Finance.
Viscount Akimasa Yoshikawa,
Minister of Home Affairs.
Baron Tokujiro Nishi,
Minister of Foreign Affairs.
Viscount Taro Katsura,
Minister of War.
Arasuke Sone,
Minister of Justice.
Baron Kencho Suyematsu,
Minister of Communications.
Kentaro Kaneko,
Minister of Agriculture and Commerce.
Kazumasu Toyama,
Minister of Education.

IMPERIAL ORDINANCE.

We hereby sanction the present ordinance relating to the conduct of our subjects and the foreigners resident within our dominions during the continuance of hostilities between the United States of America and Spain, and order it to be promulgated.

[Imperial sign manual.]
[Privy seal.]

April 30, 1898.

(Countersigned,) Marquis Hirobumi Ito,
Minister President of State.
Viscount Akimasa Yoshikawa,
Minister of Home Affairs.
Baron Tokujiro Nishi,
Minister of Foreign Affairs.
Arasuke Sone,
Minister of Justice.

IMPERIAL ORDINANCE.—No. LXXXVI.

In relation to the present war between the United States of America and Spain, the Japanese subjects and the citizens of foreign powers resident within the dominions of the Empire are not permitted to commit any of the acts specified below:

1. The obtaining from one or the other of the belligerent powers letters of marque or commission for capturing merchantmen by means of privateers.

2. The accepting service in the army or navy or engaging in any military operations of one or the other of the belligerent powers, enlisting as sailor, or accepting commission for service on board a vessel used for warlike purposes or privateers belonging to one or the other of the belligerent powers.

3. The making contracts with or sending other individuals out of the dominions of the Empire with the object of enabling the said individuals to enter upon the military or naval service of one or the other of the belligerent powers, or for the purpose of enabling them to enlist as sailors or accept commissions to serve on board ships used for warlike purposes or privateers.

4. The selling, purchasing, chartering, arming, or equipping ships with the object of supplying them to one or the other of the belligerent powers for use in war or privateering; the assisting such sale, purchase, chartering, arming, or equipping.

5. The supplying arms, ammunition, or other materials of direct use in fighting to the men-of-war, other ships used for warlike purposes, or privateers belonging to one or the other of the belligerent powers. The present ordinance shall take effect from the day of its promulgation.

IMPERIAL ORDINANCE.

We hereby give our sanction to the present ordinance relating to the control of the war ships or other vessels connected with the warlike operations during the continuation of hostilities between the United States of America and Spain, and which are found in the territorial waters of the Empire, and order the same to be promulgated.

[Imperial sign manual.]
[Privy seal.]

April 30, 1898.
(Countersigned,)

MARQUIS HIROBUMI ITO,
Minister President of State.
MARQUIS TSUKUMICHI SAIGO,
Minister of the Navy.
VISCOUNT AKIMASA YOSHIKAWA,
Minister of Home Affairs.
BARON TOKUJIRO NISHI,
Minister of Foreign Affairs.

IMPERIAL ORDINANCE.—NO. LXXXVII.

Such men-of-war and such other ships used for warlike purposes in connection with the present war between the United States of America and Spain as may happen to be in the territorial waters of the Empire shall be regulated in accordance with the rules mentioned below:

1. No privateer shall be allowed to come within the territorial waters of the Empire. In case, however, when it is compelled to enter such territorial waters on account of unavoidable circumstances, such as stress of weather, destitution of articles indispensable to navigation, or disablement, it should leave the territorial waters as soon as such circumstance shall have ceased to exist.

2. No man-of-war or other ship belonging to one or the other of the belligerent powers shall be permitted to commit any act of war, or visit, search, or capture merchantmen within the territorial waters of the Empire. Neither shall such man-of-war or such other ship be allowed to make use of any portion of the territorial waters of the Empire as the basis or headquarters of naval operations, or for any other warlike purposes whatever.

3. The men-of-war and other ships used for warlike purposes belonging to one or the other of the belligerent powers may enter any of the ports that are open to all ships for ordinary purposes of navigation, but should not stay in the waters of such port longer than twenty-four hours. In case when such men-of-war or such other ships used for warlike purposes have been compelled to seek the waters of such port on account of unavoidable circumstances, such as stress of weather, destitution of articles necessary for navigation, or disablement, and are unable to quit the port within twenty-four hours, they should leave the territorial waters of the Empire as soon as such circumstance or circumstances shall have ceased to exist.

4. No man-of-war or other ships used for warlike purposes belonging to one or the other of the belligerent powers shall be permitted to take any captured vessel into the territorial waters of the Empire, except under stress of weather or on account of destitution of articles necessary for navigation, or of disablement. In the last-mentioned case it is not permissible under whatever pretext to land any prisoner of war or to dispose of the captured vessel or articles.

5. No man-of-war or other ship employed for warlike purposes belonging to one or the other of the belligerent powers shall be permitted either to recruit its crew or get supplies of arms, ammunition, or any other material of direct use in fighting within the dominions of the Empire. Neither shall such man-of-war or such other ships employed for purposes of warfare be permitted, under whatever circumstances, to receive repairs within the dominions of the Empire beyond what shall suffice to enable it to get back to the nearest port of its own country.

6. The men-of-war and other ships used for warlike purposes belonging to one or the other of the belligerent powers may get, in the ports of the Empire, supplies of articles necessary for their crews, also coal and other things indispensable to navigation, as well as of materials needed for repairs, but the quantity of such supplies

should never exceed that which will be necessary for the purpose of taking such men-of-war and such other ships to the nearest port of their own country. Any of such men-of-war or such other ships which has once obtained a supply of coal shall not be permitted to get another supply until after the lapse of three full months.

7. When the men-of-war, or other ships used for warlike purposes, or privateers, of both belligerent powers happen to be simultaneously in the same port in the dominions of the Empire, the ships of one power shall not be allowed to leave the port until twenty-four hours shall have elapsed after the departure of those of the other power, unless under the directions of the Japanese naval commander in port or the chief local official. The present ordinance shall come in force from the day of its promulgation.

Mr. Allen to Mr. Sherman.

No. 102. Diplomatic.] LEGATION OF THE UNITED STATES,
Seoul, Korea, April 28, 1898.

SIR: I have the honor to confirm my telegram[1] of to-day's date concerning the neutrality of Korea, and to inclose copy of a note from the Korean foreign office of the same date announcing that fact.

* * * * * * *

I have, etc.,

HORACE N. ALLEN.

[Inclosure.]

FOREIGN OFFICE,
Seoul, April 27, 1898.

Chyo Pyengjik, minister for foreign affairs, to the Hon. H. N. Allen, United States minister.

SIR: I have the honor to acknowledge the receipt of your excellency's dispatch of to-day's date concerning the state of war now existing between the United States and Spain.

In reply thereto I have the honor to assure your excellency that my Government will observe the strictest neutrality in this affair.

I beg your excellency to convey this message to your Government.

I have, etc.

Mr. Hunt to Mr. Day.

No. 12.] CONSULATE OF THE UNITED STATES,
Antigua, West Indies, May 2, 1898.

SIR: I have the honor to forward, inclosed herewith, a copy[2] of an extraordinary issue of the official gazette of the Leeward Islands, issued under date of April 23 and furnished by courtesy to this consulate on the 30th, containing the text of the proclamation of neutrality issued by His Excellency Sir Francis Fleming, governor of these colonial possessions, upon the announcement that war had been

[1] Not printed.

[2] Not printed. Proclamation, except as to preamble, is in the same terms, mutatis mutandis, as that of Great Britain, see page 865.

declared by the Government of the United States against that of Spain; and further containing the rules and regulations for the governance of the war ships of either belligerent in the waters of the islands of this colony.

I have, etc., HENRY M. HUNT,
United States Consul.

Mr. Smith to Mr. Day.

No. 9.] LEGATION OF THE UNITED STATES,
Monrovia, Liberia, June 24, 1898.

SIR: I have the honor to inform you that in compliance with the spirit of my dispatch of June 1 to the department of state, Monrovia (a copy of which, with the reply thereto, has been transmitted to the State Department, Washington), calling the attention of the said Department to the fact that the Republic of Liberia has not declared its neutrality pending existing hostilities between the United States and Spain, that I now have the honor to transmit to you a copy of the proclamation of His Excellency William David Coleman, the President of the Republic of Liberia, expressing his friendship for both the Republic of the United States and the Kingdom of Spain, and at the same time declaring a perfect neutrality pending the present hostilities between the two Governments.

I have, etc., OWEN L. W. SMITH.

[Inclosure.—Translation.]

A PROCLAMATION BY THE PRESIDENT.

Whereas we are happily at peace with all nations, states, and powers; and

Whereas a state of war now exists between His Majesty the King of Spain, represented during his minority by Her Majesty the Queen Regent of the Kingdom, and the United States of America, and between their respective subjects and citizens; and

Whereas the Republic of Liberia is on terms of friendship and in treaty stipulations with each of these nations aforesaid; and

Whereas we are desirous of preserving these peaceful relations—

Therefore, it is our firm purpose and determination to maintain a strict neutrality in and during the said state of war now unhappily existing between the aforesaid nations.

We recognize as binding upon us as a State that system of national justice known as the law of nations, as it is now generally accepted, and we do hereby enjoin all citizens of Liberia to abstain from committing any of the following acts:

(1) The fitting out, arming, or equipping or aiding in the same, within this jurisdiction, of any vessel or vessels intended, or reasonably believed to be intended, to cruise or carry on war with or against either of the aforesaid belligerents.

(2) The supplying or aiding to furnish any guns, ammunitions, or other munitions of war.

(3) The illegal enlisting in the army or navy of either of the aforesaid belligerents.

All citizens of the Republic of Liberia are warned against committing any of the above acts or in any way contravening the laws of neutrality as above defined.

And our public officers (both civil, naval, and military) are hereby commanded and directed to exercise due diligence to see that our ports or waters are not used as a base of operations by either of the aforesaid belligerents against the other or for the purpose of repairing, renewal, or increase of military supplies or arms or vessels or enlistin[illegible] of men.

Now therefore, I, William David Coleman, by virtue of the authority vested in

me as President of the Republic of Liberia, by and with the advice of the cabinet, do issue this proclamation.

And I strictly charge and command all citizens of Liberia, under the stern displeasure of the laws, to take notice and govern themselves accordingly in observing a strict and impartial neutrality in and during the state of war now waging and going on aforesaid, and to abstain from violating or contravening our Liberian statutes or the law of nations relating thereto.

Done at Monrovia, Liberia, on the 20th day of June, A. D. 1898, and the year of our independence the fifty-first.

W. D. COLEMAN,
President.

By the President:
G. W. GIBSON,
Secretary of State.

Mr. Grout to Mr. Day.

CONSULATE OF THE UNITED STATES,
Malta, Valetta, April 25, 1898.

SIR: I have the honor to forward herewith a copy of the proclamation[1] of neutrality as announced by His Excellency the governor of Malta in to-day's Official Gazette.

I am, etc.,

JOHN H. GROUT, JR.,
United States Consul.

Mr. Campbell to Mr. Day.

No. 53.] CONSULATE OF THE UNITED STATES,
Port Louis, Mauritius, June 29, 1898.

SIR: The inclosed proclamations,[2] No. 10 and No. 11, were published on the dates affixed to the newspaper clippings, inclosure No. 3. (April 23 and 26, respectively.)

* * * * * * *

I have, etc.,

JOHN P. CAMPBELL,
United States Consul.

Mr. Clayton to Mr. Sherman.

No. 399.] LEGATION OF THE UNITED STATES,
Mexico, April 30, 1898.

SIR: I have the honor to inform you that my note, dated the 26th instant, informing the foreign office that a state of war exists between the United States and Spain (inclosure No. 2 in my No. 390), and Mr. Mariscal's reply of the same date, informing me of the neutrality of Mexico (inclosure No. 2 in my No. 393), were published in the Diario Oficial of the 26th instant. On the 28th instant the Diario Oficial published my note of the 23d instant, informing the foreign office of the

[1] Not printed. The proclamation, except as to preamble, in the same terms, mutatis mutandis, as that of Great Britain, see page 865.

[2] Not printed. The proclamation is in the same terms, mutatis mutandis, as that of Great Britain, see page 865.

blockade of the ports on the north coast of Cuba (inclosure No. 2 in my No. 380), and Mr. Mariscal's reply of the same date (inclosure No. 2 in my No. 394); and my note of the 27th instant, informing the foreign office of the policy of the United States regarding privateering, neutral goods, neutral flag, and blockades (inclosure No. 2 in my No. 392), together with Mr. Mariscal's reply of the same date, copy and translation herewith inclosed.

I have the honor to inclose copy and translation of a circular sent by the Secretary of the Interior to the governors of the various States of Mexico, enjoining the strictest neutrality, and published in the Diario Oficial of the 26th instant.

On the 27th instant the Diario Oficial published the circular issued by the Secretary of the Treasury, copy and translation inclosed, enjoining the strictest neutrality upon the part of the officials and employees of his department.

On yesterday the Diario Oficial published the circular, copy and translation inclosed, issued by the minister of justice and public instruction, calling upon all persons connected with his department to observe the strictest neutrality.

I have, etc., POWELL CLAYTON.

CIRCULAR OF SECRETARY OF THE INTERIOR TO THE GOVERNORS.

[From Diario Oficial, April 26, 1898.]

DEPARTMENT OF THE INTERIOR, SECTION 2.

CIRCULAR No. 1233.

Judging from the latest cablegrams an outbreak of hostilites between the United States and Spain seems inevitable. The Government of Mexico, which during the events preceding the present situation has taken especial care to maintain for itself and the country the strictest neutrality, proposes now, more than ever, to change in no way its rule of conduct, and while it has the greatest confidence in the good sense of the Mexican people and in the discretion, aptitude, and patriotism of the several State governments, it believes, nevertheless, considering the gravity of the situation, in recommending to them as matter of the greatest importance, that efforts be redoubled so that in no way this strict neutrality may be violated. In this sense the President of the Republic has instructed me to address you, as well as the governors of the other States, to communicate the foregoing resolution, that it may be made known to the inhabitants, and especially to the officials and the employees under them, that the necessary steps may be taken to enforce compliance therewith; it being expected of your well-known high character that you will use your best efforts in seconding the elevated views of the Executive, repressing with firmness any contrary intent, with the object of avoiding, in official and private acts, any demonstration that is not in accordance with the attitude which Mexico must observe in the lamentable conflict between two friendly nations; also avoiding or suppressing, when not possible to so avoid, collisions between the sympathizers of the two contending countries.

Liberty and constitution.

GONZALES COSEO.

MEXICO, *April 22, 1898.*

CIRCULAR ISSUED BY THE SECRETARY OF THE TREASURY.

[Fom Diario Oficial, April 27, 1898.]

DEPARTMENT OF THE TREASURY AND PUBLIC CREDIT, THIRD SECTION.

In the deplorable conflict that has recently broken out between two nations friendly to Mexico, the Government of the Republic will observe, in compliance with its international duties, the strictest neutrality, and orders all public employees to conform to this order.

Therefore the President of the Republic has ordered that this Department make known this order to its employees, that they may scrupulously abstain from acts or manifestations departing from the reserved and impartial attitude which, in view of the said conflict, the people and Government of Mexico should observe.

The patriotism and discretion of the employees is relied upon to bring about exact compliance with the order which I communicate to you; but if, unfortunately, it be disobeyed, the corresponding administrative punishment will be inflicted without prejudice to whatever other punishment may be required in the case.

Kindly acknowledge the receipt.

LIMANTOUR.

MEXICO, *April 27, 1898.*

CIRCULAR OF MINISTER OF JUSTICE.

[From Diario Oficial, April 26, 1898.]

DEPARTMENT OF JUSTICE AND PUBLIC INSTRUCTION.

Under this date this department has issued the following circular:

In the deplorable conflict that has recently begun between two nations friendly to Mexico, the Government of the Republic will observe, in compliance with its international duties, the strictest neutrality, and orders all public employees to conform to this order.

Therefore the President of the Republic has ordered that this department make known this order to its employees, that they may scrupulously abstain from any acts or manifestations departing from the reserved and impartial attitude which, in view of the said conflict, the people and Government of Mexico should observe.

The patriotism and discretion of the employees is relied upon to effect an exact compliance with the order which I communicate to you; but if, unfortunately, it be disobeyed, the corresponding administrative penalty will be inflicted without preventing, in any way, other punishment that the case may require.

And by order of the President of the Republic I have the honor to notify the supreme court in order that it may be brought to the knowledge of the functionaries and employees of the judicial branch of the federation, and compliance with it recommended.

Liberty and constitution. J. BARANDA.

MEXICO, *April 27, 1898.*

Mr. Clayton to Mr. Sherman.

No. 411.] LEGATION OF THE UNITED STATES,
Mexico, May 6, 1898.

SIR: Referring to my No. 399 of the 30th ultimo, with which I forwarded copies of the circulars issued by three of the departments of the Mexican Government enjoining neutrality, I now have the honor to inclose the circular, together with translation, of the minister of war and marine, enjoining the strictest neutrality upon all members of the army in the war existing between the United States and Spain.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.—Translation.—From Diario Oficial, April 31, 1898.]

DEPARTMENT OF WAR AND MARINE,
OFFICE OF GENERAL STAFF.

CIRCULAR No. 209.

It being an international duty for the Government of the Mexican Republic to maintain the strictest neutrality in the war actually existing between the United States and Spain, its relations with both belligerents being equally friendly, it is the duty of all Mexican citizens, and especially of the members of the army, to be scrupulously

alert, so that for no reason any violations of neutrality, however remote, may occur. In this sense, and at the express wish of the President, I recommend that you redouble your vigilance so that these prohibitions may be complied with by all generals, chiefs, officials, members of troops, and others subject to their orders.

The President believes that the patriotism and prudence of all the members of the army will be sufficient to sustain his designs; but if, unfortunately, anyone should forget his duty, he will be subject to the corresponding penalties without prejudice to those that may be inflicted under the military code for disobedience to this order.

I communicate this to you that it may be complied with, and that it may be published in the general order of the day in all the places where there are troops under your command.

Liberty and constitution.

BERRIOZABAL.

MEXICO, *April 29, 1898.*

Mr. Clayton to Mr. Moore.

No. 420.] LEGATION OF THE UNITED STATES,
Mexico, May 11, 1898.

SIR: Referring to my Nos. 399 and 411, of the 30th ultimo and 6th instant, respectively, inclosing copies of the circulars issued by several departments of the Mexican Government enjoining the strictest neutrality regarding the war between the United States and Spain, I now have the honor to inclose copy and translation of a notice published in the Diario Oficial by the department of war and marine, in the name of the President, ordering that no vessel carrying provisions or money for either of the belligerent powers be dispatched, and that public reunions, with the object of collecting means to assist either of the belligerent powers, be prevented.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.—Translation.—From Diario Oficial, May 7, 1898.]

DEPARTMENT OF WAR AND MARINE.

The President of the Republic has ordered, notwithstanding the express prohibition in the first instruction of the circular which I communicated to you privately on the 29th ultimo, inclosing the note of the minister of relations containing said instruction, that I especially charge you, as I now do, that for the purpose of establishing as a fact the strict neutrality of the Republic in the Spanish-American conflict, no vessel carrying provisions or money for either of the belligerent powers be, under any circumstances, dispatched, and that public reunions with the object of collecting means to assist either of the belligerent powers be prevented.

I communicate the same to you for your information and observance.

Liberty and constitution. A copy of the original.

ALEJANDRO PEZO.

MEXICO, *May 4, 1898.*

Mr. Newel to Mr. Sherman.

No. 100.] LEGATION OF THE UNITED STATES,
The Hague, April 26, 1898.

SIR: I have the honor to append on the overleaf the text of my cablegram of this day advising that the Netherlands Government has officially announced its strict neutrality and warning to its subjects against participation in any privateering operation.

Hereto I annex a copy of the Official Gazette of the Netherlands (in duplicate) containing the forementioned announcement, together with a translation of the same.

I have, etc.,

STANFORD NEWEL.

[Inclosure—Translation.]

MINISTRY OF FOREIGN AFFAIRS.

War having broken out between two powers friendly to the Netherlands, the Government of the Netherlands declares that it will observe the strictest neutrality toward the belligerents.

It reminds all citizens of the Netherlands, even those domiciled outside of Europe, that they must refrain from all acts that can be regarded as contrary to neutrality.

It directs their attention principally to acts prohibited by the rules of international law, that they may avoid participating in any way in the recruiting of soldiers, or in the fitting out of ships of war or privateers in the interest of the powers at war, and likewise to the danger connected with breaking an effective blockade, and with selling and furnishing munitions of war or other contraband goods to the belligerents, or conveying such articles to them. It further calls attention to the provisions of articles 100, 1°, 388, and 389, of the penal code, which are as follows:

"ART. 100, 1°. Any person who, in case of a war in which the Netherlands are not concerned, shall intentionally commit any act whereby the neutrality of the State is endangered, or shall willfully violate any special provision for the maintenance of neutrality, adopted and proclaimed by the Government of the Netherlands, shall be punished by imprisonment for a term not exceeding six years.

"ART. 388. Any citizen of the Netherlands who shall accept letters of marque without the consent of the Government of the Netherlands, or shall engage in service as captain of a vessel which he knows to be intended for privateering without the permission of the Government of the Netherlands, shall be punished by imprisonment for a term not exceeding four years.

"ART. 389. Any citizen of the Netherlands who shall engage in service as a member of the crew on board of a vessel, knowing it to be intended for privateering, or to be used for that purpose, without the permission of the Government of the Netherlands, or who shall voluntarily remain in service after he shall have learned that the vessel is intended or used for privateering, shall be imprisoned for a term not exceeding three years."

The Government will tolerate no acts that can be considered as being in violation of the duties of a neutral state, and it warns all citizens of the Netherlands, wherever they may be domiciled, that they may rely upon its protection or its intervention in their behalf only in case they carefully abstain from any violation of neutrality.

Mr. Newel to Mr. Sherman.

No. 108.] LEGATION OF THE UNITED STATES,
The Hague, May 3, 1898.

SIR: Referring to my dispatch No. 100, relating to the Netherlands declaration of neutrality, I have the honor to transmit under separate cover of this date two copies of the Netherlands Official Gazette of to-day containing two ministerial orders, together with a translation of the same, prohibiting, in the first place, to Netherlands citizens the assisting of either the Spaniards or the Americans to any military material or men, and, in the second place, laying down stringent orders affecting the war ships of either nation in Netherlands waters.

It will be observed that these orders are issued by the ministers of foreign affairs, justice, marine, and war, in cooperation, they being authorized thereto by Her Majesty the Queen Regent.

I have, etc.,

STANFORD NEWEL.

[Inclosure.—Translation.]

No. 1.

The ministers of foreign affairs, justice, marine, and war, authorized thereto by Her Majesty the Queen Regent:

In observance of the royal order of February 2, 1893 (Official Gazette No. 46):

Hereby publicly notify all whom it may concern that, in observance of and with a view to the maintenance of perfect neutrality during the war which has broken out between two powers friendly to ourselves, namely, Spain on the one side and the United States of America on the other, the following regulations have been agreed upon:

ARTICLE I. It is forbidden to supply arms or ammunition to the ships of war or privateers of the powers at war, as also to render them any assistance whatever in the increasing of their crews, arming, or equipment, and in general to voluntarily perform any act that might endanger the neutrality of the State.

ART. II. It is moreover forbidden:

(*a*) To equip in this country ships of war or other vessels destined for any military end, in the interests of the parties at war, as also to convey or sell such like ships to the said parties.

(*b*) To export arms, ammunition, or other war material to the parties at war. Herein is included the exportation of everything that is adaptable for immediate use in war, but not those of unwrought materials, unless they can be immediately turned to warlike ends.

(*c*) To recruit military men within the territory of the State for the parties at war.

(*d*) To organize in any military way volunteers within the territory of the State, with the purpose of annexing them to the army of either of the parties at war.

The above-mentioned ministers further direct attention to articles 100, 388, and 389 of the penal code, and hereby caution all persons domiciled within the Kingdom against becoming involved in any way in privateering and against acceptance of any foreign privateering ships' papers, in view of the fact that all who shall carry on any privateering on such papers, or assist thereto, will be prosecuted before a Netherlands judicial authority.

Further, they direct the attention of ship commanders, shipping agents, and ships' freighters to the danger and detriment to which they would expose themselves by not respecting an actual blockade or by conveying for either of the parties at war contraband or military dispatches, in conflict with the obligations imposed upon neutral powers.

Persons rendering themselves guilty of such like actions are liable to whatever results may follow, without any protection or intervention whatever, or any claim thereto from Her Majesty's Government.

The above-mentioned ministers,

W. H. DE BEAUFORT.
CORT V. D. LINDEN.
RÖELL.
ELAND.

No. 2

The ministers for foreign affairs, justice, marine, and war, authorized thereto by Her Majesty the Queen Regent:

In observance of the royal order of February 2, 1893 (Official Gazette, No. 46):

Hereby publicly notify all whom it may concern, that in observance of and with a view to the maintenance of perfect neutrality during the war which has broken out between two powers friendly to ourselves, namely, Spain on the one side and the United States of America on the other, the following regulations have been agreed upon:

ARTICLE 1. The vessels and ships of war of the parties at war shall be admitted to the Kingdom's sea channels, mentioned in article 1 of the royal order of February 2, 1893 (Official Gazette, No. 46), with due observance of the further provisions of that order, for a sojourn not exceeding twenty-four hours, unless it is absolutely necessary that a longer sojourn be granted them, either for the procuring of provender or coal, or in case of distress or dangers of the sea.

In these cases, however, they shall leave as soon as the shipment of provender or coal has been effected, which, if possible, shall be done within the first twenty-four hours, and, if not, then as quickly as possible, as soon as the dangers of the sea are passed, or in case of repairs at latest within twenty-four hours after they have been effected.

In any other case the length of the sojourn shall not exceed twenty-four hours, except it becomes necessary in the carrying out of the provision of article 5 of this proclamation.

Provender may be shipped so far as is necessary for the wants of the crew, while the store of coal shall only be supplemented sufficiently to allow the ship or vessel to reach the nearest port of the country to which it belongs, or that of one of its allies in the war.

The same ship may not be provided a second time with coal, except after a lapse of three months from the first lading, unless special permission be given.

ART. 2. Privateers shall not be admitted to Netherlands' ports or roads of sea channels, except in case of dangers of the sea, distress, or lack of provender.

As soon as the reason for their admittance has ceased to exist, they shall immediately move off.

They shall not be allowed to ship more provender than is necessary to permit of their reaching the nearest port of the country to which the ship belongs, or that of one of its allies in the war, and not more coal than is necessary to provide for their wants for twenty-four hours, sailing at a maximum pace of 10 English miles per hour.

Within a period of three months they shall not take in a fresh cargo of coal.

ART. 3. The ships of war or privateers of the parties at war shall not enter Netherlands' ports or sea channels with prizes, except in case of dangers of the sea or lack of provender.

As soon as the reason for their admittance has ceased to exist, they shall move off.

They shall not be allowed to ship more provender than is necessary to permit of their reaching the nearest port of the country to which the ship belongs, or that of one of its allies.

Coal shall not be supplied them so long as they are in possession of prizes.

If ships of war, pursued by the enemy, seek a refuge within our territory, they shall liberate the prizes.

ART. 4. The sale, exchange, and free disposal of prizes or of articles coming thence, as also of booty, is prohibited in the ports, roads, sea channels, and in the territorial waters of the Netherlands.

ART. 5. Ships and vessels of war, which in virtue of articles 1, 2, and 3 are admitted, shall not remain in our ports, roads, or sea channels beyond the time therein indicated.

If, however, war ships or other ships and vessels of the parties at war should simultaneously be in the same harbor, roads, or sea channel of the State, a period of twenty-four hours shall elapse between the departure of a ship or ships, of a vessel or vessels, of the one party and the departure of a ship or ships, of a vessel or vessels, of the other party.

This period, according to circumstances, may be extended by the local maritime authorities.

The above-mentioned ministers,

W. H. DE BEAUFORT.
CORT V. D. LINDEN.
RÖELL.
ELAND.

Mr. Newel to Mr. Day.

No. 118.] LEGATION OF THE UNITED STATES,
The Hague, June 6, 1898.

SIR: I have the honor to advise you that by royal order appearing in the Official Gazette of the 5th instant the exportation and transit of ammunition and gunpowder are prohibited from the 7th of June, 1898.

Herewith I inclose a duplicate copy of the order, together with a translation of the same, from which it will be observed that this prohibition is regarded as of a temporary nature; that it does not apply to the ordinary supply carried by trading vessels, and that exceptions thereto may be granted to sendings destined to any country but those at war.

I have, etc., STANFORD NEWEL.

[Inclosure.—Translation.]

(Usual preamble.)

ARTICLE 1. The exportation and transit of ammunition and gunpowder is forbidden.

This prohibition does not apply to the ammunition and gunpowder exported in the service of the State, nor to that which in a ship's service is found on board any Netherlands or foreign trading vessel, provided the supply on board does not exceed that usually carried by the sort of vessel in ordinary equipment.

ART. 2. Exception may be granted to this prohibition by the director of direct taxes, customs, and excise in whose district the place is situated whence the goods leave the Kingdom, to the sendings to the possessions of the Kingdom in other parts of the world, or to States which are not at war, provided the destination is satisfactorily shown him.

ART. 3. This order shall go into force on the second day after the date of the Official Gazette and of the Official Journal in which it is inserted.

Mr. Everett to Mr. Day.

No. 29.] CONSULATE OF THE UNITED STATES.
Batavia, Java, April 29, 1898.

SIR: I have the honor to inclose two copies of the Official of Netherlands-India, containing notices of the declaration of neutrality in the war between the United States and Spain.

The second one I have just received as the mail is closing, and have therefore no time to translate it. I shall, however, send full translation by next mail, and trust the delay will not be an inconvenience.

Inasmuch as in the first notice it states that the United States and Spanish Governments had already been notified (presumably from The Hague) I did not cable.

The principal points of No. 2 are:

(1) Prizes are not to be brought into Dutch-Indian ports except in case of urgent need, such as starvation.

(2) No prizes to be sold here.

(3) Privateers not allowed in here, except in case of urgent need to save life.

(4) War ships of either side can only remain here forty-eight hours, and may only buy enough coal and provisions here to take them to the nearest port.

(5) Should two war ships, one of each side, be here together, the one that leaves last must give the first twenty-four hours' start before she follows.

(6) No ammunition or weapons to be sold to either side.

The above are roughly translated only, the minor technical points being omitted; they will be in full in the translation which I shall send.

I am, etc.,

SIDNEY B. EVERETT,
United States Consul.

[From the Javasche Courant, April 26, 1898.]

When war broke out between Spain and the United States of North America, the Government of the Netherlands notified the belligerent powers of its intention to observe the strictest neutrality in this war. [1]

[1] See page 887.

The government of the Dutch East Indies reminds the inhabitants of said Indies, and, so far as may be necessary, those who are in foreign countries, that they must abstain from any act that, being in violation of the laws of the mother country or of this colony, or of international law, might be considered as hostile to one of the belligerent powers or as not in harmony with strict neutrality.

It is enjoined upon them to respect an effective blockade and other measures of the belligerent powers that do not violate the laws of war, and to submit to the same, and they are not allowed to recruit soldiers or sailors for the armies and navies of said powers, to assist in the equipment of their war ships, or to supply or convey transports and contraband of war for them, or to engage in privateering or in the purchase and sale of booty.

The government warns them that they may rely upon its protection and intervention only in case they, on their part, carefully refrain from any violation of the duties of neutrals; whereas if they neglect these duties, they render themselves liable to damages, difficulties, and prosecutions by the courts of the Netherlands, of the Dutch East Indies, or of foreign countries.

The goverment, in conclusion, calls the attention of the inhabitants of the Dutch East Indies to article 100 of the Penal Code of the Netherlands, to articles 47 and 48 of the Penal Code in the Dutch East Indies for Europeans, and to articles 50 and 51 of the same code for natives.

[From the Javasche Courant, April 29, 1898.]

According to information received from the minister of the colonies, the Government of Spain and that of the United States of North America will adhere, during the war which has just broken out, to points 2, 3, and 4 of the declaration of Paris of April 16, 1856, and there will be no privateering for the present.

Points 2, 3, and 4 of the aforesaid declaration are as follows:

(2) The neutral flag protects the enemy's goods, except contraband of war.

(3) Neutral goods, except contraband of war, are not subject to seizure under the enemy's flag.

(4) Blockades, to be binding, must be effective, i. e., maintained by a force sufficient to render approach to the enemy's coast really dangerous.

According to a communication from the minister of the colonies, information has been received from the Spanish Government that access to the ports of the Philippines is possible only with the help of the coast pilots who are available there, because there is a possibility that the beacons have been removed and the coast lights extinguished.

In pursuance of instructions received from the governor-general, the (colonial) secretary-general notifies all whom it may concern that, for the maintenance of the strict neutrality during the war between Spain and the United States of North America which is mentioned in the warning contained in the Javasche Courant of April 26, 1898, the following rules have been laid down:

(1) No vessels of war or privateers belonging to a belligerent power shall be permitted to enter the ports or channels of the Dutch East Indies with prizes, or to remain there or in the roadsteads, except in cases of evident distress, such as disaster suffered at sea and lack of provisions. They shall leave at once when the cause of their stay has ceased.

(2) The sale, exchange, or donation of any prizes or of articles that have belonged thereto, and of goods that have been captured, is prohibited in the ports or channels of the Dutch East Indies. Further, the unrigging and the sale of vessels of war or cruisers of the belligerents are prohibited in the aforesaid ports, and also the unrigging and sale of privateers (provided that the latter are admitted).

(3) Privateers, even without prizes, shall not be permitted to enter the ports or channels of the Dutch East Indies, except in the cases mentioned sub numero 1, the concluding portion of which is applicable to them. They shall not be allowed to take in more provisions than are required for their immediate use; they may take in only as much coal as is necessary to supply their wants for twenty-four hours; and so far as the same vessel is concerned, not more than once in three months.

(4) The vessels of war of the belligerent parties shall, provided that they submit to the rules of international law which govern their admission to neutral ports, be allowed to remain for not more than forty-eight hours, and not more than two vessels of each belligerent party shall be allowed to remain at the same time in ports of the Dutch East Indies; they shall be allowed to procure provisions and such quantity of coal as they may require to reach the nearest port of the country to which the ship belongs. No assistance shall, however, be rendered such vessels for making repairs or improvements, nor shall any materials necessary for such purposes be furnished to them.

(5) When vessels of the belligerent parties (whether vessels of war, privateers, or merchantmen) are simultaneously in the same port, roadstead, or in the territorial waters of the Dutch East Indian possessions, a period of at least twenty-four hours must elapse between the departure of a vessel belonging to one belligerent party and the subsequent departure of a vessel belonging to the other party. This period of time may be extended by the port authorities according to circumstances.

(6) The furnishing of arms or ammunition to vessels of war of the belligerent parties is prohibited, and it is further prohibited to render them assistance in any way in increasing their crews, armament, or equipment.

A. D. H. HERINGA,
Secretary-General.

BUITENZORG, *April 28, 1898.*

Mr. Everett to Mr. Moore.

No. 40.] CONSULATE OF THE UNITED STATES,
Batavia, Java, June 13, 1898.

SIR: I have the honor to transmit herewith the Javasche Courant (official gazette) No. 44, of June 3, 1898, containing two additional and much more stringent neutrality proclamations[1] applicable to Netherlands-India and translations.

* * * * * * *

I am, etc.,

SIDNEY B. EVERETT,
United States Consul.

NICARAGUA.

See Costa Rica, page 854.

Mr. Finch to Mr. Day.

No. 44.] LEGATION OF THE UNITED STATES,
Montevideo, May 12, 1898.

SIR: I had the pleasure to receive the following telegram on the 11th instant, in the evening, from the Hon. José Decoud, minister for foreign affairs for the Republic of Paraguay:

ASUNCION, *May 10, 1898.*

TO WILLIAM R. FINCH,
Minister, Montevideo:

Yesterday I had the honor to receive your excellency's note, dated April 26 ultimo, communicating that a state of war exists between the United States and Spain; and

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[1] The orders, with the exception of the introductory phrases, are the same as those issued by the Netherlands (see page 887), with the exception of paragraph *d* in the first colonial circular, which differs from paragraph *d* in the corresponding home circular in that it refers to provisions of the Penal Code for the Netherlands-India, in addition to certain sections of the Penal Code of the Netherlands. The paragraph in the colonial circular reads:

"(*d*) [It is prohibited] to volunteers to organize themselves in a military way within the territory of the State, with the intent to join the army of either of the belligerents.

"And the secretary-general further refers to sections 100, 388, and 389 of the Dutch Penal Code, sections 47 and 48 of the Penal Code of Netherlands-India for Europeans, and sections 50 and 51 of the penal code for natives; and by these presents warns all residents not in any way whatsoever to take a hand in privateering, and not to accept foreign letters of marque, as any persons who exercise privateering by virtue of such documents, or who in any way assist in so doing, will be prosecuted before the courts of justice."

I hasten to make known to your excellency, in accordance with the wishes and instructions of the President of the Republic, that the Government of Paraguay, faithful to its international duties, will maintain the strictest neutrality during the said conflict.

JOSÉ DECOUD.

* * * * * * *

Respectfully,

WILLIAM R. FINCH.

Mr. Dudley to Mr. Sherman.

No. 117.] LEGATION OF THE UNITED STATES,
Lima, Peru, April 29, 1898.

SIR: I have the honor to acknowledge the receipt on the morning of the 26th instant of the following cablegram from the Department of State:

WASHINGTON, *April 26, 1898.*

DUDLEY, *Minister, Lima:*

A joint resolution of Congress, approved April 20, directed intervention for pacification and independence of the island of Cuba. The Spanish Government, on April 21, informed our minister at Madrid that it considered this resolution equivalent to a declaration of war, and that it had accordingly withdrawn its minister from Washington and terminated all diplomatic relations. Congress has therefore, by an act approved to-day, declared that a state of war exists between the two countries since and including April 21. You will inform the Government to which you are accredited, so that its neutrality may be assured in the existing war.

SHERMAN.

A copy of the note which I thereupon addressed to the Peruvian minister for foreign relations is inclosed herewith,[1] and also the minister's reply, which was received this morning. These notes have been given to the press by the Peruvian foreign office.

Upon reading the minister's reply above referred to I sent the following cablegram to the Department of State:

LIMA, *April 29, 1898.*

SHERMAN, *Washington:*

Peru announces its neutrality. DUDLEY.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure.]

FOREIGN OFFICE, *Lima, April 27, 1898.*

MR. MINISTER: I have had the honor to receive the esteemed note of yesterday's date, that, in obedience to instructions received from Washington, your excellency has been pleased to address me, in order to inform my Government of the late resolution of the American Congress, approved by His Excellency President McKinley, declaring that a state of war exists and has existed between the United States of America and Spain from the 21st instant.

My Government having attentively watched the development of events, the unfortunate conclusion of which your excellency announces to me, is pained to receive the notification of war declared between two great nations allied to our own by ties of friendship, and heartily desires the prompt conclusion of the struggle just begun, and will comply with the duty imposed upon it by observing the rights and obligations of a state of neutrality.

I am pleased to renew to your excellency the expressions of my high and distinguished consideration.

E. DE LA RIVA-AGÜERO.

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[1] Not printed.

Mr. Townsend to Mr. Sherman.

No. 55.] LEGATION OF THE UNITED STATES,
Lisbon, April 29, 1898.

SIR: I have the honor to inform you that the minister for foreign affairs of Portugal called upon me at the legation to-day at 10 a. m. to announce to me the signing of the imperial proclamation of neutrality by His Majesty yesterday (April 28) at 5 p. m. He informed me that the decree was similar in every respect to those issued in 1866 and 1870, with the exception that in the latter there was no limit as to the amount of time belligerent war vessels might be permitted to remain in Portuguese ports, whereas the proclamation issued yesterday defines the time war vessels of either belligerent may be permitted to remain in Portuguese ports by the relative expression "a short time," provided they conform to the rules laid down in succeeding paragraphs, forbidding them to increase the number of their crew or the number or caliber of their guns, or to receive on board arms or munitions of war. He further assured me that this alteration in the text of the former proclamation of neutrality of 1866 and 1870 was as far as the council of state was prepared to go at present, and that he wished me and the Government of the United States to understand that it was not intended to favor either nation in any way. * * *

I transmit herewith copy,[1] with translation, of the proclamation of neutrality just published by the Government in the Diario do Governo.

I have, etc.,

LAWRENCE TOWNSEND.

In view of paragraph 15 of article 75 of the constitution of the Monarchy; of the decrees of August 30, 1780, of June 3, 1803, of May 5, 1854, of July 29, 1861, of July 2, 1866, and of July 28, 1870; of articles 148, 150, 154, 155, 156, and 162 of the penal code; of the principles set forth in the declaration of Paris of April 16, 1856, made by the representatives of the powers that signed the treaty of peace of March 30 of the same year, to which Portugal gave her adhesion on the 28th of July following, and also of the doctrine generally received respecting the rights and duties of neutrals:

After having heard the council of state, I have seen fit to decree the following:

ARTICLE 1. Portuguese subjects and aliens are forbidden to arm or fit out vessels intended for privateering in the ports or waters of this Kingdom, whether on the Continent, the adjacent islands, or in the Portuguese colonies beyond the sea.

ART. 2. The entrance into the ports and waters mentioned in the foregoing article of privateers and prizes taken by them or by any vessels of war of the belligerent powers is likewise forbidden.

Sole paragraph.—Cases of vis major, in which, according to international law, hospitality becomes indispensable, are excepted from the provisions of this article, but the sale of articles obtained from prizes shall not be allowed, and vessels having charge of prizes shall not be permitted to remain for a longer time than is indispensable for them to receive the necessary aid.

ART. 3. The entrance into the ports and waters mentioned in article 1 of vessels belonging to either of the belligerents not having charge of prizes, and their stay there for a short time shall be permitted, provided that such vessels conform to the rules laid down in the following paragraphs:

Paragraph 1.—War ships belonging to either of the belligerent powers shall not

[1] A copy of the proclamation, together with the order governing the use of the cable service with Madeira and the Azores, had been transmitted by the Portuguese minister at Washington under date of May 14. The translation, made in the Department of State, reads:

"War having been declared between the Kingdom of Spain and the Republic of the United States of America, and it being desirable that the friendly relations and good understanding now existing between Portugal and other governments should be maintained and unalterably preserved by the observance on our part of the strictest and most absolute neutrality toward both the belligerent powers.

commit any act of hostility in the ports or waters of Portugal against the vessels or subjects of any other power, even of that of which the nation to which they belong is at war.

Paragraph 2.—The vessels aforesaid shall not be allowed to increase their crews in the aforesaid ports and waters by recruiting seamen of any nation, even of that to which the vessels belong.

Paragraph 3.—The aforesaid vessels are likewise forbidden to increase, within the said ports or waters, the number or caliber of their guns, or to receive on board portable arms or munitions of war.

Paragraph 4.—The aforesaid vessels shall not be allowed to leave port within twenty-four hours after the departure of any vessel belonging to another power with which the power to which they belong is at war unless they obtain exemption from the limit of time above mentioned from the competent authorities and furnish the required guaranties that they will not take advantage of that circumstance to commit any act of hostility against the hostile vessel.

ART. 4. The conveyance is permitted, under the Portuguese flag, of all articles of lawful commerce belonging to the subjects of either of the belligerent powers, and the conveyance is likewise permitted of articles of lawful commerce belonging to Portuguese subjects, under the flag of either of the belligerent powers.

Paragraph 1.—Articles that may be considered as contraband of war are expressly excluded from the provision of this article.

Paragraph 2.—The provision of this article does not, moreover, apply to the ports of either of the belligerent powers that are in a state of effective blockade.

ART. 5. Portuguese subjects, and aliens resident in Portugal and its dominions, must abstain from all acts considered by the laws as calculated to jeopardize external security and opposed to the interests of the State in its relations with foreign nations.

ART. 6. The Government will not grant protection of any kind from the acts or measures of belligerents to Portuguese subjects or to any others who shall fail to observe the provisions of this decree. The provision of this article shall not invalidate any criminal proceedings that may be instituted according to laws now in force.

Let the president of the council of ministers, minister and secretary of state of the affairs of the Kingdom, and the ministers and secretaries of state in charge of the other departments so understand and cause it to be executed.

THE KING.
JOSÉ LUCIANO DE CASTRO.
FRANCISCO ANTONIO DA VEIGA BEIRÃO.
FREDERICO RESSANO GARCIA.
FRANCISCO MARIA DA CUNHA.
FRANCISCO FELISBERTO DIAS COSTA.
HENRIQUE DE BARROS GOMES.
AUGUSTO JOSÉ DA CUNHA.

Done at the palace this 28th day of April, 1898.

DIRECTION OF THE TELEGRAPHIC AND POSTAL SERVICES,
DEPARTMENT OF TELEGRAPHS.

It is announced by superior order that, at the semaphoric stations on the Continent, the Azores, and Madeira, the telegraphic sea-notice service has been discontinued (to which reference is made in articles 274, 275, 276, 277, and 278 of the regulations relative to telegraphic correspondence of December 10, 1892) as regards that portion of it which relates to the appearance, entrance, and departure of war vessels of all nationalities; but the other semaphoric services mentioned in articles 265 to 273 of the said regulations and in articles 62 and 63 of the international telegraphic regulations (Budapest revision) will be continued.

Direction of the telegraphic and postal services, April 27, 1898.

For the director-general of posts and telegraphs.

ALFREDO PEREIRA.

Mr. Rockhill to Mr. Sherman.

No. 5. Roumanian Series.] LEGATION OF THE UNITED STATES,
Bucharest, May 17, 1898.

SIR: I have the honor to transmit herewith the text and translation of the declaration of neutrality of Roumania during the war between the United States and Spain, which appeared in the Official Monitor of to-day.

Very respectfully, etc., W. W. ROCKHILL.

[Inclosure.—Translation.]

In consequence of the communications received from the Government of the United States of North America and the Kingdom of Spain, the following declaration, approved by His Majesty the King, is published:

The Government of His Majesty the King of Roumania brings to the public knowledge that it will observe the strictest neutrality during the war between Spain and the United States of North America.

The Government of His Majesty the King particularly calls on this occasion the attention of all citizens of the Kingdom to the fact that, conformably to the above declaration, they must abstain from all acts which might be considered as hostile to either one of the belligerent States, and that it is specially forbidden them by law to enlist, in whatever capacity it may be, in their armies, as it is also forbidden them to contribute to the arming or equipping of a ship of war.

Mr. Hitchcock to Mr. Sherman.

No. 55.] EMBASSY OF THE UNITED STATES,
St. Petersburg, May 3, 1898.

SIR: Confirming my telegram of this day, copy of which I append on the overleaf,[1] I have the honor to inclose herewith copy and translation of a note received last evening officially informing me of the declaration of neutrality of the Imperial Government in the war between the United States and Spain.

I have, etc., ETHAN A. HITCHCOCK.

[Inclosure.]

MINISTRY OF FOREIGN AFFAIRS,
SECOND DEPARTMENT,
St. Petersburg, April 20 (May 2), 1898.

MR. AMBASSADOR: I have the honor to inform you that His Majesty the Emperor, my august master, by an order to the acting senate, dated April 18, has deigned to command that the following declaration of neutrality, which the Imperial Government has resolved to observe in the Spanish-American conflict, be made generally known:

"The disagreements which have recently arisen between Spain and the United States of America have induced the Imperial Government to seek, in concert with the other powers, some means which might prevent an armed conflict between these two countries.

"Unhappily, our friendly measures are without result, and a state of war now exists between Spain and the United States.

"It is with keen regret that the Imperial Government witnesses an armed conflict between two States to which it is united by old friendship and deep sympathy. It is firmly resolved to observe with regard to these two belligerents a perfect and impartial neutrality.

"The Imperial Government has taken note of the declarations of the Spanish and American Governments relative to their intention to conform, during the entire duration of the war, to the following generally recognized principles of international law.

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[1] Not printed.

"(1) The neutral flag covers the enemy's goods, except contraband of war.

"(2) Neutral goods, except contraband of war, are not liable to capture under the enemy's flag.

"(3) A blockade, to be obligatory, must be effective.

"All subjects of His Majesty the Emperor, as well as all persons under the protection of the laws of the Empire, are looked to to fulfill the obligations which a state of neutrality requires. Those who violate these provisions will be answerable before the law, and can in no case receive aid or protection from the Imperial Government or its diplomatic and consular agents abroad.

"The Imperial Government further declares that the ships of war of the two belligerent powers may only enter Russian ports for twenty-four hours. In case of stress of weather, absence of goods or provisions necessary to the maintenance of the crew, or for indispensable repairs, the prolongation of the above-mentioned time can only be accorded by special authorization of the Imperial Government.

"In case of ships of the two belligerents entering a Russian port, the merchant ship or the ship of war of one of the belligerent parties may leave the port only twenty-four hours after the ship of the other party shall have quitted the same port.

"The sale of prizes is absolutely forbidden in Russian ports."

Please to accept, etc.,

COUNT MOURAVIEFF.

SALVADOR.

See Costa Rica, page 854.

Mr. Rockhill to Mr. Sherman.

No. 9, Servian Series.] LEGATION OF THE UNITED STATES,
Bucharest, May 15, 1898.

SIR: I have the honor to transmit herewith copy of a note, under date of May 12, from the minister of foreign affairs of Servia, informing me that during the hostilities between the United States and Spain Servia would observe the strictest neutrality.

Very respectfully, etc.,

W. W. ROCKHILL.

[Inclosure.]

BELGRADE, *April 30 (old style), 1898.*

MR. MINISTER: By note of the 26th instant, your excellency was pleased to inform the Royal Government that a state of war existed between the United States of America and Spain since the 21st instant, the day on which the Spanish Government informed the minister of the United States at Madrid that it considered the joint resolution of Congress, approved the 20th instant, as equivalent to a declaration of war, and that it had consequently recalled its minister from Washington and broken off diplomatic relations.

Your excellency desires to be assured as to the neutrality of Servia during the war which has broken out.

While thanking your excellency most earnestly for his obliging communication, the Royal Government gives the assurance that Servia will observe during the war which has broken out between the United States of North America and Spain the strictest neutrality.

Please accept, etc., VLADAN GEORGEVITCH.

Mr. Macallister to Mr. Adee.

No. 26.] CONSULATE OF THE UNITED STATES,
Barbados, April 29, 1898.

SIR: I have the honor to transmit herewith a letter from Mr. Peter, consular agent at St. Lucia, with stated inclosures[1] relative to the foreign enlistment act of 1870 and rules thereunder, as applicable in the colony of St. Lucia.

I have, etc.,

SAML. A. MACALLISTER,
United States Consul.

Mr. King to Mr. Sherman.

No. 2.] LEGATION OF THE UNITED STATES,
Bangkok, May 10, 1898.

SIR: I have the honor to inform you that on the receipt of your telegrams of April 22 I immediately informed the foreign office by letter of the blockade declared, and of the policy to be pursued by the United States in the event of war between the United States and Spain.

On the receipt of your telegram of the 26th of April, as I was to have my audience with His Majesty the King that day, before I could reach the Government through a letter addressed to the foreign office I embodied the spirit of your telegram in my address to His Majesty, and on the 27th I sent a letter to the foreign office stating the content of your telegram of the 26th, and expressing the hope that the neutrality of Siam might be assured in the existing war.

With this I send you a copy of my address to the King, of my letter[2] of the 27th to the foreign office, and of the letter from the foreign office in reply to the several papers I have already mentioned.

I have, etc.

HAMILTON KING,
Minister Resident.

[Inclosure.]

FOREIGN OFFICE, *April 30, 1898.*

Mr. MINISTER: I have the honor to acknowledge receipt of the letter of your predecessor dated the 23d instant and of your letter dated the 27th instant. In his letter of the 23d Mr. Barrett, in accordance with instructions of the Secretary of State of the United States, notified me that, by proclamation issued on the 22d instant, under resolutions of Congress, duly approved on the 20th instant, His Excellency the President of the United States announces a blockade of the coast on the north side of Cuba, between Cardenas and Bahia Honda; also Cienfuegos on the south side.

Mr. Barrett also informs me that, according to a later dispatch received by you, the United States Government, in the event of hostilities breaking out between that country and Spain, will not resort to privateering, but will follow the recognized rules of international law with regard to maritime trade.

Finally, in your letter of the 27th instant, you inform me that, by an act approved by the President on the 26th of April, the United States Congress has declared that a state of war exists between the United States and Spain since and including April 21.

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[1] Not printed. Cites in brief the rules in regard to foreign enlistment and the treatment of ships of belligerents contained in the proclamation of Great Britain. See page 865.

[2] Not printed.

I have taken due notice of these several communications, which I laid before His Majesty the King, my august sovereign, and I am directed to say in reply that, according to the wish expressed by you in the name of your Government, His Majesty's Government will assume a strict neutrality during the existing war.

I avail myself of this occasion to express to you, Mr. Minister, the assurance of my high consideration.

DEVAWONGSE,
Minister for Foreign Affairs

Mr. Pratt to Mr. Day.

No. 210.] CONSULATE-GENERAL OF THE UNITED STATES,
Singapore, April 25, 1898.

SIR: I have the honor to confirm my telegram of this date, reading as follows:

SECRETARY OF STATE, *Washington:*
Neutrality proclaimed to-day.

And to submit the inclosed Government gazette extraordinary in reference.

I have, etc., E. SPENCER PRATT,
United States Consul-General.

Quotes the rules governing ships of belligerents, and the terms of the foreign enlistment act, as given in the proclamation of Great Britain [printed on page 865], and adds:

In order that the above rules may be duly carried out and respected, it is hereby notified that no ship of war of either of the belligerent parties above mentioned will be permitted to receive from any person or body corporate any commodity, including also stores, necessaries, and coal, without permission first obtained in writing from the master attendant or harbor master of the port.

Mr. Thomas to Mr. Sherman.

No. 19.] LEGATION OF THE UNITED STATES,
Stockholm, April 26, 1898.

SIR: I have the honor to inform you that I have this evening received a note from the minister for foreign affairs in which he states that—

His Majesty the King, my august sovereign, in view of the hostilities between the United States and Spain, has decided to observe for the United Kingdoms a strict neutrality.

I immediately telegraphed you the above information.

I append a copy of my telegram and inclose a copy of the note of Count Douglas.

I have, etc., W. W. THOMAS, JR.

(Inclosures not printed.)

Mr. Leishman to Mr. Sherman.

No. 73.] UNITED STATES LEGATION,
Berne, Switzerland, April 27, 1898.

SIR: I have the honor to inclose herewith copy and translation of letter just received from President Ruffy acknowledging the receipt of my note of yesterday communicating to the Swiss Government the

proclamation of the President declaring the existence of a state of war—in accordance with your cable instructions. And although there could be little or no doubt as to the position of the Swiss Confederation, whose past history has always been one of strict neutrality, considering the gravity of the situation I deem best to advise you promptly of the delivering of notification and substance of reply, and have consequently cabled you as follows:

SHERMAN, *Washington:*
Swiss Government in acknowledging receipt of note advises faithful to her traditions, will maintain strict neutrality. LEISHMAN.

Which I now beg leave to confirm.

I have, etc., JOHN G. A. LEISHMAN.

[Inclosure—Translation.]

BERNE, *April 27, 1898.*

Mr. MINISTER: By note of April 26, your excellency kindly informed us that a state of war between the United States and Spain commenced on April 21, the day on which the Spanish Government made known to the minister of the United States at Madrid that it would consider the resolution of Congress, approved on the 20th of April, equivalent to a declaration of war, and that it had accordingly withdrawn its minister from Washington and terminated diplomatic relations.

Your excellency desires to be assured with regard to the neutrality of the Swiss Government during the war which has just broken out.

In thanking your excellency most warmly for these kind communications, the Federal Council gives you the assurance that Switzerland, faithful to her traditions, will observe in the war which has just broken out between the United States and Spain the strictest neutrality.

Please accept, etc.,

In the name of the Swiss Federal Council, the President of the Confederation,

RUFFY.

The Chancellor of the Confederation,

RINGIER.

Mr. Angell to Mr. Sherman.

No. 107.] LEGATION OF THE UNITED STATES,
Constantinople, April 25, 1898.

SIR: On Saturday, the 23d instant, on the receipt of the telegram from you announcing the blockade of certain portions of the coast of Cuba, agreeably to your instructions I waited on the minister of foreign affairs, and communicated the information to him, orally and in writing.

He made inquiries about the relative positions of Key West and Habana, and about the destruction of the *Maine*.

He assured me that the Ottoman Government would maintain a strict neutrality between Spain and the United States in the case of hostilities.

I have, etc., JAMES B. ANGELL.

Mr. Finch to Mr. Day.

No. 45.] LEGATION OF THE UNITED STATES,
Montevideo, May 17, 1898.

SIR: I want to invite your attention to the honorable attitude of Uruguay toward the United States with reference to the enforcement of neutrality. On receipt of the telegram from the Secretary of State announcing that war between Spain and the United States existed, and that the United States would blockade the ports of Spain, I notified the minister for foreign affairs of this Republic, with a request that the President of Uruguay issue the usual proclamation of neutrality.

In response, I received a cordial note from the minister, in which he communicated the President's decision to enforce neutrality and enforce it fearlessly, regardless of the protests of the large Spanish colony residing in this city, said to number about seventy thousand. What I especially desire to call your attention to is the honest and energetic enforcement of the President's proclamation and promise.

* * * * * * *

Respectfully.

WILLIAM R. FINCH.

Mr. de Murguiondo to Mr. Day.

ORIENTAL CONSULATE-GENERAL OF THE
REPUBLIC OF URUGUAY,
Washington, D. C., June 10, 1898.

SIR: I have the honor to inclose herewith a note received to-day from His Excellency J. de Saltevani, minister of foreign affairs of Uruguay, giving the proclamation of neutrality by the Oriental Republic of Uruguay, to which I beg to refer your excellency, the Government having resolved to observe strict neutrality during the war existing between the United States of America and Spain.

The note having served the objects intended of this formal notice of neutrality, I beg its return to

Yours, most respectfully,

PRUDENCIO DE MURGUIONDO,
Consul-General.

[Inclosure.]

MINISTRY OF FOREIGN AFFAIRS,
Montevideo, May 4, 1898.

Mr. CONSUL-GENERAL: I beg to acknowledge receipt of your note of March 24.

A state of war having been unfortunately established between Spain and North America, the Government of Uruguay has determined to maintain strict neutrality in this armed struggle.

With salutations,

J. DE SALTEVANI

Mr. Loomis to Mr. Sherman.

No. 128.] LEGATION OF THE UNITED STATES,
Caracas, May 2, 1898.

SIR: I have the honor to inclose herewith the answer of the Venezuelan Government to my note transmitting a copy of your cablegram of April 26 in reference to the existence of a state of war between the United States and Spain.

* * * * * * *

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure.]

UNITED STATES OF VENEZUELA,
MINISTRY OF FOREIGN AFFAIRS,
Caracas, April 29, 1898.

YOUR EXCELLENCY: With your courteous communication of the 26th instant your excellency inclosed a copy of a telegram received the same day from his excellency the Secretary of State in regard to the state of war existing since the 21st of the present month between the North American Republic and the Kingdom of Spain.

Inasmuch as his excellency the Secretary of State, in communicating the fact of the existence of war, asked you to inform this Government, to the end that its neutrality might be assured, I have the honor to inform you that this expectation on the part of the Government of the United States is in perfect accord with the intentions of the Executive, to wit, that the Republic will preserve the strictest neutrality during the contest. The Government of Venezuela, through its regular channel, will to-day likewise inform the Spanish nation.

I renew, etc.,

J. CALCAÑO MATHIEU.

Mr. Loomis to Mr. Day.

No. 145.] LEGATION OF THE UNITED STATES,
Caracas, June 7, 1898.

SIR: I have the honor to inform you that I received from the consular agent of the United States at Ciudad Bolivar a few days since a daily newspaper, published in that city, containing an official printed announcement to the effect that the Spanish vice-consul in that city had opened books for the enrollment of volunteers and the reception of subscriptions to be made use of by Spain in warfare against the United States. The Spanish vice-consul also announces that he makes this call for men and money by authority of the Spanish legation in this city. I inclose the official announcement of the vice-consul with a translation.

* * * * * * *

The inclosed decree was then drawn up and published in the Official Gazette. You will see by it that a person who opens an office for the enlistment of troops without proper authority violates the penal code of Venezuela.

* * * * * *

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure.]

MINISTRY OF FOREIGN AFFAIRS,
UNITED STATES OF VENEZUELA,
DEPARTMENT OF FOREIGN PUBLIC LAW,
Caracas, June 1, 1898.

Resolved, The neutrality of Venezuela in the present war between the United States of America and the Kingdom of Spain having been communicated officially to the two belligerent nations through their diplomatic representatives in Caracas since the 29th of April, the President of the Republic deems it imperative, in view of the fact that there is no special neutrality law in existence, to call attention to the laws of the country in regard to this subject, in order that the authorities may see to the strict observance of those rules which are to guide the Republic in this international conflict.

Article 121 of the penal code now in force forbids "anyone, without authority from the National Government, from making levies or arming and equipping Venezuelans or foreigners on Venezuelan soil, destined for the service of another nation;" article 461 of said code likewise prohibits "any individual from arrogating to himself illegal functions, and without authority opening offices for making subscriptions or enlistments." Furthermore, article 151 of the Federal constitution provides that "the prescriptions of the law of nations form part of the national legislation," and, as these impose upon the neutral state the obligation to abstain completely, directly or indirectly, from whatever concerns military operations, the President of the Republic enjoins upon the authorities the strictest vigilance to prevent any operation or public act on Venezuelan soil in regard to expeditions or enlistments of any kind whatsoever for either of the two belligerent nations.

Let this be communicated to the presidents of the States, governors of the district and Federal territories, through the medium of the ministry of interior.

For the National Executive.

J. CALCAÑO MATHIEU.

Mr. Loomis to Mr. Day.

No. 150.] LEGATION OF THE UNITED STATES,
Caracas, June 11, 1898.

SIR: I have the honor to transmit, with translation, another decree of the Venezuelan Government upon the subject of its neutrality during the war now being waged by the United States and Spain. The decree is as it appears in the Official Gazette.

* * * * * * *

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure—Translation.]

It having already been announced that the attitude of the United States of Venezuela in the present war between the United States of America and Spain is that of strict neutrality, the constitutional President of the United States of Venezuela decrees:

ARTICLE 1. That all the Federal and State authorities shall exercise the strictest vigilance in their respective jurisdictions to prevent the accomplishment of any act contrary to neutrality, such as the enlistment of men, the collection of arms, the formation of clubs, the fitting out of expeditions, etc.

ART. 2. As to the commerce of Venezuela with the belligerents, it is limited by the prohibition to carry contraband of war, this including the transportation of correspondence and persons engaged in military service; also by the prohibition to violate established blockades when personal warning has been given by the commanders of the ships engaged in making said blockades effective.

§ In accordance with the rules proclaimed by the belligerents, and in conformity with the treaty law of Venezuela, enemy's goods under a neutral flag and neutral

goods under the enemy's flag, except contraband of war, are not liable to capture or confiscation.

ART. 3. Venezuelans are forbidden to take out letters of marque if the belligerents adopt this method of warfare, which neither of the two has renounced.

ART. 4. Venezuelans who fail to respect these obligations or who in any way take part in the hostilities shall be subject to the consequences of their conduct, in accordance with national legislation, and to the penalties imposed upon them by the offended belligerent, and can not appeal to this Government for protection.

ART. 5. Vessels of war of the belligerents and privateers with prizes shall not be allowed to enter Venezuelan ports. They may, however, be allowed to enter in case of urgent necessity, after remedying which they must leave without delay.

ART. 6. This decree shall be communicated to those whom it may concern and be published.

Done, signed with my hand, sealed with the seal of the National Executive, and countersigned by the minister of foreign affairs, in Caracas, the 6th day of June, 1898, eighty-seventh year of the independence and fortieth of the federation.

IGNACIO ANDRADE.

Countersigned:

The Minister of Foreign Affairs,

J. CALCAÑO MATHIEU.

CORRESPONDENCE WITH THE UNITED STATES PEACE COMMISSIONERS AT PARIS, 1898.

Instructions to the Peace Commissioners.

EXECUTIVE MANSION,
Washington, September 16, 1898.

By a protocol signed at Washington August 12, 1898, a copy of which is herewith inclosed, it was agreed that the United States and Spain would each appoint not more than five Commissioners to treat of peace, and that the Commissioners so appointed should meet at Paris not later than October 1, 1898, and proceed to the negotiation and conclusion of a treaty of peace, which treaty should be subject to ratification according to the respective constitutional forms of the two countries.

For the purpose of carrying into effect this stipulation, I have appointed you as Commissioners on the part of the United States to meet and confer with Commissioners on the part of Spain.

As an essential preliminary to the agreement to appoint Commissioners to treat of peace, this Government required of that of Spain the unqualified concession of the following precise demands:

(1) The relinquishment of all claim of sovereignty over and title to Cuba.

(2) The cession to the United States of Porto Rico and other islands under Spanish sovereignty in the West Indies.

(3) The cession of an island in the Ladrones, to be selected by the United States.

(4) The immediate evacuation by Spain of Cuba, Porto Rico, and other Spanish islands in the West Indies.

(5) The occupation by the United States of the city, bay, and harbor of Manila pending the conclusion of a treaty of peace which should determine the control, disposition, and government of the Philippines.

These demands were conceded by Spain, and their concession was, as you will perceive, solemnly recorded in the protocol of the 12th of August.

By article 1 of that instrument Spain agreed to "relinquish all claim of sovereignty over and title to Cuba."

By article 2 she agreed to "cede to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and also an island in the Ladrones, to be selected by the United States."

By article 3 it was declared that the United States would "occupy and hold the city, bay, and harbor of Manila pending the conclusion of a treaty of peace which shall determine the control, disposition, and government of the Philippines."

By article 4 provision was made for the immediate evacuation of Cuba, Porto Rico, and other Spanish islands in the West Indies, as follows:

> Spain will immediately evacuate Cuba, Porto Rico, and other islands now under Spanish sovereignty in the West Indies; and to this end each Government will, within ten days after the signing of this protocol, appoint Commissioners, and the Commissioners so appointed shall, within thirty days after the signing of this protocol, meet at Habana for the purpose of arranging and carrying out the details of the aforesaid evacuation of Cuba and the adjacent Spanish islands; and each Government will, within ten days after the signing of this protocol, also appoint other Commissioners, who shall, within thirty days after the signing of this protocol, meet at San Juan, in Porto Rico, for the purpose of arranging and carrying out the details of the aforesaid evacuation of Porto Rico and other islands now under Spanish sovereignty in the West Indies.

The commissioners referred to in the foregoing article have been appointed, and they are now in session at Habana and San Juan, respectively. A copy of their instructions is herewith inclosed.

By these instructions you will observe that the evacuation of Cuba, Porto Rico, and other Spanish Islands in the West Indies is treated as a military operation, and will, when carried into effect, leave the evacuated places in the military occupation of the United States. The purposes of the United States during such occupation are set forth in General Order No. 101 of the War Department of July 18, 1898, which was issued by direction of the President on the capitulation of the Spanish forces at Santiago de Cuba and in the eastern part of the Province of Santiago and the occupation of the territory by the forces of the United States. A copy of this order is hereto annexed for your information.

As the evacuation of Cuba and the other Spanish islands in the West Indies by the Spanish military forces devolves upon the United States the duty of taking possession of and holding and preserving all the immovable property therein previously belonging to the Government of Spain, the evacuation commissioners of the United States are instructed to arrange for the taking into possession and to take into possession for the United States, all public buildings and grounds, forts, fortifications, arsenals, depots, docks, wharves, piers, and other fixed property previously belonging to Spain, and to arrange for the care and safe-keeping of such property under the authority and control of the United States. Small arms and accouterments, batteries of field artillery, supply and baggage wagons, ambulances, and other impedimenta of the Spanish army in Cuba and other Spanish islands in the West Indies are to be removed, if desired, by the representatives of Spain, provided such removal shall be effected within a reasonable time; but the armament of forts, fortifications, and fixed batteries, being in the nature of immovable fixtures, are not to be

allowed to be taken, but are, in connection with such forts, fortifications, and batteries, to be taken over into the possession of the United States. The instructions of the evacuation commissioners also contain appropriate clauses in regard to the custody and preservation by the United States of state papers, public records, and other papers and documents necessary or convenient for the government of the islands, as well as all judicial and legal documents and other public records necessary or convenient for securing to individuals the titles to property.

It will be proper to confirm these transactions by appropriate clauses in the treaty of peace.

Similar clauses will be inserted in respect to the island ceded to the United States in the Ladrones. This Government has selected the Island of Guam, and you are instructed to embody in the treaty of peace a proper stipulation of cession.

A rumor has reached us from various quarters to the effect that the Spanish Peace Commissioners will be instructed to claim compensation for the public property of the Spanish Government in Cuba, as well as in territories agreed to be ceded to the United States. This rumor is not credited, but it is proper to make a few observations upon it. No such claim on the part of the Spanish Government is to be entertained in respect to any territory which Spain either cedes to the United States or as to which she relinquishes her sovereignty and title. The cession of territory or the relinquishment of sovereignty over and title to it is universally understood to carry with it the public property of the Government by which the cession or relinquishment is made. Any claim, therefore, on the part of Spain, such as that above suggested, would be inconsistent with the express agreements embodied in the protocol.

In the correspondence leading up to the signature of that instrument you will observe that this Government waived, for the time being, the requirement of a pecuniary indemnity from Spain. This concession was made in the hope that Spain would thereby be enabled promptly to accept our terms. But if the Spanish Commissioners should, contrary to our just expectations, put forward and insist upon a claim for compensation for public property, you are instructed to put forward as a counterclaim a demand for an indemnity for the cost of the war.

By article 6 of the protocol it was agreed that hostilities between the two countries should be suspended, and that notice to that effect should be given as soon as possible by each Government to the commanders of its military and naval forces. Such notice was given by the Government of the United States immediately after the signature of the protocol, the forms of the necessary orders having previously been prepared. But before notice could reach the commanders of the military and naval forces of the United States in the Philippines they captured and took possession by conquest of the city of Manila and its suburbs, which are therefore held by the United States by conquest as well as by virtue of the protocol.

In view of what has taken place it is necessary now to determine what shall be our future relations to the Philippines. Before giving you specific instructions on this subject it is my desire to present certain general considerations.

It is my wish that throughout the negotiations intrusted to the Commission the purpose and spirit with which the United States accepted the unwelcome necessity of war should be kept constantly in view. We took up arms only in obedience to the dictates of humanity and in

the fulfillment of high public and moral obligations. We had no design of aggrandizement and no ambition of conquest. Through the long course of repeated representations which preceded and aimed to avert the struggle, and in the final arbitrament of force, this country was impelled solely by the purpose of relieving grievous wrongs and removing long-existing conditions which disturbed its tranquillity, which shocked the moral sense of mankind, and which could no longer be endured.

It is my earnest wish that the United States in making peace should follow the same high rule of conduct which guided it in facing war. It should be as scrupulous and magnanimous in the concluding settlement as it was just and humane in its original action. The luster and the moral strength attaching to a cause which can be confidently rested upon the considerate judgment of the world should not under any illusion of the hour be dimmed by ulterior designs which might tempt us into excessive demands or into an adventurous departure on untried paths. It is believed that the true glory and the enduring interests of the country will most surely be served if an unselfish duty conscientiously accepted and a signal triumph honorably achieved shall be crowned by such an example of moderation, restraint, and reason in victory as best comports with the traditions and character of our enlightened Republic.

Our aim in the adjustment of peace should be directed to lasting results and to the achievement of the common good under the demands of civilization, rather than to ambitious designs. The terms of the protocol were framed upon this consideration. The abandonment of the Western Hemisphere by Spain was an imperative necessity. In presenting that requirement, we only fulfilled a duty universally acknowledged. It involves no ungenerous reference to our recent foe, but simply a recognition of the plain teachings of history, to say that it was not compatible with the assurance of permanent peace on and near our own territory that the Spanish flag should remain on this side of the sea. This lesson of events and of reason left no alternative as to Cuba, Porto Rico, and the other islands belonging to Spain in this hemisphere.

The Philippines stand upon a different basis. It is none the less true, however, that, without any original thought of complete or even partial acquisition, the presence and success of our arms at Manila imposes upon us obligations which we can not disregard. The march of events rules and overrules human action. Avowing unreservedly the purpose which has animated all our effort, and still solicitous to adhere to it, we can not be unmindful that, without any desire or design on our part, the war has brought us new duties and responsibilities which we must meet and discharge as becomes a great nation on whose growth and career from the beginning the Ruler of Nations has plainly written the high command and pledge of civilization.

Incidental to our tenure in the Philippines is the commercial opportunity to which American statesmanship can not be indifferent. It is just to use every legitimate means for the enlargement of American trade; but we seek no advantages in the Orient which are not common to all. Asking only the open door for ourselves, we are ready to accord the open door to others. The commercial opportunity which is naturally and inevitably associated with this new opening depends less on large territorial possession than upon an adequate commercial basis and upon broad and equal privileges.

It is believed that in the practical application of these guiding principles the present interests of our country and the proper measure of its duty, its welfare in the future, and the consideration of its exemption from unknown perils will be found in full accord with the just, moral, and humane purpose which was invoked as our justification in accepting the war.

In view of what has been stated, the United States can not accept less than the cession in full right and sovereignty of the island of Luzon. It is desirable, however, that the United States shall acquire the right of entry for vessels and merchandise belonging to citizens of the United States into such ports of the Philippines as are not ceded to the United States upon terms of equal favor with Spanish ships and merchandise, both in relation to port and customs charges and rates of trade and commerce, together with other rights of protection and trade accorded to citizens of one country within the territory of another. You are therefore instructed to demand such concession, agreeing on your part that Spain shall have similar rights as to her subjects and vessels in the ports of any territory in the Philippines ceded to the United States.

We are informed that numerous persons are now held as prisoners by the Spanish Government for political acts performed in Cuba, Porto Rico, or other Spanish islands in the West Indies, as well as in the Philippines. You are instructed to demand the release of these prisoners, so far as their acts have connection with matters involved in the settlement between the United States and Spain.

It will be desirable to insert in any treaty of peace which you may conclude a stipulation for the revival of the provisions of our former treaties with Spain, so far as they may be applicable to present conditions.

I have directed Gen. Wesley Merritt, the late commander at Manila, to report to the Commission at Paris, where he will arrive October 2, with such information as he may possess; and it is understood he will carry with him, for the use of the Commission, the views of Admiral Dewey. To the views of these distinguished officers I invite the most careful consideration of the Commission.

It is desired that your negotiations shall be conducted with all possible expedition, in order that the treaty of peace, if you should succeed in making one, may be submitted to the Senate early in the ensuing session. Should you at any time in the course of your negotiations desire further instructions, you will ask for them without delay.

WILLIAM MCKINLEY.

[Inclosure 1.]

AUGUST 27, 1898.

Rear-Admiral WINFIELD SCOTT SCHLEY, U. S. N.,
Commissioner on the part of the United States to Superintend the Evacuation of Porto Rico.

SIR: I inclose herewith for your information copies of two letters of instruction issued by the President on the 26th instant to the commissioners on the part of the United States to superintend the evacuation of Porto Rico.

Respectfully, yours,

J. B. MOORE,
Acting Secretary.

[Subinclosure A.]

EXECUTIVE MANSION, *August 26, 1898.*

To Major-General BROOKE,
Rear-Admiral SCHLEY,
Brigadier-General GORDON,
Commissioners on the part of the United States to Superintend the Evacuation of Porto Rico.

By a protocol signed at Washington August 12, 1898, a copy of which is hereto annexed, the Governments of the United States and Spain agreed upon and defined the conditions on which they would enter upon negotiations for the establishment of peace between the two countries.

Among the conditions thus agreed upon is the following:

Spain will cede to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies.

In order to give this stipulation effect, it is agreed by Article IV of the protocol that Spain will, among other things, "immediately evacuate * * * Porto Rico and other islands now under Spanish sovereignty in the West Indies;" and to this end each Government engages within ten days after the signing of the protocol to appoint commissioners, who shall, within thirty days after the signing of the protocol, meet at San Juan, in Porto Rico, "for the purpose of arranging and carrying out the details of the aforesaid evacuation of Porto Rico and other islands now under Spanish sovereignty in the West Indies."

The President has appointed you commissioners on the part of the United States to meet commissioners on the part of Spain at San Juan for the purpose of arranging and carrying out the details of the immediate evacuation of Porto Rico and other islands now under Spanish sovereignty in the West Indies, excluding Cuba and the adjacent Spanish islands, for the evacuation of which other commissioners have been appointed.

You are therefore directed to proceed to San Juan at as early a day as practicable, in order that you may meet the commissioners on the part of Spain at the place and within the time designated.

Your functions relate solely to "the evacuation" of Porto Rico and other islands now under Spanish sovereignty in the West Indies, with the exception above stated. The evacuation referred to is a military operation, and will, when carried into effect, leave the evacuated places in the military occupation of the United States. Any questions not properly connected with this operation, such as may be involved in the formal relinquishment of sovereignty and title or cession of territory by Spain, are not within your powers, but must remain to be dealt [with] by the Commissioners who are to meet at Paris under Article V of the protocol for the purpose of negotiating and concluding a treaty of peace.

The purposes and policy of this Government during the period of military occupation will not form a subject of negotiation between yourselves and the Spanish commissioners; but they are set forth in General Orders, No. 101, of the War Department of July 18, 1898, which was issued by direction of the President on the capitulation of the Spanish forces at Santiago de Cuba and in the eastern part of the province of Santiago and the occupation of the territory by the forces of the United States. A copy of this order is hereto annexed for your information and guidance.

Your duties embrace both the arranging and the carrying out of the details of the evacuation. It will therefore be your duty to supervise the execution of the details of the evacuation, as well as to agree upon them.

By the terms of the protocol Porto Rico is to be ceded by Spain to the United States. As such cession of the island will necessarily carry with it all the immovable property therein heretofore belonging to the Government of Spain, you will therefore arrange for and take into possession for the United States all public buildings and grounds, forts, fortifications, arsenals, depots, docks, wharves, piers, and other fixed property heretofore belonging to Spain, and will arrange for the care and safe-keeping of the same as the property of the United States.

The small arms and accouterments, batteries of field artillery, supply and baggage wagons, ambulances, and other impedimenta of the Spanish army in Porto Rico you will permit to be removed, if desired, by the representatives of Spain, provided such removal shall be effected within a reasonable time. The armament of forts, fortifications, and fixed batteries, being in the nature of immovable fixtures, will not be permitted to be taken, but will, in connection with said forts, fortifications, and batteries, be taken over by you into the possession of the United States.

It will be your duty to see that all state papers, public records, and other papers and documents necessary or convenient for the government of the island and records pertaining specially to the history of the island be taken into your custody and preserved as the property of the United States. You will also provide that all judicial and legal documents and other public records necessary or convenient for securing to individuals the titles to property shall also be saved and preserved.

In taking over public property into the possession of the United States you will have brief descriptions and full inventories made and transmit the same to the Secretary of War, duly verified.

You are authorized to allow such persons as may so desire to depart from the islands in a peaceful and regular manner with their personal possessions.

It will be your duty to confer with the general commanding the military forces in Porto Rico from time to time with reference to the details of the evacuation and to arrange through the commanding general that the United States shall be prepared to take possession of each city, town, place, or port with a suitable garrison as fast as the Spanish forces evacuate the same.

In like manner you will arrange, in connection with the commanding general, to take charge of the custom-houses and other public buildings as the same are severally delivered over to the representatives of the United States.

If, in the course of your proceedings, you desire further instructions on any particular questions that may arise, you will submit without delay your request for such instructions.

It is desired that your duties as commissioners shall be performed with all possible expedition.

WILLIAM MCKINLEY.

By the President:

J. B. MOORE,

Acting Secretary of State.

[Great seal of the United States.]

[Subinclosure B.]

EXECUTIVE MANSION,
Washington August 26, 1898.

To Major-General BROOKE,
Rear-Admiral SCHLEY,
Brigadier-General GORDON,
Commissioners on the part of the United States to Superintend the Evacuation of Porto Rico.

In addition to the matters contained in your formal instructions herewith submitted, your attention is hereby called to certain other matters, relating not so much to the immediate evacuation by Spain of the islands as to the future control and government of the same by the United States, to which it is desired that you will pay such attention as opportunity may afford.

You will bear in mind that Porto Rico and the other islands mentioned, except Cuba, are to become territory of the United States. Therefore, all things done by you in the discharge of your commission should be done with a view to the future welfare of the islands and the improvement of the state and condition of their people as dependencies of the United States.

So far as it may come within the scope of your duties, endeavor to arrange those matters within your jurisdiction so as to facilitate the speedy reestablishment of trade, commerce, business, and other peaceful pursuits of the inhabitants.

You will need to become informed as to the police arrangements of each city and town, and to be prepared to advise and assist the general in command of the island in the adoption and application of means to continue good order and the administration of the local laws and ordinances after the departure of the Spanish forces.

Where it can be done prudently, confer with the leading citizens of Porto Rico in an unofficial manner, and endeavor to ascertain their sentiments of loyalty to the United States and their views as to such measures as they may deem necessary or important for the future welfare and good government of the island.

In carrying out the details of the evacuation, you will, so far as applicable and as will not conflict with your personal instructions, observe the principles contained in the instruction for government of armies of the United States in the field (G. O., 100).

WILLIAM MCKINLEY.

By the President:
J. B. MOORE,
Acting Secretary of State.

[Great seal of the United States.]

[Inclosure 2.]

DEPARTMENT OF STATE,
Washington, August 27, 1898.

Rear-Admiral WILLIAM T. SAMPSON, U. S. N.,
Commissioner on the part of the United States to Superintend the Evacuation of Cuba.

SIR: I inclose herewith for your information copies of two letters of instruction issued by the President on the 26th instant to the commis-

sioners on the part of the United States to superintend the evacuation of Cuba.

Respectfully, yours, J. B. MOORE,
Acting Secretary.

[Subinclosure A.]

EXECUTIVE MANSION,
Washington, August 26, 1898.

To Major-General WADE,
Rear-Admiral SAMPSON,
Major-General BUTLER,
Commissioners on the part of the United States to Superintend the Evacuation of Cuba.

By a proctocol signed at Washington August 12, 1898, a copy of which is hereto annexed, the Governments of the United States and Spain agreed upon and defined the conditions on which they would enter upon negotiations for the establishment of peace between the two countries.

Among the conditions agreed upon is the following:

Spain will relinquish all claim of sovereignty over and title to Cuba.

In order to give effect to this and other stipulations of the protocol, it is agreed by Article IV that Spain will, among other things, immediately evacuate Cuba, Porto Rico, and other islands now under Spanish sovereignty in the West Indies; and to this end each Government agrees within ten days after the signing of the protocol to appoint commissioners, who shall, within thirty days after the signing of the protocol, meet at Habana "for the purpose of arranging and carrying out the details of the aforesaid evacuation of Cuba and the adjacent Spanish islands," while other commissioners are to meet at San Juan, Porto Rico, for the purpose of arranging and carrying out the details of the "evacuation of Porto Rico and other islands now under Spanish sovereignty in the West Indies."

The President has appointed you commissioners on the part of the United States to meet commissioners on the part of Spain at Habana for the purpose of arranging and carrying out the details of the immediate evacuation of Cuba and the adjacent Spanish islands.

You are therefore directed to proceed to Habana at as early a day as practicable, in order that you may meet the commissioners on the part of Spain at the place and within the time designated.

The evacuation referred to is a military operation, and will, when carried into effect, leave the evacuated places in the military occupation of the United States.

The purposes and policy of this Government during the period of military occupation will not form the subject of negotiation between yourselves and the Spanish commissioners; but they are set forth in General Orders, No. 101, of the War Department of July 18, 1898, which was issued by direction of the President on the capitulation of the Spanish forces at Santiago de Cuba and in the eastern part of the Province of Santiago and the occupation of the territory by the forces of the United States. A copy of this order is hereto annexed for your information and guidance.

Your duties embrace both the arranging and the carrying out of the

details of the evacuation. It will therefore be your duty to supervise the execution of the details of the evacuation as well as to agree upon them.

The evacuation of Cuba and the adjacent Spanish islands by the Spanish military forces will devolve upon the United States the duty of taking possession, holding, and preserving all the immovable property therein heretofore belonging to the Government of Spain; you will therefore arrange for and take into possession for the United States all public buildings and grounds, forts, fortifications, arsenals, depots, docks, wharves, piers, and other fixed property heretofore belonging to Spain, and will arrange for the care and safe-keeping of the same under the authority and control of the United States.

The small arms and accouterments, batteries of field artillery, supply and baggage wagons, ambulances, and other impedimenta of the Spanish army in Cuba and the adjacent Spanish islands you will permit to be removed, if desired, by the representatives of Spain, provided such removal shall be effected within a reasonable time. The armament of forts, fortifications, and fixed batteries, being in the nature of immovable fixtures, will not be permitted to be taken, but will, in connection with said forts, fortifications, and batteries, be taken over by you into the possession of the United States.

It will be your duty to see that all state papers, public records, and other papers and documents necessary or convenient for the government of the islands and records pertaining specially to their history be taken into your custody and preserved for the future use of such government as may be established therein. You will also provide that all judicial and legal documents and other public records necessary or convenient for securing to individuals the titles to property shall also be saved and preserved.

In taking over public property into the possession of the United States, you will have brief descriptions and full inventories made and transmit the same to the Secretary of War, duly verified.

You are authorized to allow such persons as may so desire to depart from the islands in a peaceful and regular manner with their personal possessions.

It will be your duty to confer with the general commanding the military forces in Cuba and the adjacent Spanish islands from time to time with reference to the details of the evacuation, and to arrange through the commanding general that the United States shall be prepared to take possession of each city, town, place, or port with a suitable garrison as fast as the Spanish forces evacuate the same.

In like manner you will arrange, in connection with the commanding general, to take charge of the custom-houses and other public buildings as the same are severally delivered over to the representatives of the United States.

If in the course of your proceedings you desire further instructions on any particular questions that may arise, you will submit without delay your request for such instructions.

It is desired that your duties as commissioners shall be performed with all possible expedition.

WILLIAM MCKINLEY

By the President:
J. B. MOORE,
Acting Secretary of State.

[Great seal of the United States.]

[Subinclosure B.—Confidential.]

EXECUTIVE MANSION,
Washington, August 26, 1898.

To Major-General WADE,
Rear-Admiral SAMPSON,
Major-General BUTLER,
Commissioners on the part of the United States to Superintend the Evacuation of Cuba.

In addition to the matters contained in your formal instructions herewith submitted, your attention is hereby called to certain other matters, relating not so much to the immediate evacuation by Spain of the islands in question as to their future control and government by the United States, to which it is desired that you will pay such attention as opportunity may afford.

So far as it may come within the scope of your duties, you will endeavor to arrange those matters within your jurisdiction so as to facilitate the speedy reestablishment of trade, commerce, business, and other peaceful pursuits of the inhabitants.

You will need to become informed as to the police arrangements of each city and town, and to be prepared to advise and assist the general in command of the islands in question in the adoption and application of means to continue good order and the administration of the local laws and ordinances after the departure of the Spanish forces.

Where it can be done prudently, confer with the leading citizens of Cuba and the adjacent Spanish islands in an unofficial manner and endeavor to ascertain their sentiments towards the United States and their views as to such measures as they may deem necessary or important for the future welfare and good government of the islands.

In carrying out the details of the evacuation you will, so far as applicable and as will not conflict with your personal instructions, observe the principles contained in the instructions for government of armies of the United States in the field (G. O., 100).

WILLIAM MCKINLEY.

By the President:
J. B. MOORE,
Acting Secretary of State.
[Great seal of the United States.]

Mr. Day to the President.

[Telegram.]

PARIS, *September 28, 1898.*

Commission sends greetings. All well and preparing for meeting on Saturday. Spanish Commissioners are here. Minister of foreign affairs entertains our body, also Spanish Commissioners, on Thursday morning at breakfast. Are advised that General Merritt will arrive on Sunday, at London. General Bates advises us that he is ordered to report here Monday next. It is sense of Commission that, in view of the arrival of General Merritt, Secretary of War had better order General Bates not to come here until requested by Commission.

DAY.

The President to Mr. Day.

[Telegram.]

WASHINGTON, *September 28, 1898.*

The order will be issued. General Greene has just arrived, and have had long talk with him. He is thoroughly well informed. If you care to have him, will direct him to report to you.

WILLIAM MCKINLEY.

Mr. Day to the President.

[Telegram.]

PARIS, *September 28, 1898.*

Your No. 1 received. Commission presented to minister for foreign affairs yesterday. Will communicate as to General Greene after we have seen General Merritt unless you wish to send him at once.

DAY.

The President to Mr. Day.

[Telegram.]

WASHINGTON, *September 28, 1898.*

Will await request of Commission before sending General Greene. Merritt will have note from Dewey.

WILLIAM MCKINLEY.

The President to Mr. Day.

[Telegram.]

WASHINGTON, *September 29, 1898.*

Present my congratulations to the Commissioners upon their safe arrival in good health and the auspicious beginning of their important work.

WILLIAM MCKINLEY.

Mr. Day to the President.

[Telegram.]

PARIS, *September 30, 1898.*

Minister for foreign affairs gave joint entertainment yesterday to the two Commissions. Passed off very agreeably. Meet for business to-morrow. Commissioners will be presented to the President of France on Tuesday. Can you send word of greeting to him to be delivered at our presentation?

DAY.

The President to Mr. Day.

[Telegram.]

WASHINGTON, *September 30, 1898.*

Answering your telegram of to-day, I request you to deliver to President of the Republic on the occasion of your presentation the following message in my name:

His Excellency FÉLIX FAURE,
President of the French Republic, Paris:

On this occasion, when the Commissioners of the United States and Spain are about to assemble in the capital of France to negotiate peace, and when the representatives of this Government are receiving the hospitality and good will of the Republic, I beg to tender to you a most friendly personal greeting and the assurances of my grateful appreciation of your kind courtesies to the American Commissioners.

WILLIAM MCKINLEY,
President of the United States.

President Faure to President McKinley.

[Telegram.]

PARIS, *October 4, 1898.*

His Excellency MCKINLEY,
President of the United States:

I have had great pleasure in receiving the American plenipotentiaries of the Spanish-American Peace Commission. During the audience Mr. Day read to me the telegram which you had the kindness to send me. I am much touched at the sentiment which your excellency has had the goodness to express in respect to me, and I thank you very much. I hope that the American Commissioners will have a pleasant memory of their stay in Paris, and I will do my best to make it agreeable. I sincerely trust that the peaceful work of the Commission will come to a happy conclusion.

FÉLIX FAURE.

Mr. Day to the President.

[Telegram.]

PARIS, *October 1, 1898.*

At our first meeting to-day the Spanish Commissioners, by instruction of their Government, presented as preliminary to any discussion of a treaty a written communication basing on Article VI of the protocol a demand that the American Commissioners join them in declaring that the status quo in the Philippine Islands existing at the time of the signing of the protocol must be immediately restored by the contracting party that may have altered it or have consented or failed to prevent its alteration to the prejudice of the other. Spanish communication represents that status quo has been altered and continues to be altered to prejudice of Spain by Tagalo rebels, whom it describes as an auxiliary force to the regular American troops, and demands that Commissioners jointly declare that American authorities in Philippine Islands must at once proceed completely to restore status quo in territories they occupy and refrain from preventing restoration thereof

by Spain in territory not occupied by United States. Spanish Commissioners ask for an answer on Monday next.

We propose to reply that these demands having been presented to the Government of the United States, were answered by notes of the Department of State to French embassy of September 5 and 16, and that any further demands as to military operations in the Philippine Islands must be addressed to Government at Washington, and consequently that we can not join in the proposed declarations. We await instructions.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 1.] PARIS, *October 3, 1898.*

Our answer submitted to Spanish commissioners declining to join in declarations as to restoration status quo in Philippine Islands on grounds stated in our telegram October 1, well received by them. We then submitted articles of the treaty covering Cuba, Puerto Rico, and other islands in West Indies and Guam as provided in protocol. They asked until Friday to consider them. Adjourned to Friday afternoon. Hear Merritt to-morrow.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 2.] PARIS, *October 4, 1898.*

The opinions of Admiral Dewey, in the possession of the commission, seem to favor retention of Luzon alone, but appear to have been given in answer to question as to which island in Philippine Islands the United States should retain. If this assumption is correct will you, if it is deemed advisable, ascertain by telegraph through proper channel, and telegraph us whether Admiral has formed an opinion and, if so, what it is on the question whether it would be better for United States to retain Luzon and perhaps one or two small adjacent islands or the whole group?

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 5, 1898.

The President on the 13th August requested Dewey's opinion on relative desirableness of the several islands to which he made brief reply by cable which you have seen. Later the President asked him to communicate to Merritt his views on general question of Philippines. His report in your hands is in response to both questions.

HAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 6, 1898.

The following telegram has been received here from the chairman of the American commissioners in Cuba:

HAVANA, *October 5, 1898.*

Joint session of commissions developed irreconcilable differences, Spanish commission, under instructions from their government, holding first that Spanish sovereignty will remain paramount in Cuba until Spain, in treaty about being negotiated in Paris, has relinquished the same and treaty has been concluded, ratified, and proclaimed.

Second. When Spain has relinquished sovereignty in the manner just stated, then so much of fourth article as provides for immediate evacuation becomes effective; that this evacuation is solely a military operation.

Third. That dates originally given by them under which evacuation is to be completed, April 1, next year, are by them adhered to.

Fourth. That rule of capture does not apply to territory now occupied by Spanish troops; that they are therefore permitted to take with them not only all movable property, but also all guns and their mountings from fortifications and fixed batteries, as well as machinery from navy-yards and arsenals; in fact, everything of material of war which can be moved. We have dissented from all of these propositions, holding:

First. That under terms of protocol relinquishment of sovereignty is a condition precedent to negotiations for peace at Paris.

Second. That under protocol article 4 became effective on its date, August 12; that the term "to evacuate" is not restricted in its meaning as used in the protocol to a military evacuation, and that to immediately evacuate means to at once abandon possession of by withdrawing from the country not only the military, but also the government authority of Spain.

Third. That we insist upon December 1 next as date for concluding evacuation by Spanish troops.

Fourth. That under Spanish law all movable things constructed or destined for the permanent use or service of immovable property become immovable property; that fortifications and fixed batteries are immovable property; that, therefore, guns and their mountings and other things intended for permanent use or service of such fortifications are necessarily fixtures, and hence immovable property, and likewise machinery and other like fixtures in navy-yard or arsenal.

Spanish commission all made point that surrender of sovereignty at various points at various times would cause confusion in matter of tariff and in collecting internal and other duties.

We replied we had considered that subject, and were prepared to assume responsibility for proper collections when our troops occupy island.

Spanish commission has appealed to Madrid for instructions upon points stated. We submit foregoing differences for your action and further instructions. Spanish commission have heretofore assured us that within period by them stated they will proceed as rapidly with the embarkation of their troops as circumstances and facilities will permit, and they stated to-day that up to this time they are promised twenty-seven ships, most of them on the way.

WADE, *Chairman.*

To this the President made the following reply:

WADE, *Habana.*

Your message of October 5, giving the differences between the Spanish commissioners and yourselves, is received. Their claims are wholly inadmissible, and yours are in strict accordance with the protocol and the instructions heretofore given, and must be adhered to. WILLIAM MCKINLEY.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 3.] PARIS, *October 6, 1898.* (Received October 7.)

General Merritt brings statements from General Greene, Surgeon Bourns, Major Bell, Admiral Dewey, Colonel Jewett, personal opin-

ions of Belgian Consul André, at Manila, and correspondence of our military officers with Aguinaldo. Needless to summarize the statement of Greene, who is in Washington. Bourns several years in the Philippine Islands and opinion much relied on by Merritt. Thinks if a few ambitious insurgent chieftains could be disposed of, masses of natives could be managed by United States. Considers natives incapable of self-government because of lack of good examples, lack of union in Luzon and throughout archipelago, and existence of race, tribal, and religious differences. Natives united against Spain. Strong feeling against monastic orders, but not against church itself. Natives in Luzon are Catholics and well disposed toward the Jesuits. Islands as whole rich and productive; climate good as any in tropics.

Major Bell estimates insurgent forces upwards 20,000. Aguinaldo the most popular leader, but maintains control with difficulty. Some of his leading men dishonest and many wealthy natives opposed to him. Natives of Manila generally opposed to insurrection. Petty chiefs get money by blackmail and booty. Aguinaldo and his leaders will resist any attempt to reorganize a colonial government, but want native republic under American or other protectorate except Spanish.

Admiral Dewey sends only copy of report sent to President by Greene.

Colonel Jewett thinks natives would submit to any just, firm government, but unfit for self-government. Insurrection did not aim at national independence. Spain can not in the near future protect life and property in Luzon, nor could insurrectionary government sustain itself there. United States territorial form of government not practicable at present.

Belgian consul, according to Merritt, who gives much weight to his opinion, is intelligent man, wealthy, and largely interested in business and discloses business man's point of view. Consul says United States must take all or nothing. If southern islands remained with Spain they would be in constant revolt and United States would have a second Cuba. Spanish Government would not improve. Power and corruptions of officeholders would continue. Spanish governors would still protect monks in their extortions. Insurrection began among lower classes, who make good soldiers. Since arrival of American forces certain members of native upper classes have joined rebels. Native character insincere. Upper classes include usurers, pawnbrokers, and keepers of gambling houses, who will not risk their capital in rebellion, and who would be glad to have American protection against insurgent demands for money. Rich natives treat laborers inhumanly. Custom on plantations all over islands is to get workmen into debt and then hold them practically as slaves, and even transfer them with estates. Spanish Government always tolerated and protected this system. Enormous difference between even best educated natives and white men. * * Chinese natives join sordidness and craftiness, and are rapacious pawnbrokers. Spanish natives join presumption to duplicity. On (the) whole natives inferior and unfitted to rule. Their only example the monks and Spaniards. United States should have pity on them (and) show them something better. Under United States islands would increase in wealth and soon return any money laid out. Even Spanish merchants desire American protection. Natives do not desire independence. Present rebellion represents only half of 1 per centum of inhabitants. Only 30,000 rebels. Luzon only partly held

by them. The monks want to get away. Natives will resist Spaniards, but submit to United States.

General Anderson, in correspondence with Aguinaldo in June and July, seemed to treat him and his forces as allies and native authorities, but subsequently changed his tone. General Merritt reports that Admiral Dewey did not approve this correspondence and advised against it. Merritt and Dewey both kept clear of any compromising communications. Merritt expresses opinion we are in no way committed to any insurgent programme.

Answering questions of Judge Day, General Merritt said insurrection practically confined to Luzon. Tribal and religious differences between the inhabitants of various islands. United States has helped rather than injured insurrection. Under no obligation other than moral to help natives. Natives of Luzon would not accept Spanish rule, even with amnesty. Insurgents would be victorious unless Spaniards did better in future than in past. Insurgents would fight among themselves if they had no common enemy. Thinks it feasible for United States to take Luzon and perhaps some adjacent islands and hold them as England does her colonies. Natives could not resist 5,000 troops. Revenues of Luzon, leaving out cock-fighting, gambling licenses, and poll tax, would more than pay expenses of government. No burden of any kind on United States and we would help the island. Chinese half-breeds the most enterprising element in the islands. Thinks we hold Manila by conquest and that the protocol did not affect the capitulation. He considered that the surrender was virtually a surrender of the Philippine Islands. He thinks it practicable and unobjectionable to hold Luzon alone where most of the rebellious feeling exists. He knows, however, little of conditions in other islands. It would require more (force?) to take and keep whole group than Luzon. Horrible stories told of monastic orders which hold most of the land in the island and oppress native tenants. Friars want United States to transport them to Honkong. No religious tolerance in the islands. Hundreds, perhaps thousands of priests in Luzon. The United States might have conflicts with the church, but not with the people.

Answering questions of Senator Davis, Merritt said several million dollars fell into American hands on capitulation of Manila. Spanish authorities extorted $2,000,000 from bank in March and never repaid it; probably spent this money or carried it away before the capitulation. Friars are mostly imported Spaniards. Native priests are popular, and probably in sympathy with insurgents. Filipinos treated prisoners well, but did not feed them well; this was unnecessary. The natives he has seen in Manila capable of assisting the United States in governing could be numbered on his fingers, but the number might increase. So far they had had no training. The islands lying between Luzon and Mindanao dependent more or less, strategically and commercially, on Luzon. This (is) his understanding, but he did not give much attention to the subject and his opinion not valuable. Manila the distributing center. Had not given consideration to the place at which Spain would set up her power if we took Luzon. Spain might govern other islands if she did not continue abuses. General Merritt thinks that if United States attempted to take possession of Luzon or all the group as a colony, Aguinaldo and his immediate followers would resist it, but his forces are divided and his opposition would not amount to

anything. If the islands were divided, filibustering expeditions might go from one island to another, thus exposing us to constant danger of conflict with Spain.

In answer to questions of Senator Fry, Merritt said insurgents would murder Spaniards and priests in Luzon and destroy their property if the United States withdrew; United States under moral obligation to stay there. He did not know whether the effect of setting up a government by the United States in Luzon would be to produce revolutions in other islands. It might cause reforms in their government. Some of the revolutionary leaders in Luzon might try to stir up rebellion in the other islands, but it would be difficult for them to fit out expeditions without our knowledge. There would be danger between the United States and Spain as there is between Germany and France over Alsace-Lorraine. Spain would want to recover what she had lost. Would not say that United States should take all or none; thought United States could not abandon Luzon. It would simplify things if United States took whole group, but whether it is not a larger undertaking than we choose to have on our hands is a question in his mind; and if there was a way of comprising it by holding on to Luzon and other such contiguous islands as we desire, thinks it would be wise to do it; would have no confidence in Spanish guarantees.

Answering questions of Mr. Gray, Merritt said consequences in case of either insurgent or Spanish triumph made it doubtful whether United States would be morally justified in withdrawing. Our acts were ordinary acts of war, as if we had attacked Barcelona, but present conditions in Philippines were partly brought about by us. Insurgents not in a worse condition by our coming. Spaniards hardly able to defend themselves. If we restored them to their position and trenches they might maintain themselves with the help of a navy when we withdrew. Did not know that he could make out a responsibility by argument, but he felt it. It might be sentimental. He thought it would be an advantage if the United States would change its policy and keep the islands. He thought our interests in the East would be helped by the cheap labor in the Philippines, costing only from 20 to 80 cents a day according to skill. United States might hold Luzon alone, but it would require larger force to protect Luzon if other powers held other islands, though it would require a larger force to protect all the islands than to protect Luzon. Thought we could manage the religious question, but it would be unwise to let Protestant missionaries go there except as educators, and that not immediately.

Answering questions of Mr. Reid, Merritt said he considered capture of Manila practically capture of group. Nothing left of Spanish sovereignty that was not at mercy of the United States. Did not think our humanity bounded by geographical lines. After Dewey's victory we armed insurgents to some extent, but Dewey says it was overestimated. Insurgents bought arms from Hongkong merchants with Dewey's cognizance, but Dewey was not in favor of allowing this to continue. Spaniards would destroy Aguinaldo and his principal followers, if allowed to do so. Spanish guaranties worthless unless enforced by bayonet. To take Luzon alone would expose us to Spain's efforts to recover what she had lost. If disorders broke out in other islands, either through Spanish misgovernment or through attempt to sell to other countries, the effect upon our possessions in Luzon would be disastrous. Prosperity of Manila has arisen partly from its being

the capital and entrepôt of the group. If we took Luzon alone and powerful European countries got other islands the trade would be deflected from Manila. A strong power holding Cebu or Iloilo would develop it at expense of Manila. Manila would become less valuable, but even in this case he thinks revenues would be sufficient to pay all expense of administration, including army and navy. Revenue of whole group would be more than adequate for government. Native forces might be used for military purposes if recruited about a nucleus of a regiment or two of our own troops. Natives glad to serve in army and could undoubtedly be depended on. A military government, following the English example of utilizing natives as far as possible, would be best for the present.

Answering Judge Day, Merritt said he had no knowledge of how natives outside Luzon would act toward United States. Thinks Luzon would be self-sustaining, except in case of foreign interference, but even then would be self-supporting.

Answering Senator Gray, Merritt said he thought the natural advantages would cause commerce to flow through its accustomed channels. It would be better for the other islands (and?) Luzon to be in the possession of a highly civilized power than to remain in their present condition. The capitulation of Manila on file in the War Department was made a part of General Merritt's statement.

DAY.

Mr. Day to the Secretary of State

[Telegram.]

No. 4.] PARIS, *October 7, 1898.*

Telegram concerning difficulties of commissioners at Habana received. Our commissioners seem to have made mistake in discussing or answering any question as to Spain's relinquishment of sovereignty over and title to Cuba. Their duties relate solely to that practical military operation of immediate evacuation. It seems to us they should have said this, instead of accepting an issue as to the time when Spanish sovereignty will be relinquished. Not of vital importance when Spain formally relinquishes her sovereignty, or whether she ever formally relinquishes it, if we are in possession. This was specific purpose of article 4 of protocol.

We meet Spanish Commissioners this afternoon and shall go forward with articles as to Cuba, Porto Rico, and Guam, without mentioning questions before commissioners at Habana.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 7, 1898.

Your No. 4 received and is satisfactory to the President. It was not to have you open the question which you have properly regarded as closed, but to have you assist if possible in the carrying out of the

terms settled by the protocol, to wit: The immediate evacuation of Cuba, Puerto Rico, and the other islands of the West Indies. The evacuation commissioners have not, so far as we are advised, discussed the relinquishment of title and sovereignty in Cuba and Puerto Rico on part of Spain; that was settled by the protocol. They have discussed only the details of evacuation. Your proposal to go forward without mentioning questions before commission at Habana is approved by the President.

HAY.

The President to Mr. Day.

[Telegram.]

EXECUTIVE MANSION,
Washington, October 7, 1898.

There are still 3,500 Spanish troops in Puerto Rico. No transports have been provided to carry them to Spain. Longer delay can not [be] permitted. Can you hasten transports? If troops can not be moved away on or before October 18, then, on that day, possession should be given to the American evacuation commission and notice should be so served. Whatever help the American Peace Commission can give in this direction should be given. The Cuban commissioners are evidently intent upon delay, and they have been notified that the evacuation must be completed by the 1st of December.

WILLIAM MCKINLEY.

Mr. Day to the President.

[Telegram.]

No. 5.] PARIS, *October 7, 1898.*

Telegram received. In view of the answer made by us on Monday last [No. 1] with your approval to Spanish proposition as to status quo in Philippines, we think we are precluded from presenting to Spanish commissioners here any question properly belonging to two Governments, or to the commissioners at Habana or San Juan. It would open to them a door which by our answer of Monday we hoped we had closed finally.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 6.] PARIS, *October 8, 1898.*

Your reply to our telegram as to Habana commissioners received. As we read telegram of Wade to Adjutant-General it seems clear that our Cuban commissioners undertook to discuss question of relinquishment of title and sovereignty and advanced a proposition in relation thereto. We understood the protocol and their instructions to restrict them to the military operation of evacuation, which was to leave evac-

uated places in military occupation of United States. We understand that questions as to relinquishment of title and sovereignty are committed to us.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 8, 1898.

Your No. 6 received. The President does not understand that our commissioners in Cuba have undertaken such discussion as you mention. But as a measure of precaution he has instructed them not to admit or discuss question of relinquishment of title or sovereignty and to restrict themselves to the military operation of evacuation. You are right in understanding that questions of relinquishment of title and sovereignty are committed to you.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 7.] PARIS, *October 8, 1898.*

Spanish Commissioners yesterday presented counter propositions consisting of seven articles and covering four long typewritten pages as to Cuba and Puerto Rico. They propose to transfer sovereignty over Cuba to the United States, which is to accept it in order at proper time to turn it over to Cuban people on conditions established in the treaty. It is proposed to include in the transfer thus made charges and obligations of every kind which Spain and her authorities in Cuba may have lawfully contracted for the service of the island or which may be chargeable to the insular treasury, including all debts, salaries, civil and ecclesiastical, and pensions, civil and military, up to the ratification of treaty. The cession of Puerto Rico is to be final, but subject to like conditions. The articles also contain stipulations as to property, archives, and other subjects.

We took adjournment till Tuesday in order to examine Spanish proposals as well as to hear Foreman, who has come at our request incognito from London, 20th. We intend at next conference to ask Spanish Commissioners to explain their counter propositions orally, but unless otherwise instructed we expect to take position at once that the Spanish proposals as to so-called Cuban charges and obligations as above described are excluded from discussion by the unconditional relinquishment of sovereignty and title pledged in the protocol of the 12th August. We also expect to stand upon language of protocol as to such relinquishment.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 8, 1898.

Your No. 7 received. Your answer to Spanish proposals as therein set forth is approved by the President.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 8.] PARIS, *October 9, 1898.*

American Commissioners examined Foreman yesterday. Went to Philippine Islands in 1880; left finally in 1896, three months after insurrection broke out; lived there eleven years, engaged in business and exploration; been over all principal islands and most of Spanish posts in Mindanao. Inhabitants vary: Tagalos of Luzon and Mindoro the most tractable and impressionable, easy, plastic, and extremely hospitable. The Visayas inhabiting central islands, Panay, Negros, Cebu, Bojol, Leyte, Samar, and Masbate, more uncouth, less hospitable, and more averse to association with outsiders. Peculiar class in Panay of Chinese half-castes who are traders and middlemen. Negros has few persons of importance; not favorite place of residence, but richest island for production of sugar; has no harbor, Iloilo, on Panay, being its entrepôt. The island of Palawan almost worthless. The inhabitants of Sulu Archipelago and Mindanao are Mussulmans; have no distinctive name; have successfully resisted repeated efforts of Spain to subdue them; not hostile to other foreigners. Spaniards hold in the island of Sulu only town of Sulu, which is often raided, and in Mindanao only several posts on the coast. No one controls interior. Manila has 400,000 inhabitants, including 60,000 Chinese, 6,000 Spaniards, 250 English, 250 to 300 Germans, 300 British Indians, a sprinkling of other foreigners, 50,000 Spanish half-castes, and rest native Tagalos. Luzon has about 1,250,000 inhabitants. Whole group has about 5,000,000 natives who have been subjected by Spaniards and are Catholics; about 1,000,000 other natives.

There are four orders of monks, Austins or Augustinos, Dominicans-Recoletos, Franciscan. The Jesuits, whose work is exclusively educational, are moral and popular.

The head of the church is archbishop, but each order has a head called the provincial, who is practically independent. The secular clergy, who are natives, claim orders not entitled to hold the incumbencies through which they control land. It seems orders originally took possession, which was afterwards confirmed by royal decrees, but have no title deeds. There is a system of land registration in islands, very recent and little used. You present proofs and eventually get certificate of title from chief of the treasury. Monks understood not to have attempted registration. They rent land, usually for three years, then raise rent so as to capitalize tenants' labor. This caused oppo-

sition and a demand for production of title deeds. Monks hold about 3 per cent cultivated lands in Luzon. Perhaps not more than six estates in group held by foreigners. Three thousand acres large estate. Friars mostly lead loose lives, get up societies called Cofradia of women whom they make servants and have at beck and call. This notorious and not concealed by monks; examples given. Priests can not appear in court, but words received as truth. Civil and military government merely servant of orders, who dictate appointment, and deposition governors, and control them even in matters of life and death. Had General Blanco removed because not bloodthirsty. Climate Philippine Islands good. No prevalent fevers as in Cuba. Light fevers, but no malaria. Best and most advanced island is Luzon. Most insurrections there because people most advanced. Insurrections caused by oppressions of monks, who have people sent from place to place for personal causes. Generally have them banished by governor-general to Mindanao. Judicial administration Philippine Islands wholly untrustworthy. Judges appointed from Spain. Persecution and corruption rife.

Important cause of native discontent is exaction [of] compulsory labor fifteen days each year. Labor commutable in money. False returns number of laborers, and corresponding exactions of money. Another cause is civil guard, Spanish officers, native men. System good, but abused. Men steal and extort from natives. Officers compel natives [to] furnish supplies, and persecute if refused. Another cause is poll tax for cédula (personal civil certificate) which every individual over 18 years must pay for and carry.

Coal in Cebu merely lignite; requires mixing. Coal in Luzon better quality, but not safe to use alone. Natives unfit for self-government. Ideas too undeveloped. Would submit to just civilized government. Separation Luzon from rest group would now create scarcity labor outside Manila, but natives of other islands, startled by freedom of Luzon, would want [to] come there, and Luzon would be cultivated and make prosperous colony. Half of island not now cultivated, and mostly virgin soil. Sugar shipped to Hongkong and Shanghai; hemp chiefly to America. Luzon has best soil for tobacco, coffee, and all island products except cane sugar.

If Spaniards retain other islands, it should be on the following conditions: Expulsion and exclusion of monastic orders, permission to natives to go and come freely, regulation of commerce by treaty, free trade between islands, and abolition of export duties. Problem of Government not complicated by taking group, but special privileges necessary for the people of Mindanao. Philippine Islands natives not troubled about religion. Native priests would not oppose the United States nor resent coming of Protestant missionaries. Government pays them salaries probably averaging 500 Mexican dollars yearly. Loss of this would not make trouble; mostly have means (of) their own. In Philippine Islands budget 1896 church got nearly $7,600,000 in gold. Pensions and allowances to persons outside Manila, such as to descendants of Columbus. Maintenance consulates far east consumed nearly $600,000. Highways and public works nothing. Priests exact about one million yearly for marriages, sale indulgences, feasts, etc., and indirectly a tax of about 24 cents on every one in parish. The Government levies taxes from $5 to $250 on all businesses; runs lottery; licenses cock fighting; imposes stamp tax. Corrupt exactions in the settlement of estate. Cock fighting should be tolerated. Native life

dull, amusement necessary. Spanish promises of reform would not be fulfilled. Would be interpreted broadly. Broke agreement with Aguinaldo. If monks left, natives would claim land; orders would claim it collectively as corporations. Harbor in north of Luzon called Apurri, 323 miles from Hongkong, could be made very good. Subig Bay commercially objectionable, because land about it is hilly and rises abruptly from sea; but this is an advantage for national defense. Mindoro Island thinly populated, its developement always opposed by Spaniards. Fine hard wood there. To take Luzon and leave other islands to Spain unconditionally would tend to produce revolutions. To take Luzon require free ingress and egress, create interisland free trade, and forbid Spain to alienate other islands would be almost same as taking the whole, and confer favor on Europe. To take all would square itself. Expenses would be greater, but income also. Enough soldiers to protect group could be recruited in the islands. Exclusive of Mindanao, thinks alienation other islands by Spain should be prevented—to keep out Germany, the great trade rival of Great Britain, to-day, and of United States in next generation.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 9.] PARIS, *October 12, 1898.*

Joint Commission met yesterday. We presented paper rejecting Spanish articles as to Cuba and Puerto Rico. Spanish Commissioners then filed under the rules a memorandum giving reasons in support of their position on Cuban debt and now insist upon relinquishment and transfer of sovereignty to United States which is to accept it without any express obligation to transfer it to the Cuban people. On Cuban debt we shall insist upon our original position. A majority favor adherence to words of Article I of protocol as to relinquishment of sovereignty over Cuba. Senator Gray in favor of accepting sovereignty unconditionally in view of our already expressed declaration of trust in regard to same, and that we may thereby avoid future complications with Cubans claiming sovereignty while we are in process of pacifying island and restoring order in accordance with our own ideas. We desire instruction on this point. We shall, unless other wise instructed, insist upon disposition of matters in first and second articles of the protocol before taking up Article III. We meet again on Friday.

Wednesday afternoon.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 13, 1898.

The President sees no reason for departing from instructions already given, but many reasons for adhering strictly to terms of protocol concerning Cuba. We must carry out the spirit and letter of the resolution of Congress. The Commission will use its own best judgment as to pressing to definite conclusions.

Thursday afternoon.

HAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 14, 1898.

The Secretary of the Navy has just received the following telegram from Admiral Dewey, which is communicated for your information:

It is important that the disposition of the Philippine Islands should be decided as soon as possible and a strong government established. Spanish authority has been completely destroyed in Luzon, and general anarchy prevails without the limits of the city and bay of Manila. Strongly probable that islands to the south will fall into same state soon. Distressing reports have been received of inhuman cruelty practiced on religious and civil authorities in other parts of these islands. The natives appear unable to govern. DEWEY.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 10.] PARIS, *October 17, 1898.*

Joint conference this afternoon. Spanish Commissioners stated that (they) were ready to withdraw articles previously presented by them on Cuba and Puerto Rico and substitute for them others more nearly in conformity with language of the protocol. The American Commissioners, availing themselves of this opportunity, immediately presented a paper previously prepared by them, in which they stated that, while accepting all responsibilities for the protection of persons and property which might legally and justly attach to the United States during the occupation of Cuba, they must again and finally decline to assume burden of the so-called Cuban debt, either for the United States or Cuba, and offered to substitute, for articles previously presented by them, articles embodying precise language of the first and second articles of the protocol as to Cuba, Puerto Rico, and Guam. Spanish Commissioners desired opportunity to consider proposal and conference adjourned till Wednesday afternoon.

Monday evening, 8.30.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 11.] PARIS, *October 17, 1898.*

Spanish Commissioners at conference to-day brought to our notice telegram from their Government, stating it had information that *Iowa* and *Oregon* and reenforcements of troops are going to Manila; also that Tagalo rebels have in their possession a large number of Spanish prisoners, civil as well as military. The Spanish Commissioners made no protest, but merely asked us to communicate reports to our Government and represent that such things tend to create a state of public feeling which might embarrass the negotiations.

We answered that, in absence of information or instructions on the subject which properly belonged to two Governments, we would communicate reports to our Government. We made this promise more readily in view of Admiral Dewey's telegram. We feel importance of preserving, so far as possible, condition of things existing at the time of signing protocol.

Spanish Commissioners said their Government hoped Spanish prisoners referred to might be liberated or turned over to American authorities.

We venture to suggest that it might be advisable for our Government to do anything it properly can to prevent change of status quo in Philippine Islands or development there of disorders which may seem to warrant active measures by Spain or other Governments. Might not our Government in reply to representations which it has received or probably will receive from Spanish Government offer to take more active and positive measures than heretofore for preservation of order and protection of life and property in Philippine Islands?

Monday, 8.30 evening.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 12.] PARIS, *October 19, 1898.*

The conference which was to have taken place to-day postponed till Friday, on request of Spanish Commissioners.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 19, 1898.

The following telegram has been received to-day by Secretary of War:

MANILA, *October 19.*

ADJUTANT-GENERAL, *Washington*:

Situation Luzon somewhat improved. Influence of Philippinos of education and property not desiring independent government, but hostile to Spain gaining ascendency in revolutionary councils. Believe Spanish residents constantly plotting to inaugurate hostilities between our forces and insurgents. Freedom press permitted, but greatly abused; many articles published entirely devoid truth, have no effect here. Insurgent authority crude, information and application acknowledged by inhabitants in two-thirds Luzon, north. Aguinaldo moderately recognized. Will make endeavors to gain possession of Spanish priests; now treated better than formerly. Do not anticipate trouble with insurgents; promise nothing but enforcement of law, and no encouragement given for American assistance or protection in southern islands; Spanish authority precarious, confined mostly to stations of Cebu; insurgents there not allied to those in Luzon, appear determined to resist Spanish rule, would welcome that of United States. These complications seriously affect interisland commerce and diminish revenue; receipts half million Mexican monthly. Affairs progressing favorably, though sick report increasing, owing mostly to carelessness enlisted men; health of officers good; condition of city and facilities for quartering troops improving. Fevers decreasing; intestinal troubles about same; many slight ailments; smallpox apparently arrested; during month 28 deaths; 8 smallpox, 8 typhoid fever, 5 malarial and intestinal complaints, 3 accidental. *Otis.*

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 13.] PARIS, *October 22, 1898.*

At meeting yesterday Spanish Commissioners rejected our articles in which we tendered, in exact terms of protocol, relinquishment of sovereignty in Cuba and cession of Puerto Rico and Guam. They submitted new articles relinquishing sovereignty over and title to Cuba, making United States accept said relinquishment and receiving Cuba to lend it aid and guidance, hold and govern until pacification realized, then leave control and government to Cuban people. United States to assume all debt not peninsular but properly and peculiarly Cuban, character and amount to be determined by mixed commission to be provided for in treaty. Other articles not materially different, except they declare cession Puerto Rico and other West India islands and Guam (to be) compensation for losses and expenses occasioned United States by the war and for claims of United States citizens by reason of injuries and damages suffered in person and property during the Cuban insurrection. Unless otherwise instructed we shall reject these articles and insist upon our articles in terms of protocol and press matters on these points to a conclusion. Our probable line of procedure, if you do not disapprove and if we think the emergency has arisen, will be to repeat that our position on Cuban debt is final, and that if now again rejected nothing is left to us excepting to give notice of only one more meeting to close the protocol.

Saturday, 12.30 afternoon.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 14.] PARIS, *October 22, 1898.*

In telegram this morning we stated intention to stand strictly on articles of the protocol. We have since read translation of the written memorandum, in which Spaniards make a point that we are unwilling to assume in treaty any responsibility for the protection of life and property during our occupation of Cuba, or to engage to give aid and guidance to Cuba as promised in our note of 30th of July. Under the circumstances we deem it important, while refusing to assume Cuban debt, to express readiness to incorporate in treaty properly guarded stipulations, acknowledging and assuming any legal responsibility to which we are by our own declarations and course of conduct committed. We meet Spaniards Monday 2 p. m., and desire instructions.

Sunday, 1.30 a. m.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 23, 1898.

Your Nos. 13 and 14 received. Your position as to Cuban debt and your proposed procedure in accordance with engagements of note of July 30 are fully approved.

HAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 24, 1898.

The following telegram has been received by the President from Habana:

OCTOBER 23, 1898.

Believe it not possible under existing circumstances for Spain to complete military evacuation before January 1. From unofficial information have reason for believing that agreement with Spanish Commission may be reached in fixing date. This not to interfere with our taking possession at earlier date in event of completion of evacuation before that time. This statement made for your information and such direction as you may wish to give.

WADE, *Major-General.*

To this the President to-day made the following reply:

Answering your message of October 23, you can fix January 1, 1899, for Spain to complete the military evacuation, but it should be done by that time; this date not to interfere with our occupation of such places as may be evacuated at an earlier date or which may require to occupy for military reasons. You must continue to insist that no fixed artillery or military or naval armament shall be removed or disposed of.

WILLIAM MCKINLEY.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 15.] PARIS, *October 25, 1898.*

At conference yesterday we again informed Spanish Commissioners that United States would not subdivide so-called Cuban debt. Spanish Commissioners then intimated they were willing to meet American Commissioners as to relinquishment of sovereignty over Cuba if some responsibility for such debt was acknowledged. We insisted upon our position and finally asked whether they would refuse to sign any articles unless such acknowledgment was made. To this question the Spanish Commissioners asked time for reply, and we adjourned till 4 o'clock p. m. on Wednesday. Would you approve an article in treaty which should provide that the United States, while not contracting any independent liability of its own, would use its good offices with any people or government possessing sovereignty in Cuba for acknowledgment of any debts incurred by Spain for existing internal improvements of a pacific character in the island? A mixed commission to be appointed to ascertain whether any such debts exist, and if so, their amount. This would necessarily be a precedent for Puerto Rico, Guam, and Philippine Islands. Commissioners may feel inclined to make this concession on strength of precedents and statements of publicists as to passing of local debts or debts incurred specially for benefits of transferred territory. We hope for reply before meeting again.

Tuesday, 5.15 afternoon.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 25, 1898.

Answering your No. 15, the President directs me to say that under no circumstances will the Government of the United States assume any part of what is known as the Cuban debt, which is fully described in the memorandum of the American Commissioners marked "E," received this morning, nor would the United States engage to use its good offices to induce any government hereafter to be established in Cuba to assume such debt. It is not believed that there are any debts outstanding incurred by Spain for existing improvements of a pacific character. It should be made clear what is meant by such improvements and what is included. The President regards it as most desirable that in the present negotiations you should adhere strictly to the terms of the protocol. If this proves impossible, you will ascertain as definitely as you can the exact meaning of their suggestions as to local Cuban debt and the evidences thereof and report to the President with your recommendations.

HAY.

Peace Commissioners to Mr. Hay.

[Telegram.]

No. 16.] PARIS, *October 25, 1898.*
(Received on 25th and 26th.)

Differences of opinion among Commissioners concerning Philippines are set forth in statements transmitted herewith. On these we request early consideration and explicit instructions. Liable now to be confronted with this question in joint commission almost immediately.

DAY.

Information gained by Commission in Paris leads to conviction that it would be naval, political, and commercial mistake to divide the archipelago. Nearly all expert testimony taken tends to this effect. As instructions provide for retention at least of Luzon, we do not consider question of remaining in Philippine Islands at all as now properly before us. We therefore ask for extension of instructions.

Spain governed and defended these islands from Manila; and with destruction of her fleet and surrender of her army we became as complete masters of the whole group as she had been, with nothing needed to complete the conquest save to proceed with the ample forces we had at hand to take unopposed possession. The Ladrones and Carolines were also governed from the same capital by the same governor-general.

National boundaries ought to follow natural divisions, but there is no natural place for dividing the Philippines.

There is hardly a single island in the group from which you can not shoot across to one or more of the others. Scarcely another archipelago in the world in which the islands are crowded so closely together and so interdependent. Military and naval witnesses agree that it would be practically as easy to hold and defend the whole as a part.

Some say easier; all say safer. Agree, too, that ample and trustworthy military force could be raised among natives, needing only United States officers and a small nucleus of United States troops; also that islands could be relieved from oppressive Spanish taxation and yet furnish sufficient revenue for the whole cost of administration and defense.

Great danger must result from division. Other islands, seeing benefits from our government of Luzon, are sure to revolt, and to be aided and encouraged by natives of Luzon, thus repeating, in more aggravated form, our troubles with Spain about Cuba. Visayas already in revolt. Division would thus insure lawlessness and turbulence within gunshot of our shores, with no prospect of relief unless in Spanish sale of islands to unfriendly commercial rivals, which would probably happen if we hold the most important—Luzon—and release the others.

Generally expected now that this would be attempted the moment we released them. If such sale or transfer is to be made at all, would be less dangerous to our interests if done by us rather than by Spain. If we do not want the islands ourselves, better to control their disposition—i. e., to hold the option on them rather than to abandon it. Could then at least try to protect ourselves by ample treaty stipulations with the acquiring powers.

Commercially, division of archipelago would not only needlessly establish dangerous rivals at our door, but would impair value of part we kept. Present prosperity of Manila depends on its being natural center of import and export trade for the whole group. Large part of its business derived from Iloilo, Cebu, and other points in south. To yield these to unfriendly rivals would be to provide beforehand for diversion of business from our own possessions.

Moral obligations not to return Manila and Luzon to the oppressive power from which we have relieved them applies also to the rest of the archipelago, since Spanish power there is now broken and can not be restored without our consent. We believe public opinion in Europe, including that of Rome, expects us to retain whole of the Philippines, and would prefer that to any other solution save the impossible one of restoration of Spanish power over all the islands.

If a division should be insisted on, the only one that seems to us admissible would be by a line from the Straits of San Bernardino, south of Masbate and north of Panay, to the northeast corner of Borneo, leaving to the United States all to the westward, including Luzon, Mindoro, and Palawan. This would control the China Sea, and give excellent ports of call along the whole line from Borneo to Hongkong. But it would throw away the Visayas, including the best sugar, hemp, and tobacco islands. These contribute a large part of Manila's trade, and are inhabited generally by a people nearly as easy to manage as those of Luzon.

We are convinced that much injustice has been done inhabitants in published accounts of their character. Even the Mohammedans of Mindanao and the Sulu Archipelago, if left enjoyment of religious liberty and given freedom from oppressive taxation, would be found less intractable, in opinion of the experts, than under the rule of Spain; while the others would be comparatively easy to control, and glad to welcome strong and just rule of United States.

(Signed) CUSHMAN K. DAVIS.
WILLIAM P. FRYE.
WHITELAW REID.

(2) I am unable to agree that we should peremptorily demand the entire Philippine group. In the spirit of our instructions, and bearing in mind the often declared disinterestedness of purpose and freedom from designs of conquest with which the war was undertaken, we should be consistent in our demands in making peace. Territory permanently held must be taken as war indemnity, and with due regard to our responsibility because of the conduct of our military and naval authorities in dealing with the insurgents. Whether this conduct was wise or unwise is not now important. We can not leave the insurgents to mere treaty stipulations or to their unaided resources, either to form a government or to battle against a foe which, unequal to us, might readily overcome them. On all hands it is agreed that the inhabitants of the islands are unfit for self-government. This is particularly true of Mindanao and the Sulu group.

Only experience can determine the success of colonial expansion upon which the United States is entering. It may prove expensive in proportion to the scale upon which it is tried with ignorant and semi-barbarous people at the other side of the world. It should, therefore, be kept within bounds. Accepting Luzon, strategic advantage, as shown by high naval authority, may require cession of that part of the group lying north and west of a line drawn through San Bernardino Strait, south of Luzon to San Bernardino Islet, and thence by the Naranjos Islands and certain courses and distances to Tambisan Island, on the northeast coast of Borneo, conveying to the United States Luzon, Mindoro, Palawan, and various other islands, thus controlling the entrance to China Sea, with additional harbors and ports of call.

The objection that other islands will be acquired by European powers without regard to our interests can be obviated by treaty stipulation for nonalienation without the consent of the United States. There should also be stipulations for absolute freedom of trade and intercourse among all the islands of the group. This gives us practical control of the situation, with a base for the navy and commerce in the East, and responsibility for the people to whom we owe obligation and those most likely to become fit for self-government. It affords an opportunity for lessening the burden of colonial government, with room for further expansion if desired. It does not leave us open to the imputation of following agreement to negotiate with demand for whole subject-matter of discussion ourselves.

(Signed) WILLIAM R. DAY.

(3) The undersigned can not agree that it is wise to take Philippines in whole or in part. To do so would be to reverse accepted continental policy of country declared and acted upon throughout our history. Propinquity governs case of Cuba and Puerto Rico. Policy proposed introduces us into European politics and the entangling alliances against which Washington and all American statesmen have protested. It will make necessary a navy equal to largest of powers, a greatly increased military establishment, immense sums for fortifications and harbors, multiply occasions for dangerous complications with foreign nations, and increase burdens of taxation. Will receive in compensation no outlet for American labor in labor market already overcrowded and cheap, no area for homes for American citizens—climate and social conditions demoralizing to character of American youth. New and disturbing questions introduced into our politics, church question menacing. On whole, instead of indemnity—injury. Undersigned can not agree that any obligation incurred to insurgents is paramount

to our manifest interests. Attacked Manila as part of legitimate war against Spain. If we had captured Cadiz and Carlists had helped us, would not owe duty to stay by them at conclusion of war. On contrary, interest and duty would require us to abandon both Manila and Cadiz. No place for colonial administration or government of subject people in American system.

So much from standpoint of interest. But even conceding all benefits claimed for annexation, we thereby abandon the infinitely greater benefit to accrue from acting the part of a great, powerful, and Christian nation; we exchange the moral grandeur and strength to be gained by keeping our word to nations of the world and by exhibiting a magnanimity and moderation in hour of victory that becomes the advanced civilization we claim, for doubtful material advantages and shameful stepping down from high moral position boastfully assumed. We should set example in these respects, not follow in the selfish and vulgar greed for territory which Europe has inherited from mediæval times. Our declaration of war upon Spain was accompanied by a solemn and deliberate definition of our purpose. Now that we have achieved all and more than our object, let us simply keep our word. Third article of protocol leaves everything concerning control of Philippines to negotiation between the parties. Absurd now to say that we will not negotiate, but will appropriate whole subject-matter of negotiation. At the very least, let us adhere to President's instructions, and if conditions require the keeping of Luzon forego the material advantages claimed in annexing other islands—above all, let us not make a mockery of the injunction contained in those instructions, where, after stating that "we took up arms only in obedience to the dictates of humanity and in the fulfillment of high public and moral obligations," and that "we had no design of aggrandizement and no ambition of conquest," the President, among other things, eloquently says: "It is my earnest wish that the United States in making peace should follow the same high rule of conduct which guided it in facing war. It should be as scrupulous and magnanimous in the concluding settlement as it was just and humane in its original action." This and more, of which I earnestly ask a reperusal, binds my conscience and governs my action.

(Signed) GEORGE GRAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 26, 1898.

The information which has come to the President since your departure convinces him that the acceptance of the cession of Luzon alone, leaving the rest of the islands subject to Spanish rule, or to be the subject of future contention, can not be justified on political, commercial, or humanitarian grounds. The cession must be of the whole archipelago or none. The latter is wholly inadmissible, and the former must therefore be required. The President reaches this conclusion after most thorough consideration of the whole subject, and is deeply sensible of the grave responsibilities it will impose, believing that this course will entail less trouble than any other, and besides will best subserve the interests of the people involved, for whose welfare we can not escape responsibility.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 17.] PARIS, *October 27, 1898.*

Pursuant to offer approved by you and afterwards made by us to Spanish Commissioners, we contemplate insertion in the treaty, unless otherwise instructed, of the following clause:

The United States assumes and will discharge the obligations resting upon it under international law for the protection of life and property in the island of Cuba during its occupation thereof.

DAY.

Mr. Day to Mr. Adee.

[Telegram.]

Special (No. 17 A).] UNITED STATES PEACE COMMISSION,
Paris, October 27, 1898.

(For the President.)

Our telegram No. 15 to Secretary of State Hay informs you of the question put by us to Spanish Commissioners Monday. Last night Spanish ambassador called upon Mr. Reid. Represented that Spanish Commissioners must break off treaty rather than answer it in such wise as to abandon their claims on Cuban debt unless they could get some concession elsewhere. Mr. Reid assured ambassador that we could not assume this debt. The American people and Commission absolutely united upon it without exception and without distinction of party. Ambassador then urged the question to be laid aside until it could be seen if some concessions elsewhere might not be found which would save Spanish Commission from utter repudiation at home; if not, rupture was inevitable. Montero Rios could not return to Madrid now if known to have accepted entire Cuban indebtedness. Mr. Reid said Commissioners insisting on settlement of Cuban business now. Ambassador again said that if forced to direct answer on the question now must answer no, and break off conference. Mr. Reid earnestly urged them not to take that course, declaring that it must be far worse for Spain. Ambassador then begged him to search for some possible concession somewhere, and inquired about Philippine Islands. Mr. Reid said at first the American people not very eager for them. Believe, however, had practically conquered them when conquered capital, sunk fleet, and captured arms; and had right to all of them. Preponderance of sentiment in favor of the taking all, but respectable and influential minority which did not go to that length. It was possible, he said, but not probable, that out of these conditions the Spanish Commissioners might be able to find something either in territory or debt which might seem to their people at home like a concession. To-day Spanish Commissioners presented document (now being translated) which, we understand, accepts articles proposed by us, subject to agreement in final treaty, and invite proposals as to Philippine Islands fom us. After meeting, Spanish secretary said to me that they accepted our articles in the hope of liberal treatment in Philippine Islands; said no government in Spain could sign treaty giving up everything and live, and that such surrender without some relief would mean national bankruptcy. He made further appeal, to which I made no answer, except to receive

his communication. We shall now be in position to take up Philippine Islands matter. We deem it proper that you should know exact situation before sending conventional instructions on Philippine Islands. We are inclined now to believe that rupture to-day only averted because Spaniards grasped at hint thrown out in the conversation of Mr. Reid last night with ambassador.

Thursday morning, 3.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 18.] PARIS, *October 27, 1898.*

At meeting to-day Spaniards accepted our last draft articles 1 and 2 as to Cuba, Puerto Rico, and Guam in exact language of protocol, expressly subject to agreement being reached on all the articles which treaty should contain. Then asked when we should be ready to proceed to question of Philippine Islands, and on our motion adjournment had till Monday for that purpose. Tuesday and Wednesday following being religious holidays, understood if not ready Monday can have what further time desired.

Thursday, 4.30, afternoon.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 28, 1898.

While the Philippines can be justly claimed by conquest, which position must not be yielded, yet their disposition, control, and government the President prefers should be the subject of negotiation, as provided in the protocol. It is imperative upon us that as victors we should be governed only by motives which will exalt our nation. Territorial expansion should be our least concern; that we shall not shirk the moral obligations of our victory is of the greatest. It is undisputed that Spain's authority is permanently destroyed in every part of the Philippines. To leave any part in her feeble control now would increase our difficulties and be opposed to the interests of humanity. The sentiment in the United States is almost universal that the people of the Philippines, whatever else is done, must be liberated from Spanish domination. In this sentiment the President fully concurs. Nor can we permit Spain to transfer any of the islands to another power. Nor can we invite another power or powers to join the United States in sovereignty over them. We must either hold them or turn them back to Spain.

Consequently, grave as are the responsibilities and unforeseen as are the difficulties which are before us, the President can see but one plain path of duty—the acceptance of the archipelago. Greater difficulties and more serious complications, administrative and international, would follow any other course. The President has given to the views of the Commissioners the fullest consideration, and in reaching the conclu-

sion above announced, in the light of information communicated to the Commission and to the President since your departure, he has been influenced by the single consideration of duty and humanity. The President is not unmindful of the distressed financial condition of Spain, and whatever consideration the United States may show must come from its sense of generosity and benevolence, rather than from any real or technical obligation. The terms upon which the full cession of the Philippines shall be made must be left largely with the Commission. But as its negotiations shall proceed it will develop the Spanish position, and if any new phase of the situation arise, the Commission can further communicate with the President. How these instructions shall be carried out and whether to be presented as a peremptory demand, the President leaves to the judgment and discretion of the Commissioners.

HAY.

Mr. Hay to Mr. Day.

[Telegram.—Personal.]

DEPARTMENT OF STATE,
Washington, October 28, 1898.

The instruction sent to-day about Philippines has the cordial concurrence of the seven members of Cabinet now in Washington, Long being absent in Massachusetts. Gage has written you in the same sense. Let me add your course has the warm approval of us all.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 19.] UNITED STATES PEACE COMMISSION,
Paris, October 29, 1898.

Telegraphic instructions as to Philippine Islands received. We will, unless otherwise instructed, present on Monday an article to provide for cession of the whole group, together with statement that we are prepared to insert in the treaty a stipulation for the assumption by the United States of any existing indebtedness of Spain incurred for necessary works and improvements of a pacific character in Philippine Islands.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 30, 1898.

Your No. 19 received. Your proposition to assume any existing indebtedness of Spain incurred for public works and improvements of a pacific character in the Philippines is approved.

HAY.

Mr. Frye to Mr. Adee.

[Telegram.]

PARIS, *October 30, 1898.*

(For the President.)

It seems to me that the most undesirable happening would be our return without a treaty of peace, and yet that is probable in my opinion. If the Spanish Commissioners should accede to our demands as at present outlined they could not return home, while our country it may be would not justify us in tendering any more liberal terms. Spain made a determined fight to secure concessions as to the Cuban debt, while we were persistent in our refusal to yield anything. Our articles were accepted, but provisionally, for if no final agreement is reached they too failed. It seemed to me that we might have agreed to use our good offices with any government hereafter established in Cuba to secure the assumption by it of any indebtedness incurred [in] internal improvements there, and ourselves assume any like indebtedness in the territories finally ceded to us. The amount could not be large. Might we not go further, and agree to pay Spain from $10,000,000 to $20,000,000 if thus a treaty could be secured? If no treaty then war, a continued disturbance of business, an expenditure of a million dollars a day, and further loss of life. Would not our people prefer to pay Spain one-half of war expenditures rather than indulge in its costly luxury? Europe sympathizes with Spain in this regard exactly. The correspondent of the London Times, in his yesterday's letter, criticised severely our attitude. The precedents for the last century are antagonistic to our position. Of course we will not pay debts incurred in the suppression of colonial rebellions. I do not forget that we demand no money indemnity for cost of war to us. It may be because our enemy is bankrupt. I am sorry the Carolines were not taken by us as they are infinitely more valuable than the Ladrones. If war is resumed I hope orders will be given Dewey to seize at once all of the Philippine Islands, also the Carolines.

You may be sure I should not make these suggestions if I did not regard a treaty of peace of vital importance to our country and the danger of failure to secure it gravely imminent.

Sunday, midnight.

FRYE.

Mr. Hay to Mr. Frye.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 1, 1898.

Your message marked "special" received yesterday. The President directs me to say that no one would more deeply regret than himself a failure to make a treaty of peace, and is surprised to hear from you that that result is not improbable. He hopes and believes that your negotiations can be so conducted as to prevent so undesirable a happening. He desires the Commissioners to be generous in all matters which do not require a disregard of principle or duty, and whatever

the Commissioners may deem wise and best in the matter of the debts for internal improvements and public works of a pacific character in the Philippines will receive his favorable consideration; nor does he desire the Commission to disregard well-established precedents or make any conditions which will not be worthy of ourselves and merit the approval of the best judgment of mankind. If it should be the opinion of the Commissioners that there should be paid a reasonable sum of money to cover peace improvements which are fairly chargeable to us under established precedents, he will give cheerful concurrence. The money payment, if any is determined upon, should rest solely upon the considerations suggested in your message of Sunday night. He desires that you may read this to the Commission with your message to him.

HAY.

Mr. Day to Mr. Adee.

[Telegram.]

PARIS, *November 3, 1898.*

(For the President. Special.)

After a careful examination of the authorities the majority of the Commission are clearly of the opinion that our demand for the Philippine Islands can not be based on conquest. When the protocol was signed Manila was not captured, siege was in progress, and capture made after the execution of the protocol. Captures made after agreement for armistice must be disregarded and status quo restored as far as practicable. We can require cession of Philippine Islands only as indemnity for losses and expenses of the war. Have in view also condition of islands, the broken power of Spain, anarchy in which our withdrawal would leave the islands, etc. These are legitimate factors. Have written fully.

Thursday, 11.30, morning.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 3, 1898.

The President has received your dispatch of this date and awaits your letter. Meantime, however, the question may be ultimately determined. He assumes you have not yielded the claim by right of conquest. In fact, the destruction of the Spanish fleet on May 1 was the conquest of Manila, the capital of the Philippines. The President has confidence that the Commission will be able to make a treaty on just and honorable grounds. A failure to do so would be greatly to be regretted.

HAY.

Mr. Day to Mr. Adee.

[Telegram.]

PARIS, *November 4, 1898.*

(For the President. Special.)

Telegram of November 3 from Secretary of State received. We have not yielded the claim by a right of conquest. Telegram to you on that subject was on the afternoon of discussion with Spanish Commissioners. We shall not foreclose important matters without advising you. We are doing all in our power to secure treaty in accordance with your views. In the opinion of a majority of the Commission we shall not promote this end by putting forward claim that Manila was taken by conquest on May 1. Subsequent military operations and capitulation no less than mutual acceptance of protocol preclude making demand upon that ground. Our opinion as to ineffectiveness of capitulation after protocol has already been stated.

DAY.

I think we can demand cession of the entire archipelago on other and more valid grounds than a perfected territorial conquest of the Philippine Islands, such as indemnity or as conditions of peace imposed by our general military success and in view of our future security and general welfare, commercial and otherwise. I think the protocol admits all these grounds and that the ground alone of perfected territorial conquest of the Philippine Islands is too narrow and untenable under protocol.

Friday, 3.30, afternooon.

CUSHMAN K. DAVIS.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 5, 1898.

Yours of November 4, special, and that of Senator Davis received. The President has no purpose to question the Commission's judgment as to the grounds upon which the cession of the archipelago is to be claimed. His only wish in that respect is to hold all the grounds upon which we can fairly and justly make the claim. He recognizes fully the soundness of putting forward indemnity as the chief ground, but conquest is a consideration which ought not to be ignored. How our demand shall be presented and the grounds upon which you will rest it he confidently leaves with the Commissioners. His great concern is that a treaty shall be effected in terms which will not only satisfy the present generation, but, what is more important, be justified in the judgment of posterity. The argument which shall result in such a consummation he confides to the Commission. He appreciates the difficulties and embarrassments and realizes the delicate work before you, but that the Commissioners will be able to conclude a treaty of peace satisfactorily to the country, justified by humanity and by precedent, is the belief of the President and your countrymen generally.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 20.] PARIS, *November 5, 1898.*

Spanish Commissioners, in paper presented yesterday, maintain that demand for whole Philippine Islands violates protocol, which by its terms contemplated only provisional occupation Manila and did not impair Spanish sovereignty over group. They cite circular French minister for foreign affairs of August last announcing to French ambassadors in Europe the signature of protocol and saying our demand Philippine Islands was for provisional occupation of Manila by the American forces; also clause of capitulation Manila providing for return of arms to Spanish forces on evacuation of city. They also invoke our argument that Spain is now precluded from bringing forward Cuban debt because she failed to mention it during the negotiation of protocol. They quote interviews between the President and Cambon to show that former did not intend to demand cession group, but agreed that Philippine Islands question should be subject of negotiation at Paris, and particularly his declaration that clause in protocol did not decide anything against either Government; also refer to answer in Spanish note of August 7 to demand as to Philippine Islands as showing their Government's understanding thereof, and argue that United States by omitting to deny admitted correctness of that understanding. They further maintain that nothing has occurred since signing of protocol to justify United States in enlarging demands. As to our proposal to assume debts for pacific improvements, they say archipelago burdened with debt 400,000,000 pesetas, or $40,000,000, secured by mortgages on revenues Manila custom-house, vesting in third parties of various nationalities rights which do not belong to Spain. They declare and say that they hope there will be no necessity to repeat that Spain can not and ought not, since respect for others forbids it, to agree in any treaty to anything implying impairment or suppression or even disregard of private rights of others against the will of their legitimate and special proprietors. They say there are besides unsecured colonial debts. These likewise forbid acceptance of American proposal, which involves revision of legitimate acts of internal sovereignty, the debt having been lawfully contracted. Any inquiry whether proceeds were judiciously invested is inadmissible on grounds of national self-respect or as affecting obligation of debt.

Spanish paper then discusses armistice, maintains ineffectiveness capitulation of Manila, and holds acts of military administration unlawful, such as taking public funds, collecting revenues, and controlling courts and police, and specifically complains of alleged release on September 21 of thirteen prisoners in jail for common crimes, which it describes as an unheard-of act. On points of law they cite article 140 of our instructions to armies in field, Halleck's International Law, and Field's Code, and say that, according to authorities and the protocol, treaty of peace should provide for immediate delivery of Manila to Spain, immediate release of garrison, return to Spanish Government of all funds and public property taken by American army since its occupation of place, and all taxes collected, and indemnification of Spain for damages occasioned by detentions Spanish troops resulting in spread of Tagalo insurrection and involving ill-treatment of Spanish prisoners. In conclusion, Spanish Com-

missioners invite American Commissioners to present a proposition in accordance with articles 3 and 6 of the protocol and covering obligations of United States growing out of acts of war committed after signing of protocol in seizing Manila and doing of things in excess of rights under article 3. We have word of French minister for foreign affairs that statement in his circular was oversight and will be immediately corrected. We are preparing reply to Spanish paper to be presented at next joint meeting on Tuesday afternoon.

Saturday, 6, afternoon.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 21.] PARIS, *November 9, 1898.*

In order to finish copying answer to Spanish paper on the Philippine Islands, we asked postponement of meeting yesterday from 2 to 4 o'clock p. m. Spanish Commissioners replied that they had engagement later in the afternoon and suggested postponement till 2 to-day. We met accordingly this afternoon, and presented answer. We repel Spanish assumption that we base our demands as to Philippine Islands on specific concessions in the protocol, as in the case of Cuba and Puerto Rico, but we maintain that by third article we reserved and secured full and absolute right to make demands in future, and that our present demands are justified by and are included in the terms of the protocol. We also deny that provisions of the protocol can be qualified or limited by anything in Spanish notes prior to its signature. We show by review of the negotiations and of interviews at Executive Mansion that protocol was made only because Spanish response of August 7 was unacceptable. We quote to same effect from French Yellow Book telegram of Mr. Cambon transmitting draft of protocol and saying United States had decided to state precisely (préciser) therein the terms on which negotiations for peace would be undertaken. We quote in full note of Secretary of State to Cambon of August 10, and show that our interpretation is justified by written correspondence, conversations at Executive Mansion, and terms of protocol. We go over this ground at length. We express surprise at apparent renewal of Cuban debt question so soon after it was waived. We quote their language as to not wishing to have to refer to this again, and as to not permitting any discussion of certain phases of the question, characterizing this as language unusual in diplomacy unless to convey a deliberate ultimatum. We then inquire again as to final intentions of Spanish Commissioners upon this subject. We call attention to admitted fact that considerable part of proceeds Cuban loans was expended in prosecuting war against United States, and inquire if they mean to be understood as refusing to permit any consideration of this expenditure.

We then take up the question of capitulation of Manila and maintain that our powers as occupant under the protocol are the same in all respects as to government and administration as under capitulation. In closing we refer to another aspect of capture of Manila. Noting that Spanish Commissioners complain of it as occurring a few hours after signature of protocol, we ask if just and impartial mind might

not consider why not captured before—namely through humane desire to save city and Spanish residents from dreaded vengeance of insurgents—and suggest that men to whom that humane delay was due, General Merritt and Admiral Dewey, were entitled to better treatment than their insinuation of needless slaughter and conscious violation of protocol.

Our answer covered 50 typewritten pages. Spanish Commissioners asked till Saturday to study it and reserved right to ask, if necessary, for more time. At this the next meeting we may need to outline definite and final propositions on whole question of Philippine Islands, including possible cash payments.

Wednesday evening, 9.30. DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 22.] PARIS, *November 10, 1898.*

We have information Philippines debt as follows:

Prior to insurrection August, 1896, colony paid its way by local taxes and moderate tariff. After war began captain-general instructed to draw from prosperous local banks, such as deposit bank, local savings bank, and Banco Hispano-Filipino. He also obtained advance from friars. Expenses increasing, colonial minister empowered to draw on funds raised for expenses Cuban war, which he did to the extent of 7,660,403.13 pesos or dollars. Expenses still increasing, Government was authorized by law of Cortes, 10th June, 1897, published Madrid Gazette 29th June, to grant general guaranty of nation for operations of credit which would be necessary for Philippine Islands in consequence of disturbances there. Then royal decree 28th June, 1897, authorized colonial minister to issue four hundred thousand hypothecated bonds of Philippine Islands treasury at 6 per cent, redeemable at par in forty years, with special guaranty of Philippine Islands revenues and general guaranty of Spanish nation. The issue consists of one series of two hundred and fifty thousand bonds of five hundred pesetas each, and another of one hundred and fifty thousand bonds of one hundred pesos each. First series reserved for issue in Spain; two hundred thousand immediately placed and fifty thousand kept back by minister for the colonies and placed later on, also in Spain. Second series intended for Manila, part to reimburse advance and rest to be placed there. This loan produced 38,570,494.27 pesos net. Madrid Gazette, 20th October, 1898, shows that of this sum 19,891,800.60 were used for war in Philippine Islands; 7,660,403.13 reimbursed to Cuban treasury, and 10,938,477.02 advanced to same, leaving balance 13th June, 1898, to credit of Philippine Islands treasury of 79,813.50 pesos. Nothing in Gazette or other official document shows any part of this loan applied to purely local purposes or objects of utility. It is said that not 5 per cent of Philippine Islands bonds have been placed outside of Spain and colonies, and of fifteen million intended for Manila between ten and eleven million actually placed there and rest returned to Spain and placed easily, chiefly in Barcelona.

You may expect very shortly a telegram embodying views of American Commissioners on Philippine Islands question.

DAY.

American Peace Commissioners to Mr. Hay.

[Telegram.]

No. 23. Special.] PARIS, *November 11, 1898.*

Our Commissioners desire definite instructions as to Philippine Islands as soon as practicable. The following statements embody individual expression of their views upon the subject.

(Signed) MOORE.

(1) Holding the view that the Philippine Islands group is likely to prove a burden rather than a benefit to the United States, I would minimize our holdings there to the lowest point consistent with our obligations. This view I undertook to express in my telegram of October 25. Our advantage is a naval and commercial base in the East. More than this we should not seek. Our obligations seem to require us to take Luzon and islands so near as to be essential thereto. Assuming that the President and Cabinet have determined to take the whole group, then I believe we will be justified in paying lump sum, say fifteen millions, recognizing that we are dealing with a bankrupt people; that Spain loses her colonies, the revenues of which are charged with outstanding debts, and parts with a considerable portion of her revenue-producing domain. I would assume no part of the so-called Cuban and Philippine Islands bonded debt. Rather than fail to secure treaty of peace I think demand for whole group might be so modified as to let Spain keep Mindanao and Sulu group without conditions, paying same sum as above indicated. These islands with money payment would be a substantial concession. In that alternative we might secure one of the Caroline group as naval station and at the same time safeguard our interests and people there.

(Signed) DAY.

(2) I favor taking the entire group and paying $10,000,000 in gold, a fair estimate of debt properly chargeable to the Philippine Islands. If necessary to secure a treaty, and I believe it is, I would take Luzon, Mindoro, Palawan, also Ponape, of the Carolines, paying from $5,000,000 to $10,000,000. I would require: First, free interchange of products of islands for consumption there; also that products of other islands in group intended for export from Manila be admitted free, with distribution of goods imported into Manila to other islands without additional duties. Second, the right of entry into such ports of the Philippine Islands as are not ceded upon terms of equal favor with Spanish ships and merchandise in relation to port and customs charges, while Spain shall have similar rights as to her subjects and vessels in the ports of any territories in their Pacific islands ceded to the United States. Third, charges against American vessels for entry into Peninsular ports of Spain no higher than imposed on Spanish vessels in American ports. Fourth, in all ports of these islands remaining under Spanish rule our citizens shall have all questions at issue tried before an American consul or other duly qualified American officer. Fifth, all persons held by Spain for political acts performed in Cuba, Puerto-Rico, Ponape, Guam, or the Philippine Islands to be immediately released. Sixth, absolute freedom of religion in the Philippine Islands, Ladrones, and Caroline Islands. Seventh, United States shall have the right to land cables on any of these islands, and the tolls for mes-

sages on our trans-Pacific cables, or interisland lines shall be regulated by the Government of the United States. Eighth, United States shall have the right to extend its submarine cables from Puerto Rico via the Canaries to the coast of Africa or Spain, and thence to any Spanish Mediterranean island. Apply so many of these articles as may be necessary if the entire Philippine Islands group is taken.

(Signed) FRYE.

(3) The undersigned beg- to say that, while adhering to the views expressed in his telegram of the 26th October, he is of the opinion that it is immensely important to the country that we should not separate without the conclusion of a treaty of peace. A renewal of the state of active war, even if Spain's resistance be continued feeble or none at all, would compel us to seize with the strong hand all of her colonial possessions. This is not a rôle that is desirable for the United States to assume. We have achieved all and more than we went to war to accomplish, and Spain has conceded it in a protocol. The same protocol left the fate of the Philippine Islands to be determined by a treaty to be thereafter concluded between the two countries. The stipulation was not that it should be determined as the United States should dictate, but by a treaty between the parties. This necessarily leaves it open to a negotiation which must result in an agreement, which implies a quasi freedom of consent by Spain as well as by the United States. If that consent can not be obtained we are relegated to the state of active war which the armistice suspended, and the sword will again be drawn and the conquest completed; though Spain makes no physical resistance, she will state her case to the world as having consented to do all that she promised to do in the protocol, but that she could not subscribe to terms which she had no right to expect. It would, in the opinion of the undersigned, be most unfortunate if the United States should feel compelled to abandon the high position taken at the beginning of the war and, instead of crowning their triumphs by setting an example of moderation, restraint, and reason in victory, act the part of a ruthless conqueror. Believing that the result of a failure to obtain a treaty would be the forcible seizure of the whole Philippine Islands group, an event greatly to be deprecated as inconsistent with the traditions and civilization of the United States, I would be willing to take the islands by the cession of a treaty of peace, and I would, to that end, make such reasonable concessions as would comport with the magnanimity of a great nation dealing with a weak and prostrate foe. I mean that I would prefer the latter alternative to the former, not that I have changed my mind as to the policy of taking the Philippines Islands at all.

(Signed) GEORGE GRAY.

(4) Our duty not to return to Spain any territory in which we have broken down her rule has been enforced in our instructions from the outset. Furthermore, the right of a nation which has been successful in a war forced upon it to exact an indemnity afterwards for the cost of the war is recognized. Adding pensions and other proper items to this cost, as already tabulated, we have a total of between two hundred and fifty and three hundred millions. Spain is without money or the means of procuring it, and can therefore pay us in nothing but territory. She has so far given us only Puerto Rico. How far does that go toward repaying our outlay in cash, to say nothing of the derange-

ment of business and loss of life? For a standard of valuation we may perhaps refer to the five considerable purchases of territory we have made within a century and the others we have considered. We paid twelve millions for Louisiana, five millions for Florida, fifteen millions for territory acquired from Mexico under the treaty of Guadalupe, including New Mexico, Colorado, [and] California; ten millions for territory acquired in like manner by the Gadsden purchase, and seven million two hundred thousand for Alaska. We once offered seven million and a half for St. Thomas and St. John, and later could have had that whole group for five million. For Cuba we once talked of paying one hundred million, and at another time a hundred and twenty-five million. Taking this last as coming nearest to fixing a standard of value in the present case, we may reckon that Puerto Rico, farther from us, less important to the protection of our coasts, and only one-twelfth size, though with nearly one-half as much population, could not by any possibility be regarded as indemnity for more than forty or fifty million of our just claim. Even if Cuba were added, in its present devastated and depopulated condition, the present valuation of the two would not repay the outlay forced upon us by the war; but we have all along refused to take Cuba. What else has Spain with which to repay us except the archipelago, which lies at our mercy with its capital in our possession? Its area is just about two and a half times that of Cuba; but instead of being near our coasts it is halfway around the globe from us. Some of our people think it worthless to us, and probably few that it could be valued so high as the remaining two hundred or two hundred and fifty million of our cash outlay; but it is an asset of some sort, whether to develop or to dispose of, and we ought now to retain the power to do either as the Government and the people on fuller knowledge may determine. * *

Are at the end of six weeks of fruitless negotiation, one-half [longer] than it took France and Germany to agree upon their first treaty of peace after their last war. This effort suggests to me now the desirableness of our calling time on the Spanish Commissioners and giving notice that we must either make some progress or close the protocol. At the same time, in our own interest, we must shrink from renewing the war, even in name, over our prostrate foe, and must take into consideration the great desirableness of securing a definite and permanent treaty of peace. To do this I would be willing to make some concessions from our just dues, if sure they could not be misinterpreted and used as a pretext for greater delays and further unreasonable demands. I would be willing, as one proposition, under such conditions, and only as a certain means of speedily securing a treaty, to leave Spain Mindanao and the Sulu group, in the southern part of the Philippine Islands—that is to say, the Mohammedan part of the archipelago, being about one-third of it—and take instead all the Carolines and the Ladrones, while making stringent requirements as to the freedom of religion, as well as forbidding Spanish restrictions on trade with the rest of the Philippine Islands. I would not compromise our position on the Cuban debt by doing anything to recognize that of the Philippine Islands, it being apparent that it was used to prosecute the war against insurgents, partly in the Philippine Islands and partly in Cuba; but rather than lose a treaty and resume hostilities I would, as another proposition, be willing to take the Carolines, in addition to all the Philippine Islands; and in return for the Carolines and for past pacific expenditure in

them and in the Philippine Islands [I] would be willing to give a lump sum of from $12,000,000 to $15,000,000, providing ultimately for this sum out of the revenues of the islands. And, finally, as a last concession from this second proposition, I would not sacrifice the treaty [for the] sake [of] retaining Mindanao and the Sulu group.

(Signed) WHITELAW REID.

(5) It is my opinion that the existing situation requires that the United States present without much delay an ultimatum insisting upon the signature of a treaty for the cession by Spain of the entire Philippine Islands archipelago, Puerto Rico, and Guam, and the relinquishment of sovereignty over Cuba. I am also of the opinion that we [should] pay no money to Spain on account of her debt or on any other account whatsoever, and that we should so declare in an ultimatum, if necessary. It now appears that Spain has paid nothing for any pacific improvements in the Philippine Islands. They have all been paid for by the proceeds of local taxation of the islands. I believe that one of the purposes of Spain in protracting these negotiations is to entangle the United States with some of the European powers. * * The Spanish Commissioners have reoccupied their first position, that the United States shall assume or be bound for the so-called colonial debt, and it is plain that so long as her Commissioners thus contend the negotiation stands just as it did at its beginning. I do not believe we shall ever get a treaty except as a result of such an unyielding ultimatum.

(Signed) C. K. DAVIS.

FRIDAY MORNING, 9.20.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 13, 1898.

A treaty of peace is of the highest importance to the United States if it can be had without the sacrifice of plain duty. The President would regret deeply the resumption of hostilities against a prostrate foe. We are clearly entitled to indemnity for the cost of the war. We can not hope to be fully indemnified. We do not expect to be. It would probably be difficult for Spain to pay money. All she has are the archipelagoes of the Philippines and the Carolines. She surely can not expect us to turn the Philippines back and bear the cost of the war and all claims of our citizens for damages to life and property in Cuba without any indemnity but Puerto Rico, which we have, and which is wholly inadequate. Does Spain propose to pay in money the cost of the war and the claims of our citizens, and make full guaranties to the people of the Philippines, and grant to us concessions of naval and telegraph stations in the islands and privileges to our commerce, the same as enjoyed by herself, rather than surrender the archipelago? From the standpoint of indemnity both the archipelagoes are insufficient to pay our war expenses; but, aside from this, do we not owe an obligation to the people of the Philippines which will not permit us to return them to the sovereignty of Spain? Could we justify our-

selves in such a course, or could we permit their barter to some other power? Willing or not, we have the responsibility of duty which we can not escape.

You are therefore instructed to insist upon the cession of the whole of the Philippines, and, if necessary, pay to Spain $10,000,000 to $20,000,000, and if you can get cession of a naval and telegraph station in the Carolines and the several concessions and privileges and guaranties, so far as applicable, enumerated in the views of Commissioners Frye and Reid, you can offer more. The President can not believe any division of the archipelago can bring us anything but embarrassment in the future. The trade and commercial side, as well as the indemnity for the cost of the war, are questions we might yield. They might be waived or compromised, but the questions of duty and humanity appeal to the President so strongly that he can find no appropriate answer but the one he has here marked out. You have the largest liberty to lead up to these instructions, but unreasonable delay should be avoided.

HAY.

Mr. Day to Mr. Adee.

[Telegram.]

PARIS, *November 15, 1898.*

(For the President. Special.)

Your final instruction on Philippine Islands received. We are formulating proposals for treaty in accord therewith. Spaniards asked and we granted adjournment to Wednesday. They say have not received copies from Madrid which are needed. It is probable that Spanish Commissioners will not sign treaty, but this is only surmise. Spanish sources are filling European press with charges of violation of protocol and understanding at Washington in claim now made for Philippine Islands. You have no doubt seen our counter statements sent out by Associated Press. If we break, I think pretty full synopsis of correspondence and negotiations leading to protocol should appear in American, also in friendly press on this side. We shall pursue this course, unless you disapprove.

Tuesday morning, 2.30

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 15, 1898.

(Special.)

The President earnestly hopes there may be no break, but approves the suggestion made in your special of this date.

HAY.

Mr. Moore to Mr. Hay.

[Telegram.]

No. 24. Special.] PARIS, *November 15, 1898.*

Unless otherwise instructed the American Commissioners propose to present to the Spanish Commissioners, perhaps at the joint meeting to-morrow, the following proposition as embodying final position of our Government in the present negotiations:

"The proposal presented by the American Commissioners in behalf of their Government for the cession of the Philippine Islands to the United States having been rejected by the Spanish Commissioners, and the counter proposal of the latter for the withdrawal of the American forces from the islands and the payment of an indemnity by the United States to Spain having been rejected by the American Commissioners, the American Commissioners, deeming it essential that the present negotiations, which have already been greatly protracted, should be brought to an early and definite conclusion, beg now to present a new proposition embodying the concessions which, for the sake of peace, their Government is under the circumstances willing to tender.

"The Government of the United States is unable to modify the proposal heretofore made for the cession of the entire archipelago of the Philippine Islands; but the American Commissioners are authorized to offer to Spain, in case the cession should be agreed to, the sum of $20,000,000, to be paid in accordance with the terms to be fixed in the treaty of peace; and, it being the policy of the United States to maintain in the Philippine Islands an open door to the commerce of the world, the American Commissioners are prepared to insert in the treaty now in contemplation a stipulation to the effect that for a term of years Spanish ships and merchandise shall be admitted into the ports of the Philippine Islands on the same terms as American ships and merchandise. The American Commissioners are also authorized and prepared to insert in the treaty, in connection with the cessions of [territory] by Spain to the United States, a provision for the mutual relinquishment of all claims for indemnity, national and individual, of every kind, of the United States against Spain and of Spain against the United States, that may have arisen since the beginning of the late insurrection in Cuba and prior to the conclusion of the treaty of peace.

"Upon the acceptance by the Spanish Commissioners of the proposals herein made as to the Philippine Islands, in connection with the demands as to Cuba, Puerto Rico, and other Spanish islands in the West Indies, and Guam, heretofore provisionally agreed to, but not otherwise, it will be possible for the Joint Commission to proceed to the consideration and adjustment of other matters, including those which, as subsidiary and incidental to the principal provisions, should form a part of the treaty of peace. In particular, the American Commissioners desire to treat of religious freedom in the Caroline Islands as agreed to in 1886, of the release of prisoners now held [by] Spain for political offenses in connection with the insurrection of Cuba and Philippine Islands, the acquisition of the island of Kusaie or Ualan[1] in the Carolines for a naval and telegraph station, and of cable-landing

[1] Kusaie and Ualan are different names for the same island.

rights at other places in Spanish jurisdiction, and the revival (of) certain treaties heretofore in force between the United States and Spain."

Tuesday evening, 6.20.

MOORE.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 16, 1898.

(Special.)

Your No. 24 received. The course proposed is approved.

HAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 18, 1898.

Dewey telegraphs entire island of Panay in possession of insurgents, except Iloilo, which is defended by 800 Spanish troops. Foreign citizens beg for American protection. Island of Negros has declared independence and desires American protectorate.

HAY.

Mr. Moore to Mr. Hay.

[Telegram.]

No. 25.] PARIS, *November 18, 1898.*

Spanish Commissioners yesterday presented long paper in which they reply to our last memorandum. Discuss provisions of protocol relating to Philippine Islands and support by argument their recent proposal thereon. They declare that our memorandum abounds in grave errors of fact and strange doctrines of law, and deny that they have withdrawn their provisional acceptance of our articles on Cuba, Puerto Rico, and Guam; that acceptance, however, was conditional upon agreement on whole treaty and was given for compensation which might be obtained in other articles for sacrifices of Spain as to debts, but only subsequent development in negotiations is the demand for cession of the Philippine Islands. Spanish Commissioners would therefore have been justified in insisting on claims as to transmission of colonial obligations and debts, but have confined themselves to contradicting affirmations to which they could not assent. They quote royal decrees and the text of bonds to disprove that greatest part of the Cuban debt was contracted in the effort to conquer Cuban insurgents and then to

oppose the United States, as well as to show that colonial revenues were primary security for debt. They maintain legal right of Spain so to contract the debt and the legal validity of the debt so contracted, and cite our demands that Spain suppress rebellion and maintain order in Cuba as a proof of our recognition of her sovereignty in the premises and the legitimacy of its exercise for that purpose; but in concluding this part of the paper they say the duty of defending the bondholders does not belong to Spain; that it is sufficient for her to defend the legitimacy of her action, her perfect right to create the debt and the mortgage by which it was secured, and her strict right not to pay interest or principal except upon proof of insufficiency of mortgaged revenues. The responsibility of failing properly to apply revenues will rest on those who control them, and not upon Spain, who has not the means to compel the performance of the duty. Spain neither will nor can do anything to impair the rights of bondholders, who can without great effort demonstrate [the] justice of their cause.

Spanish Commissioners then discuss Article III of the protocol and contend that it should be read in light of prior negotiations. They quote telegram of August 1 to Cambon saying that three [sic—our?] demand seemed to lack precision: that Spanish Government supposed there was no question in regard to Spain's permanent sovereignty over archipelago and that occupation of Manila, its harbor and bay by the United States would last only during the time necessary for two countries to agree on administrative reform. They then refer to Cambon's interview with the President of August 3 and to dispatch of Spanish minister for foreign affairs of August 7 and say that never [till] now has the United States consented to give concrete form to the idea involved in the phrase "control, disposition, and government" of the Philippine Islands. If the United States meant that joint commission should determine the sovereignty of the group by agreeing or disagreeing to its cession to the United States, why did it not say so? American Commissioners say that word "control" must be construed in the sense of authority or command, because that is its broadest meaning in English, but fail to notice that the protocol was also written and signed in French and that the French word "contrôle" means only investigation or inspection. The word "disposition," while it conveys the idea of alienation in private law, usually means in French distribution according to a certain and determined order. The word "government" may mean the right of administering or exercising sovereignty, but may also signify manner of governing or form which may be given to government. The words, therefore, do not possess a clear and precise meaning incapable of doubt or ambiguity, and yet it was the United States, not Spain, that insisted upon retaining them and refused to explain them. Vattel, Volume III, page 197, declares that doubts must be resolved against him who gives the law in the treaty, since it is his fault not to have expressed himself with more clearness. The party who dictates conditions should not be allowed to convert vague or ambiguous terms into bonds to tie up the more feeble contracting party. In the American note of July 30, it was said that if the terms offered by the United States were accepted in their entirety, commissioners would be appointed to settle the details of treaty of peace, etc. Could unexpressed demand for cession of immense territory, with a population of 9,000,000 inhabitants, have been considered as a detail of a treaty? Spanish Commissioners here review at some length interviews of Cambon with the President, and compare versions

thereof, and contend that by the note of Spanish minister for foreign affairs of August 7 Government reserved *a priori* its sovereignty over Philippine Islands, and that Article III of the protocol can in law bind it only with this reservation, which was never withdrawn. They say that the only objection made in our note of August 10 to Spanish note of August 7 was that the latter was not entirely explicit, owing to various transformations which it had undergone. This they maintain could not have referred to paragraph on Philippine Islands, since it explicitly reserved *a priori* Spanish sovereignty over the islands. The Paris conference is, therefore, authorized to determine only their internal régime.

Spanish Commissioners then proceed to support their last proposals as to what should be done regarding Philippine Islands in the treaty of peace. They disclaim intention to assert that General Merritt and Admiral Dewey had knowledge of protocol when they took Manila on August 13, but refer to the Admiral's message to the governor of Manila of May 1 threatening to destroy city if all vessels, torpedo boats, and warships under the Spanish flag were not immediately surrendered, and say they presume this message will have no place in the chapter of history in which are recorded the services rendered to the cause of humanity of which there is so much ostentation in these days. They also refer to the circumstances in connection with delay in taking Manila; that the number of insurgents about the city increased because of postponement of it, and complains of statement in American memorandum that the captain-general fled before the surrender. They maintain that our occupation of Manila pending the conclusion of the treaty of peace was intended and agreed upon merely by way of a guarantee, and that protocol makes no connection between future occupation of the place and the payment of a war indemnity. They observe that the American Commissioners do not in their memorandum argue that suspension of hostilities did not go into effect immediately, but that they endeavor to invalidate the Spanish claim as dilatory. They state that this claim was made twenty-three days after capitulation, and inquire what law or practice forfeits such claim unless presented before the twenty-three days reckoned from the act giving rise to it. Even if the claim had not been then presented, the Spanish Commissioners might present it now, since they are empowered to ask for a faithful execution of the protocol. They quote from Wharton's International Law Digest that compacts between enemies should be specially adhered to, as of immediate interest and duty not only to the parties but to all mankind. They combat the argument that occupation of Manila under the protocol is same as or equivalent to a military occupation by conquest. They contend that [occupation] by force of a territory which surrenders through an act of war has a special name which is "capitulation," and that to call by this name the occupation under the protocol in order to bring it within the terms of the illegal capitulation of Manila after the protocol was signed, is an error never heretofore officially or scientifically made. They contend that occupation as a guarantee conveys no greater right than to maintain a military force in that territory till the performance of the principal obligation, and that the occupying party has therefore usually taken care even to stipulate for the taking of provisions for his forces. The occupation under [the] protocol can not be considered as a military one, since it was not effected by force nor as the result of a belligerent operation. Moreover, it was after August 16 when the American com-

manders heard of the protocol that they began to take possession by military force of the machinery of government, of the public moneys, revenues, and imposts.

Spanish Commissioners say they might here bring the paper to a close, did they not desire to find some way in harmony with sentiments of humanity and patriotism of both Commissions to remove obstacles to peace; this can be done only through the bona fides of both parties; the Commissions are equally divided; the United States does not go further than to claim that under the protocol it has right to ask for the sovereignty over Philippine Islands. It does not claim the right to order the cession to be made. Shall the negotiations then be broken off and hostilities renewed? Can not the good faith of the parties suggest some means of averting these terrible consequences? The Commissioners might agree to leave the question of sovereignty over Philippine Islands for direct negotiations between the two Governments, and continue meanwhile the discussion of all otl er points to be embodied in the treaty. This method is, however, attended with the danger of the Governments failing to agree. The Spanish Commissioners think it more sensible and more sure for the two Commissions to agree to propose to their Governments an arbitrator or a tribunal of arbitration to determine the true sense in which Articles III and VI of the protocol should be taken. If there is any controversy between nations which men of good will should endeavor to settle by justice and equity, it is that of a difference as to the interpretation of a treaty. Sovereigns may refuse to submit to judgment of a third party that which affects their honor or even their amour propre, but in the modern and Christian world it is inconceivable they should prefer covering earth with corpses and deluging it with human blood to submitting their own opinions on a matter so exposed to fallibility as the sense which a party to a treaty may desire to give it. The United States, say the Spanish Commissioners, have to their glory taken among civilized peoples the initiative in appealing to the humane, rational, and Christian method of arbitration, rather than inflict bloody war. The senate of Massachusetts in 1835 approved the proposal for creation of an international court to settle all differences between countries. In 1851 Committee on Foreign Relations recommended insertion of arbitration clause in treaties, and the Senate approved a report in 1853. In 1873 the Senate again, and in 1874 both Houses of Congress, reaffirmed this humanitarian aspiration, and finally in 1888, not satisfied with having marked out a line of conduct so laudable, both Houses of Congress adopted joint resolution requesting the President to use his influence to induce governments maintaining diplomatic relations with the United States to submit questions that might arise between them in future [to] arbitration. The Spanish Commissioners declare the hope that the case before the Paris conference will not lead the United States, by departing from such glorious precedents, to wish to settle the difficulty by the last means which among rational and free beings is sadly inevitable, although it may never be lawful, in the absence of other means more humane and tending to preserve unalterable peace among men.

Our Commissioners propose to reply to this and reaffirm their previous position and to make, unless otherwise instructed, the proposal conveyed to you in my special of November 15, and give the Spanish Commissioners a week in which definitely and finally to accept it.

MOORE.

Mr. Day to Mr. Adee.

[Telegram.]

PARIS, *November 18, 1898.*

(For the President. Special.)

Secretary Moore has just sent telegram advising of Spanish reply received yesterday, translation finished this morning; also advised our intended course which I hope you will approve. As to negotiations preceding protocol there are sharp differences in some respects between Cambon's reports as quoted by Spanish Commission and my memoranda of same conversations, which you remember were made shortly after each interview, submitted to you, corrected and transcribed in typewritten form, which I have with me. You can read in connection with this [the] correspondence leading to protocol, pamphlet publication. Copy in the Department of State if you have not one at hand. After delivery [of] our note [of] July 30 to Duke de Almodovar, Cambon came to White House August 3. They quote from his report:

I availed myself of this declaration to request the President to have the kindness to state as precisely as possible his intentions in regard to the Philippine Islands. On this point I told him the answer of the Madrid Government was drawn up in such way as to admit of all demands on the part of the United States and consequently of all kinds of apprehensions on the part of Spain in regard to her sovereignty. Mr. McKinley answered: "I do not want any misunderstanding to remain upon this subject, and neither of the two countries shall be the ones to be called upon to decide what are the permanent advantages we shall ask for in the archipelago and finally those to decide the intervention (contrôle), disposition and government of the Philippine Islands;" and, he added, "the Government of Madrid can rest assured up to the present nothing against Spain has been settled *a priori* in my own mind, as I myself consider that nothing is decided against United States."

My memorandum shows on same date, August 3:

Ambassador reported Spanish Government had received American answer; that it would be regarded by Spain as very severe, etc. French ambassador said there was a disposition to believe in Spain that United States intended to take the Philippine Islands group. That Government appreciated that reforms were necessary in the government; that American privileges be granted in the islands; but that Spanish suzerainty should not be interfered with was a matter that Spanish minister would insist upon. President answered that question of Cuba, Puerto Rico, the Ladrones, and West India islands admitted of no negotiation; that the disposition of the Philippine Islands must depend upon the treaty that might be negotiated; and that he, the President, could not make any change in the terms heretofore submitted. The ambassador called attention to the wording of the note of July 30 as to possession of the city, bay, and harbor of Manila to be retained during the pendency of the treaty, and asked what was to be done with them afterwards. President said that must depend upon the terms of the treaty. Ambassador inquired whether the United States had prejudged the matter of the Philippine Islands and the rights to be acquired therein by the United States. President said case has not been prejudged as far as concerns this Government or the Spanish Government. Whole matter would be left to the Commissioners for negotiation to be settled by the treaty of peace. In the meantime the United States would insist upon holding Manila as laid down in the note. Its disposition thereafter, as already said, would depend upon the terms of the treaty.

Spanish Commissioners then take up Cambon's report [of] interview July 30 and our note of that date presented to him for transmission to Spain. Spanish Commissioners state Cambon's report as follows:

The demands formulated in Article III, I [Cambon] said to the President, are apt to endanger in Madrid the success of this preliminary negotiation, especially if the word "possession" is retained in conjunction with control and government of the Philippine Islands, as it seems to put in doubt for this moment the sovereignty of Spain over that colony. You will notice the President of the Republic told me that

his demands in Articles I and II admitted of no discussion. "I [the President] leave it to the negotiators to decide the question of the Philippine Islands." Seeing that the President of the Republic was firm in not changing the terms of Article III, I made such an urgent appeal to his generosity as to secure his order to use the word "disposition" instead of "possession," as the former does not prejudge the result of negotiations and has not the comprehensive meaning which belongs to the other word.

My notes show that at that time, July 30:

The President said that as to the Philippine Islands the note expressed the purpose of this Government, and their final disposition would depend upon the treaty to be negotiated by the Commissioners and ratified by the interested governments. Ambassador read the paragraph concerning the Philippine Islands and characterized it as harsh.

"These are very hard terms," said the ambassador; to which the President inquired in what particular? The ambassador suggested, in regard to the Philippine Islands, that it might be the acquiring by the United States of all of them, to which the President replied, that would be determined by the treaty. The ambassador said that if it was a station or commercial base, that might be conceded by Spain. Ambassador added particularly that the word "possession" translated in Spanish in such wise as to be regarded as an expression of a severe, threatening nature, and suggested a change in that word. He suggested at first the word "condition." [The] President said he would not change the word except for a word of similar import or meaning. The word "disposition" being suggested, after considerable talk the President consented that [that] word, not changing the meaning, might be substituted for the word "possession;" indeed, the word "disposition" was the broader one of the two and would clearly include "possession." Accordingly the note was so changed without other change and was handed to French ambassador to be communicated to Spanish Government. These reports, not difficult of reconciliation, have less difference than reports concerning interviews of August 9, when the Duke of Almodovar's note of August 7 was presented to the President.

They quote Cambon as follows:

Duke Almodovar: Again has it been at the White House, in the presence of Mr. McKinley and at his express request, that I have communicated to the Secretary of State the note of August 7 in which your excellency declares that the Government of Spain accepts the conditions imposed by the United States. This reading visibly displeased the President of the Republic and Secretary of State. After a long silence Mr. McKinley said to me: "I had asked of Spain the cession, consequently the immediate evacuation, of the islands of Cuba and Puerto Rico. Instead of the categorical acceptance I expected, the Spanish Government addresses me a note in which it invokes the necessity of obtaining the approval of the Cortes. I can not lend myself to going into these considerations of an internal nature." I [Cambon] observed that the Government of Her Majesty in complying with its constitutional duties did no more than follow the President, upon whom like obligations are imposed, and that in his reply of July 30 he had expressly reserved the ratification by the Federal Senate.

The Spanish Commissioners further quote:

President ended by answering Mr. Cambon, who questioned him as to the pledges of sincerity Spain might give, as follows: "There must be a means of putting an end to all misunderstanding. We might draw up a project which shall reproduce the conditions proposed to Spain in the same terms in which I have already framed them and which shall establish the terms within which there shall be named, on the one hand, the plenipotentiaries charged with negotiating the treaty of peace in Paris, and on the other hand, the special commissioners intrusted with the determination of the details for the evacuation of Cuba and Puerto Rico."

Spanish Commissioners add the important comment:

Neither the President nor the Secretary of State advanced any reason for their displeasure other than the foregoing, and, according to Mr. Cambon, these gentlemen said nothing during the conversation respecting the said reservation made by Spain of her sovereignty over the archipelago, nor regarding anything else whatever, save the reservation of the Spanish Government as to the approval of the Cortes.

My notes show, as to that part in reference to the Philippine Islands:

While in one part it [the note of August 7] stated its acceptance, in another it seemed to retain the full right of Spanish sovereignty, with such reform, etc., as that Government might see fit to grant. President said that the text of the note was not satisfactory to the United States. Ambassador said allowance must be made for difference [of] translations and for the desire of the Spanish Government to express regret at the loss of its colonies; that he (ambassador) was very confident the intention was to accept in full the terms of the United States. He asserted that it was a full and unqualified acceptance of the President's terms. It was then suggested that if this be true the best way to settle the matter was to put the terms in the shape of a definite protocol which the President would authorize the Secretary of State to sign for the United States; the ambassador to submit to the Spanish Government its exact terms and the answer to be had, whether yes or no. If the Spanish Government accepted the protocol that would end all controversy. Ambassador concurred in this view and said that if the protocol was drawn up in a definite form he would submit it to the Spanish Government, and if authorized would execute on its part.

Spanish Commissioners having heretofore asserted that Secretary of State at Washington, in note of August 10, admitted that Spanish note of August 7 contained in its spirit an acceptance by Spain of conditions imposed by the United States, in answering this we quote in full in our last memorandum my note of that date. Spanish Commissioners now say they correct former assertion, but had based it on a telegram from Mr. Cambon, of August 11, in which he said:

Duke: Upon transmitting to me the draft of the protocol, text of which I wired your excellency, Secretary of State addressed me a note which might be epitomized as follows: "Although the note delivered yesterday at the White House conveys in its spirit an acceptance by Spain of the conditions proposed by the United States, in its form it does not so specify with sufficient explicitness, owing doubtless to its having to be translated and put in cipher several times." This note, [the] Spanish Commissioners say, led them into error, and they nobly comply with the duty of so admitting.

In framing our answer we shall maintain our version is taken from memoranda made by the then Secretary of State directly after the conversation, submitted to the President, by him revised, and then reduced to type-written form; and likewise correspond with the recollection of the interview now entertained by the President of the United States and the then Secretary of State. I shall be obliged for any comment you may see fit to make in reply hereto.

Friday, 1.30 afternoon.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 19, 1898.

The President approves your proposed action. His recollection of oral discussion preceding protocol coincides exactly with yours.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 26.] UNITED STATES PEACE COMMISSION,
Paris, November 21, 1898.

We presented this afternoon our proposal as telegraphed you in our No. 24. We expressed expectation of American Commissioners that

final and definite answer be given not later than 28th instant. Also submitted answer to Spanish contention as to the construction of protocol. They said we should have answer on Wednesday.

Monday evening, 9.

DAY.

Mr. Day to Mr. Adee.

[Telegram.]

PARIS, *November 22, 1898.*

(For the President. Special.)

If the Spanish Commissioners refuse our proposition to-morrow, we shall give notice that our offer was final and nothing remains except to close the negotiations.

Tuesday, 2.20 afternoon.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 22, 1898.

(Special.)

Your special to the President dated to-day received. Your proposed action approved.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 26 A.] PARIS, *November 23, 1898.*

Spanish Commissioners did not answer our proposal to-day. Sent note saying wanted time to communicate with Madrid. Will give answer soon, certainly before 28th.

Wednesday evening, 10.30.

DAY.

Mr. Moore to Mr. Hay.

[Telegram.]

No. 27.] PARIS, *November 25, 1898.*

President of our Commission received last night from the president of the Spanish Commission a communication submitting for adoption in lieu of our final proposition of last Monday any one of the three following alternative propositions:

First. Relinquishment by Spain of her sovereignty over Cuba and cession of Puerto Rico and other Antilles, the island of Guam in the

Ladrones, and the Philippine Islands archipelago, including Mindanao and Sulu, to the United States, the latter paying to Spain the sum of $100,000,000 as compensation for her sovereignty over the archipelago and the works of public utility which she has executed during her rule in all the islands of the east and west, the sovereignty over which she relinquishes or cedes.

Second. Cession to the United States of the island of Kusaie, in the Carolines, of the right to land a cable on any of these or of the Marianas, while they remain under Spanish rule, and cession of the Philippine Islands archipelago proper—that is, beginning on the north, the islands of Batanes, Babuyanes, Luzon, Visayas, and all the others following to the south as far as the Sulu Sea, Spain reserving to the south of this sea the island of Mindanao and Sulu, which have never formed a part of the Philippine Islands archipelago proper. The United States as compensation for said islands, for the right to land cables, and for the public works executed by Spain in said islands during her rule will pay to Spain the sum of $50,000,000.

Third. Spain relinquishes her sovereignty over Cuba and gratuitously cedes to the United States the Philippine Islands archipelago proper, besides Puerto Rico, the other West Indies, and the island of Guam, which she cedes as compensation for the expenses of the war and as indemnity to American citizens for injuries suffered since the beginning of the last Cuban insurrection. The United States and Spain will submit to an arbitral tribunal what are the debts and obligations of a colonial character which should pass with the islands the sovereignty over which Spain relinquishes and cedes.

On these propositions the Commissioners hold the following views: Messrs. Day, Davis, and Reid think we are committed to our final proposition of last Monday; Commissioners Frye and Gray favor submitting a proposal to leave to Spain Mindanao and Sulu group and take instead Ualan or Strong Island in the Carolines, paying only $20,000,000. Mr. Day would favor this if it were an original proposition. He believes that Mindanao and the Sulu group can be readily separated from the other islands and that with their population they are likely to be a source of trouble and expense, and are not desirable for us. He thinks Ualan or Strong Island would be very valuable to us, and he would prefer it. He also thinks that this concession would probably bring a treaty and that it may be that our present ultimatum will; but, as already stated, he thinks our only consistent course now is to stand by that ultimatum. Commissioner Gray prefers above all acceptance of third proposition.

Our Commissioners desire to answer president of Spanish Commission to-morrow.

Friday afternoon, 4.30.

MOORE.

Mr. Davis to Mr. Hay.

[Telegram.]

No. 28.] PARIS, *November 25, 1898.*

I desire to add to my views as stated in Mr. Moore's telegram that I think the propositions there stated are an afterthought contrived to protract and embarrass the negotiations after Spain had received our deliberate ultimatum, which has been given out as such to our people

and to the world. The United States having so taken its position ought not to recede. I think that Spain will accept our ultimatum if we firmly insist upon it.

Friday afternoon, 5.

C. K. DAVIS.

Mr. Gray to Mr. Hay.

[Telegram.]

No. 29.] PARIS, *November 25, 1898.*

Our having submitted an ultimatum does not in my opinion preclude us from adopting a course that will prove more advantageous to our country. My reasons for accepting third proposition in the letter of the president of the Spanish Commission are, briefly, that in paying twenty millions we do not prevent the raising hereafter of the question of the liability of the sovereign of the relinquished and ceded territory for some part of the so-called colonial debts. When raised we must either flatly refuse to consider it and take the consequences, or must arbitrate. We have nothing to fear from arbitration, but have much to gain in moral prestige and maintenance of our preeminence in recognizing the obligations of international law. By adopting this course we pay nothing to Spain, and settle instead of postpone the question of liability and carry the principle of arbitration with us into the new century.

GEORGE GRAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 25, 1898.

The President has considered the three proposals of the president of the Spanish Commission submitted to you. He finds no reason for departing from his last instruction and your proposal thereunder. His instructions are that you adhere to your last proposal and decline those of the Spanish Commission.

He repeats his instruction of November 13, by which you are authorized, in case of cession of an island in Carolines, and other concessions mentioned by Messrs. Frye and Reid to offer additional compensation. If negotiations in regard to Philippines are successful, you will communicate to the President what amount is required for Strong Island, and he will instruct you.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

PARIS, *November 27, 1898.*

* * Paris Herald to-day publishes telegram from Washington saying we have increased our demand to include Sulu group. This incorrect report tends to create impression that we are increasing our claims after ultimatum. * *

Sunday night, 12.

DAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 31.] PARIS, *November 29, 1898.*

Spanish Commissioners at to-day's conference presented a definite and final acceptance of our last proposition. Next meeting on Wednesday, at which time we will present articles on other matters. They expressed a desire to reach a conclusion promptly. We hope to make good progress from this time.

Monday afternoon, 3.15.

DAY.

The President to Mr. Day.

[Telegram.]

EXECUTIVE MANSION,
Washington, November 29, 1898.

Message just received. The commissioners have my profound thanks.

WILLIAM MCKINLEY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 29, 1898.

In reviving conventional arrangements, do not lose sight of copyright agreement.

HAY.

Mr. Hay to Mr. Day.

[Telegram.]

WASHINGTON, *November 29, 1898.*

The President wishes to know the opinion of the Commission as to inserting in treaty provisions on the subject of citizenship of inhabitants of Philippines which will prevent extension of that right to Mongolians and others not actually subjects of Spain; also whether you consider it advisable to provide, if possible, for recognition of existence of uncivilized native tribes in same manner as in Alaska treaty, perhaps leaving to Congress to deal with status of inhabitants by legislative act.

HAY.

Mr. Moore to Mr. Hay.

[Telegram.]

No. 32.] PARIS, *November 29, 1898.*

The American Commissioners propose to offer Spain for cession of Kusaie and concession of cable-landing rights in other Spanish territory the sum of a million dollars.

Tuesday afternoon, 12.30.

MOORE.

Mr. Moore to Mr. Hay.

[Telegram.]

No. 33.] PARIS, *November 30, 1898.*

Joint Commission to-day discussed draft of treaty. We proposed to apply to the Philippine Islands provisions agreed on by the Commissioners for the evacuation of Puerto Rico. Spanish Commissioners raised the question as to whether any agreement was reached as to heavy ordnance in fortifications and as to war materials, and expressed a desire for retention of such ordnance and materials in the Philippine Islands and also in Puerto Rico if not agreed on by Commissioners. Can you cable us evacuation agreement as to Puerto Rico?

We tendered admission of Spanish ships and merchandise in Philippine Islands on same terms as our own for a period of ten years. Spanish Commissioners propose extension of this privilege to their ships and merchandise in Puerto Rico for same period and in Cuba during our occupation. On this proposal Messrs. Day and Gray express the view that if Spanish Commissioners will agree to cede Kusaie for amount proposed, grant religious freedom in Carolines, and promptly sign treaty as tendered by us, they would concede extension of privileges granted to Spanish ships and merchandise in Philippine Islands to Puerto Rico for five years and Cuba during our occupation, but not to exceed five years. In such case they consider it a not unreasonable concession to ancient habitudes and to Spanish commerce prostrated by war. It is not clear to them that such a concession in a treaty acquiring territory would open the favored-nation door. For precedents for such action on the part of the United States see sixth article of the treaty with Spain for the annexation of Florida in 1819 and seventh article of the treaty for cession of Louisiana in 1803. Mr. Davis states that he is opposed on principle to granting to Spain as to Puerto Rico and Cuba the commercial and shipping privileges which she requests. He thinks it should not be a subject of these negotiations, but that it should be dealt with by Congress. Does not believe that these concessions are necessary to secure a treaty. Thinks favored-nation clause would entitle certain other nations to same privileges we grant to Spain. Mr. Frye declares he is most emphatically opposed to this proposition. Kusaie, even without any money payment, would in his opinion be no compensation for this privilege. Mr. Reid objects to Commission's taking initiative on [a] subject [in] no way covered by our instructions, especially as proposed action would endanger the future extension of present long-standing policy of [the] Government

to Puerto Rico and Cuba. He thinks no step of such gravity should be proposed here without action of President, if not also of Congress. Commissioners desire instructions on this subject.

Next joint meeting to-morrow, 3 p. m. We have agreed to mutual release of prisoners and return to their country by party releasing them.

Wednesday, 8.30 evening.

MOORE.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 1, 1898.

Your No. 33 received.

It was held by us in Porto Rico that the armament of forts, fortifications, and fixed batteries were to be included in the surrender and taken over into the possession of the United States. The Spanish army was to take with it small arms and accouterments, batteries and field artillery of 9 centimeters caliber, supply and baggage wagons, ambulances, and other impedimenta.

The President thinks it undesirable to include in treaty any preferential privileges to Spain in Cuba or Puerto Rico; and if such privileges tendered by you in Philippines are accepted, care should be taken to avoid possible embarrassments to legislation by Congress or demands by other governments under favored-nation clause.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 35.] PARIS, *December 1, 1898.*

At this time, Thursday, 8.30 p. m., we have received no answer to our telegram asking for instruction as to Spanish rights in ports of Cuba and Puerto Rico and concerning Kusaie. It is important to have same to-morrow.

Thursday evening, 9.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

EXECUTIVE MANSION,
Washington, December 1, 1898.

Reply sent before receipt of your 35.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 36.] PARIS, *December 3, 1898.*

We are unanimously of the opinion that unless we are invested with discretion to allow for a limited period, not exceeding five years, Spanish vessels coming laden only with productions of Spanish growth and manufacture directly from the ports of Spain or of her colonies to enter ports of Cuba and Puerto Rico without paying other or higher duties on cargoes or tonnage than are paid by the United States vessels, it may be impracticable to obtain anything not contained in our ultimatum and therefore necessarily forming subject of mutual concession—such as Kusaie, and religious freedom in Carolines, the release of political prisoners, cable-landing rights, and revival of treaties in force between the two countries before the war. The privilege above mentioned is different from and much more restricted than that referred to in our telegram of 30th ultimo, and is in conformity with precedents cited in that telegram from Florida and Louisiana treaties. Early answer desirable.

Saturday afternoon, 3.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

WASHINGTON, *December 3, 1898—midnight.*

The President is still of opinion that preferential privileges to Spain in Puerto Rico and Cuba are not desirable. He would even prefer that treaty should be made on basis of ultimatum rather than risk the embarrassments which might result from such concessions.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

No. 37.] PARIS, *December 8, 1898.*

At the session to-day we agreed upon all the articles of the treaty so far as an agreement could be reached. They refused to sell Kusaie. Will send you a summary to-morrow as soon as treaty is engrossed. We meet to sign in duplicate; think we can sign on Saturday of this week.

Thursday afternoon, 5.20.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 8, 1898.

Your No. 37 received. The President sends to all of you his most cordial thanks and congratulations. Permit me to add my own.

JOHN HAY.

Mr. Moore to Mr. Hay.

[Telegram.]

PARIS, *December 10, 1898.*

Treaty as agreed on will consist of preamble and seventeen articles, as follows:

First. Relinquishment of sovereignty over Cuba and the assumption by the United States of any obligation under international law for the protection of life and property during occupation.

Second. Cession of Puerto Rico and other islands in West Indies and Guam.

Third. Cession of Philippine Islands archipelago and the payment of twenty millions within three months after the exchange of ratifications.

Fourth. Admission of Spanish ships and merchandise to Philippine Islands for ten years on the same terms as American ships and merchandise.

Fifth. Evacuation of Philippine Islands by Spain; immediate return of Spanish soldiers at Manila by the United States to Spain; disposition of war material and armaments in Philippine Islands and Guam.

Sixth. General release and return of prisoners, military and political.

Seventh. Mutual relinquishment of claims arising since the beginning of the insurrection in Cuba and before the exchange of ratifications; the United States to adjudicate and settle claims of its own citizens.

Eighth. Transfer of public property, archives, records.

Ninth. Citizenship in relinquished and ceded territories. Spanish subjects, natives of the peninsula, may, within a year, elect to retain Spanish nationality. Civil rights and political status of native inhabitants of ceded territories to be determined by Congress.

Tenth. Protection of all persons in their religion.

Eleventh. Jurisdiction of courts.

Twelfth. Preservation of pending judicial proceedings.

Thirteenth. Protection of copyrights and patents in ceded and relinquished territories.

Fourteenth. Appointment of consuls by Spain in such territories.

Fifteenth. Each country to accord to merchant vessels of other same treatment as to its own in respect of port charges.

Sixteenth. Any obligations assumed by the United States as to Cuba limited to time of occupation, but the United States will at the end of occupancy advise any government established in Cuba to assume same obligations.

Seventeenth. The exchange of ratifications at Washington within six months after signature of treaty.

Treaty expected to be signed this afternoon.

MOORE.

Mr. Day to Mr. Hay.

[Telegram.]

PARIS, *December 10, 1898—10.15 p. m.*

Treaty signed at 8.50 this evening.

DAY.

Mr. Moore to Mr. Hay.

[Telegram.]

PARIS, *December 16, 1898.*

Peace Commission sails by the *St. Louis* from Southampton Saturday and desires, on arrival at New York, to go immediately by the Pennsylvania road, by special train if necessary, to Washington. The Commission hopes to present the treaty to the President December 24.

MOORE.

BRITISH REPRESENTATION OF AMERICAN INTERESTS IN CUBA AND SPAIN.

Mr. Day to Sir Julian Pauncefote.

CONFIDENTIAL, No. 966. DEPARTMENT OF STATE, *Washington, April 5, 1898.*

EXCELLENCY: I have the honor to request that, in case of trouble between Spain and the United States, the British consul-general at Habana may take charge of the American property and papers belonging to the American consulate there, which will be turned over by General Lee to him. I have, etc.,

WILLIAM R. DAY.

Sir Julian Pauncefote to Mr. Sherman.

WASHINGTON, *April 5, 1898.*

SIR: I have the honor to acknowledge the receipt of Mr. Day's note No. 966, confidential, of this day's date, requesting that, in case of trouble between the United States and Spain, Her Majesty's consul-general in Habana may take charge of the American property and papers belonging to the United States consulate there.

I have lost no time in telegraphing your request to Her Majesty's principal secretary of state for foreign affairs, and shall inform you of the reply as soon as I may receive it. I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Sherman.

WASHINGTON, *April 7, 1898.*

SIR: In reply to Mr. Day's note No. 966, of the 5th instant, requesting that, in case of trouble between Spain and the United States, the British consul-general at Habana may take charge of the American property and papers belonging to the United States consulate there, I have the honor to inform you that I am this day in receipt of a telegram from Her Majesty's principal secretary of state for foreign affairs, stating that instructions have been forwarded to Mr. Gollan, Her Majesty's consul-general, in compliance with the request of the United States Government, authorizing him to take charge of the United States consulate when asked to do so, after obtaining consent from the Spanish authorities.

Mr. Gollan is likewise instructed to convey the same authorization to Her Majesty's consul, Mr. Ramsden, at Santiago de Cuba, and other British consular officers.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Sherman to Sir Julian Pauncefote.

No. 970.] DEPARTMENT OF STATE,
Washington, April 8, 1898.

EXCELLENCY: I have the honor to acknowledge, with high appreciation of the courtesy of Her Majesty's Government, your note of the 7th instant, advising me that, in accordance with this Government's request, Her Majesty's consul-general and Her Majesty's consular officers in Cuba have been authorized to take charge of the property and papers belonging to the United States consulate-general and consulates in Cuba should the necessity therefor arise.

I have, etc., JOHN SHERMAN.

Mr. Day to Mr. Hay.

No. 554.] DEPARTMENT OF STATE,
Washington, April 6, 1898.

SIR: I append on the overleaf copy of my telegram of the 5th instant with regard to the offer of the British ambassador that the archives of the legation and the consulates of the United States in Spain be intrusted to British diplomatic and consular officers there; and also with reference to the general relations of the United States and Spain.

Respectfully, yours, WILLIAM R. DAY,
Acting Secretary.

Mr. Sherman to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 5, 1898.

We have accepted the offer of the British ambassador that United States legation at Madrid be intrusted in case of necessity to British embassy there. Express thanks for courtesies. We hope British consuls may be authorized to extend like courtesy should any American consuls in Spanish territory request them to take charge of consular archives. The situation is grave. Spain has not in fact offered armistice or admitted any offices of the United States toward ending the war except to intimate that the President may influence insurgents to lay down arms and negotiate for peace under home rule. Spanish propositions obviously dilatory and intrinsically unacceptable. The President can no longer defer laying matter before Congress Wednesday, to-morrow, afternoon.

SHERMAN.

Mr. Hay to Mr. Sherman.

No. 345.] AMERICAN EMBASSY,
London, April 6, 1898.

SIR: I received late last night your telegram, dated yesterday, of which I inclose a copy, as well as a copy of my reply to it, dated to-day.

I called upon Mr. Balfour by appointment to-day at half past 12. I conveyed to him verbally your thanks for the courtesy shown in the offer of the British ambassador at Madrid to take charge, in case of

necessity, of our legation in that city, and told him I would send him a note to the same effect later in the day. I then asked him, in accordance with your instruction, if the British Government would authorize their consuls in Spanish territory to take charge of American consular archives if the occasion should arise. He thought there would be no objection to this course, but said he would let me know during the day.

* * * * * * *

I am, etc., JOHN HAY.

PASSAGE OF UNITED STATES REVENUE CUTTERS FROM THE GREAT LAKES TO THE ATLANTIC.

Mr. Sherman to Sir Julian Pauncefote.

No. 965.] DEPARTMENT OF STATE,
Washington, April 5, 1898.

EXCELLENCY: I have the honor to state that the Treasury Department contemplates sending four revenue cutters from the Great Lakes to the Atlantic coast. Two of the vessels are to be armed revenue cutters. The other two are vessels under construction, and the builders will not deliver them to the United States until they reach the sea.

I have therefore the honor respectfully to request that you will kindly obtain from the Canadian government by telegraph permission for these vessels to go through the canals that are under the control of the Dominion of Canada.

I have, etc., JOHN SHERMAN.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, April 7, 1898.

SIR: I have the honor to inform you that I at once communicated to the Governor-General of Canada the request, contained in your note No. 965 of the 5th instant, for permission for the passage of four revenue cutters from the Great Lakes to the Atlantic through the canals under the control of the Dominion of Canada.

I am now in receipt of a telegram from His Excellency informing me that the desired permission is granted and that instructions will be issued accordingly to the canal and customs officials.

With the highest consideration, etc.,

JULIAN PAUNCEFOTE.

Mr. Sherman to Sir Julian Pauncefote.

No. 972.] DEPARTMENT OF STATE,
Washington, April 9, 1898.

EXCELLENCY: Referring to the request contained in the Department's communication of the 5th instant, I have the honor to acknowledge the receipt of your note of the 7th instant, stating that the government of the Dominion of Canada has granted permission for the passage of four revenue cutters from the Great Lakes to the Atlantic through the canals under the control of the Canadian authorities, and that instructions to that effect will be issued to the canal and customs officers.

I beg you to do me the favor to convey to His Excellency the Governor-General of Canada the cordial thanks of the Government of the United States for his prompt, friendly, and courteous action in regard to the matter.

I have, etc., JOHN SHERMAN.

Sir Julian Pauncefote to the Secretary of State.

PRO MEMORIA.] BRITISH EMBASSY,
Washington, April 27, 1898.

In a note dated the 5th instant the United States Government requested the undersigned to obtain permission by telegraph from the Canadian government for four vessels to proceed from the Great Lakes to the Atlantic coast through the canals that are under the control of the Dominion of Canada.

The permission was immediately granted, and the vessels, two of which are armed revenue cutters, are now in Lake Ontario, awaiting the opening of navigation. Since then war has been declared between the United States and Spain, and the usual proclamation of neutrality has been issued by the Queen.

After careful consideration, Her Majesty's Government are of opinion that permission given before the outbreak of war for the four United States vessels to pass through the canals should not now be withdrawn, provided that the United States Government are willing to give an assurance that the vessels in question will proceed straight to a United States port without engaging in any hostile operation.

Her Majesty's Government are further of the opinion that the vessels should not be furnished with more coal and stores than are necessary to take them to New York or some other United States port within easy reach.

In communicating the above to the United States Government, the undersigned has the honor to express the hope that the assurance desired by Her Majesty's Government will at once be given, in order that the facilities granted before the outbreak of war in respect of the four vessels above mentioned may still be extended without any breach of neutrality.

JULIAN PAUNCEFOTE.

Mr. Adee to Sir Julian Pauncefote.

No. 991.] DEPARTMENT OF STATE,
Washington, April 27, 1898.

EXCELLENCY: Referring to your pro memoria of to-day, with reference to the passage of four revenue cutters, two of which are armed, from the Great Lakes to the Atlantic coast, through channels that are under the control of the Dominion of Canada, I have the honor to inform you that instructions will be sent to the commanders of the vessels in question to proceed directly to a United States port without engaging in any hostile operation, and without taking more coal and stores than are necessary to enable them to make New York or some other United States port within easy reach. It is, of course, understood that the prohibition of engaging in any hostile operation would not preclude resistance to a hostile attack.

I have, etc., ALVEY A. ADEE,
Acting Secretary.

Mr. Moore to Sir Julian Pauncefote.

No. 999.] DEPARTMENT OF STATE,
Washington, May 4, 1898.

EXCELLENCY: Referring to your pro memoria of April 27 last, stating that the permission previously obtained for the passage of four revenue cutters through Canadian canals would not be withdrawn; provided this Government shall instruct the vessels to proceed direct to a United States port without engaging in any hostile operations, and shall take on only such coal and stores as will enable them to reach such port, I have the honor to inform you that the Department has received a letter from the Secretary of the Treasury stating that orders have been issued to the commanding officers of the revenue cutters *Gresham* and *Calumet*, which vessels are en route to the Atlantic coast, to carry out your requirements.

The Secretary of the Treasury adds that when the other two vessels shall receive orders to proceed to the Atlantic coast like instructions will be issued to their commanding officers.

I have, etc., J. B. MOORE.
Acting Secretary.

"PRIVATEERING;" "NEUTRAL SHIPS AND CARGOES;" AND TREATY (1795) WITH SPAIN.

Mr. Hay to Mr. Sherman.

No. 358.] AMERICAN EMBASSY,
London, April 18, 1898.

SIR: There is a good deal of discussion here, both in public and in private, in relation to the effect upon the rights and interests of neutrals at sea of hostilities between the United States and Spain. I sent you on the 16th of April, in my dispatch No. 356, a letter addressed to the Times by Sir George Baden-Powell, a prominent representative of the shipping interests of England in the House of Commons, in which he proposed, in the event of either belligerent employing privateers, to treat such vessels as pirates. This proposition has been met, as was natural to expect, by earnest protests on every hand. I inclose herewith two letters taken from the Times of this morning, one written by Prof. T. E. Holland and the other by Sir Sherston Baker, both gentlemen of much authority on international law. In the first of these letters the proposal of Sir George Baden-Powell is characterized as "an inadmissible atrocity," and in the second as "an uncivilized act, subversive of one of the clearest and best defined rules of international law." I also inclose a leading article from the Times referring to these letters and intimating that the action of the belligerents may be influenced by a timely assertion by the neutral powers of the rights enjoyed by them since 1856.

I may add that I received yesterday a visit from a member of Parliament, who is greatly interested in matters of maritime law, who most earnestly expressed the hope that the United States would not, in the present juncture, adhere to the treaty of Paris and thus tie their hands permanently from the employment of privateers, a step which he thought was a great mistake on the part of Great Britain in 1856. We might of course, for sufficient reasons, waive our right to fit out

privateers, and our equally undoubted rights of visitation and search without entering into any engagement which should make such waiver binding against us in the future.

I have, etc., JOHN HAY.

Mr. Sherman to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 23, 1898.

In the event of hostilities between United States and Spain, the policy of this Government will be not to resort to privateering, but to adhere to the following recognized rules of international law: First, the neutral flag covers enemy's goods, with the exception of contraband of war; second, neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag; and, third, blockades in order to be binding must be effective.

SHERMAN.

Mr. Moore to Mr. Hay.

No. 592.] DEPARTMENT OF STATE,
Washington, April 29, 1898.

SIR: I append on the overleaf copy of the Department's telegram of the 26th instant, and of your reply of the 27th, regarding the Spanish proclamation defining rules of neutral ships and cargoes.

Respectfully, yours,

J. B. MOORE,
Acting Secretary.

[Inclosure No. 1.]

Mr. Adee to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 26, 1898.

Ascertain if British foreign office has official cognizance of Spanish proclamation defining rules of neutral ships and cargoes, and if so whether it corresponds with the newspaper versions.

ADEE.

[Inclosure No. 2.]

Mr. Hay to Mr. Adee.

[Telegram.]

AMERICAN EMBASSY,
London, April 27, 1898.

Yes; to both questions.

HAY.

Mr. Moore to Mr Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 30, 1898.

Spanish proclamation of April 24 as published here declares annulled all treaty stipulations between the United States and Spain. Some of those stipulations expressly apply to a state of war. We shall be glad to learn from British representative, Madrid, what is intended.

MOORE, *Acting.*

Mr. Day to Mr. Hay.

No. 612.] DEPARTMENT OF STATE,
Washington, May 9, 1898.

SIR: I append on the overleaf translation of your cipher telegram of the 7th, and of my reply of the 8th instant, regarding the treaty of 1795 between the United States and Spain.

Respectfully, yours,

WILLIAM R. DAY.

[Inclosure No. 1.]

Mr. Hay to Mr. Day.

[Telegram.]

LONDON, *May 7, 1898.* (Received 3.50 p.m.)

Spanish Government have informed British ambassador, Madrid, that the whole of the treaty of seventeen ninety-five is abrogated, but if the Government of the United States will propose through British embassy an agreement embodying conditions of article 13, Spanish Government will accept; agreement must be limited to merchants.

HAY.

[Inclosure No. 2.]

Mr. Day to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 8, 1898.

Department does not consider treaty provisions expresaly applicable to war between contracting parties as abrogated by war, and therefore can not propose or make new agreement embodying the conditions of article 13, treaty 1795. So inform British ambassador, Madrid.

DAY.

Mr. Hay to Mr. Day.

No. 387.] AMERICAN EMBASSY,
London, May 10, 1898.

SIR: In accordance with cable instructions dated April 30, I immediately sought an interview with the Hon. J. H. Villiers—a conference with Lord Salisbury not being practicable—and after some conversation left with him a memorandum of an inquiry to be made as to the intention of the Spanish Government in regard to those stipulations of the treaty of 1795 which expressly provided for a state of war between the countries, and which seemed to be abrogated with all the rest of the treaty by the Spanish declaration of war. After consultation with Lord Salisbury, a telegram was sent to Sir Henry Drummond Wolff instructing him to make such inquiry.

His answer, stating that the Spanish Government considered the entire treaty abrogated, but that they were ready to enter into new stipulations, covering the same points as Article XII, was received here on the 7th of May and immediately cabled to you. I received your reply dated May 8 on the same day. It stated that the Government of the United States did not consider treaty provisions expressly applicable to war between contracting parties as abrogated by war, and therefore declined to propose or make a new agreement embodying conditions of Article XII in the treaty of 1795. I at once requested that your reply should be communicated to the Spanish Government through the courteous intervention of the British ambassador at Madrid, and a note this day from the foreign office informs me that this has been done.

I have, etc., JOHN HAY.

Mr. Hay to Mr. Day.

No. 393.] AMERICAN EMBASSY,
London, May 14, 1898.

SIR: I have the honor to report to you that the foreign office has informed me of an interview held between the British ambassador in Madrid and the Spanish minister of foreign affairs in consequence of the communication sent by me, under your instructions, to the Spanish Government through Sir Henry Drummond Wolff, by the courtesy of Lord Salisbury, as reported in my dispatch No. 387, dated the 10th of May, 1898.

The Spanish minister for foreign affairs said that it was impossible to acknowledge that the whole treaty of 1795 is not abrogated by the war, as it was announced in the Gazette that the war had "determined the caducity" of the treaty and of the Protocol of the 12th of January, 1877, nor could His Excellency give an answer at present.

Sir Henry Wolff desires to make a correction in his previous telegram. It appears that the minister for foreign affairs did not actually pledge himself to accept an agreement, but said that he would probably do so.

I am, etc., JOHN HAY.

Mr. Day to Mr. Hay.

No. 668.] DEPARTMENT OF STATE,
Washington, June 1, 1898.

SIR: I have to inform you that your dispatch No. 393, of the 14th ultimo, reporting further conversation of the British ambassador at Madrid with the Spanish minister of foreign affairs in regard to the treaty of 1795 and of the Protocol of the 12th of January, 1877, and its alleged abrogation by Spain, has been received.

Respectfully, yours,

WILLIAM R. DAY.

BRITISH WAR VESSELS IN CUBAN WATERS DURING WAR WITH SPAIN.

Sir Julian Pauncefote to Mr. Sherman.

BRITISH EMBASSY,
Washington, April 26, 1898.

SIR: I have the honor to inform you that at the instance of Her Majesty's consul-general at Habana, Her Majesty's Government desire to send a British vessel of war to visit that port and a British gunboat to visit Santiago de Cuba during the existing state of war between the United States and Spain.

I am instructed to inquire whether your Government are willing to give facilities for that purpose on the understanding that the visits of those vessels are solely for the purpose of giving any necessary advice or assistance to the British consular officers, and will not be prolonged beyond the time required to effect that object.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Moore to Sir Julian Pauncefote.

No. 996.] DEPARTMENT OF STATE,
Washington, April 30, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 26th instant, relative to the desire of Her Majesty's Government to send a British vessel of war to visit Habana and a British gunboat to visit Santiago de Cuba during the existing state of war between the United States and Spain, the proposed visit to be made solely for the purpose of giving any necessary advice or assistance to the British consular officers and not to be prolonged beyond the time required to effect that object.

In reply I beg to inform you that the Secretary of the Navy, on the 27th instant, telegraphed the commander in chief of the United States naval forces on the Atlantic station to afford facilities, as far as possible, to the man-of-war that is to visit Habana and to the gunboat that is to visit Santiago de Cuba.

I have, etc.,

JOHN B. MOORE,
Acting Secretary.

Mr. Moore to Sir Julian Pauncefote.

No. 998.] DEPARTMENT OF STATE,
Washington, May 4, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 3d instant apprising me that H. M. S. *Talbot* has been ordered to Havana, and H. M. S. *Alert* to Santiago de Cuba, for the purpose of giving any necessary advice or assistance to the British consular officers, and to inform you that this information has been communicated to the Secretary of the Navy.

I have, etc.,

J. B MOORE, *Acting Secretary.*

NOTICE TO PERSIA OF EXISTENCE OF WAR WITH SPAIN.

Mr. Moore to Mr. Hay.

No. 593.] DEPARTMENT OF STATE,
Washington, April 29, 1898.

SIR: I append on the overleaf copy of the Department's telegram of the 27th instant, directing you to communicate to the Persian minister at London official information of the proclamation of war with Spain.

Respectfully, yours,

J. B. MOORE, *Acting Secretary.*

[Inclosure.]

Mr. Adee to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 27, 1898.

Communicate to Persian minister in London official information of proclamation of existing state of war with Spain in order that his Government may be advised.

ADEE, *Acting.*

Mr. Hay to Mr. Sherman.

No. 375.] AMERICAN EMBASSY,
London, April 30, 1898.

SIR: I have the honor to report that, in obedience to your cabled instruction, I called on the 28th of April upon General Mirza Mohammed Ali Khan, envoy extraordinary and minister plenipotentiary of the Shah of Persia, at this court, and delivered to him a written notification of the state of war existing between the United States of America and Spain and requested him to communicate the same to his Government, which he engaged to do.

I have the honor to be, etc.,

JOHN HAY.

HONGKONG-MANILA CABLE, CLOSING AND REOPENING OF.

Mr. Hay to Mr. Day.

[Telegram.]

AMERICAN EMBASSY,
London, May 11, 1898.

The Marquis of Tweeddale, president Hongkong and Manila Telegraph, informs me that they hold their concessions from Spanish Government on condition that they shall not send telegrams when forbidden by Spain. This formal order has been given by Spain. They are, therefore, compelled to cease working for the present. He professed friendly feelings and desire that we should establish ourselves permanently in Philippine Islands, but declared inability to act otherwise in view of his concessions.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 22, 1898.

Spanish control by special franchise cable from Manila to Hongkong. Admiral Dewey has possession of the end of the cable at Manila but can not control end at Hongkong. British ambassador has telegraphed British minister for foreign affairs for permission to land new cable at Hongkong, to be constructed by American company; he also advises British minister for foreign affairs that you will see him on the subject. See him at once and ascertain if concession can be had for American company.

DAY.

Mr. Day to Mr. Hay.

No. 667.] DEPARTMENT OF STATE,
Washington, May 31, 1898.

SIR: I have received your telegram of the 26th instant, which, deciphered, reads as follows:

British minister for foreign affairs is taking opinion of the law officers of the Crown regarding Manila cable. Answer not yet received, but I have reason to think it will be negative. Concessions regarded as violation of neutrality.

Respectfully, yours,

WILLIAM R. DAY.

Mr. Hay to Mr. Day.

[Telegram.]

AMERICAN EMBASSY,
London, June 1, 1898.

British Government regret not at liberty to comply with our request to land cable at Hongkong.

HAY.

Mr. Hay to Mr. Day.

No. 412.] AMERICAN EMBASSY,
London, June 1, 1898.

SIR: Referring to my dispatch No. 407 of the 24th of May, and to my cabled dispatch of the 26th of May, I now have the honor to transmit a copy of a note just received from the Marquis of Salisbury, in which he informs me that he has consulted the lord chancellor and the attorney and the solicitor general in regard to our request that landing facilities at Hongkong should be granted to an American cable from Manila, and expresses his regret that as he is advised Her Majesty's Government is not at liberty to comply with the proposal of the Government of the United States.

As you will have learned by my cable dispatch, I had anticipated this decision. My conversation with high diplomatic and legal authorities had convinced me that they could not authorize us to land a cable at Hongkong without a breach of neutrality.

I am, etc., JOHN HAY.

[Inclosure.]

Lord Salisbury to Mr. Hay.

FOREIGN OFFICE, *May 27, 1898.*

YOUR EXCELLENCY: You expressed to me on Monday last the desire of the United States Government that a cable should be laid from Manila to Hongkong, and requested that Her Majesty's Government would grant landing facilities at Hongkong for that purpose. You informed me that the United States Government had been desirous of employing the agency of the Eastern Telegraph Company for the conveyance of their messages, but that the company had been compelled to refuse their application by an intimation from the Spanish Government that the concessions of the company would be forfeited if they assented to it. I have consulted the lord chancellor and the attorney and solicitor general in respect to your excellency's communication, and regret to inform you that as I am advised Her Majesty's Government is not at liberty to comply with the proposal of the Government of the United States.

I have, etc., SALISBURY.

Mr. Hay to Mr. Day.

No. 418.] AMERICAN EMBASSY,
London, June 7, 1898.

SIR: I have the honor to acknowledge the receipt of your cabled instruction of yesterday in regard to the Manila and Hongkong cable, and to inclose copies of it, as well as of my reply of this date.

In obedience to your instruction, I had an interview to-day with the Marquis of Tweeddale, the chairman of the company operating the above-mentioned cable. He could see no means of complying with our desire to send dispatches from Manila to Hongkong, in face of the

formal prohibition of the Spanish Government, without the risk of forfeiting their concession. He said he had already asked permission to take the telegrams of both sides, but that this had been refused. He concluded by saying that the direction of the company could not be justified in endangering the interests of their shareholders by defying the orders of the Spanish authorities, unless they were secured by a formal guaranty of the United States against all losses which might thereby result, including those arising from a forfeiture of their concession.

* * * * * * *

I have, etc., JOHN HAY.

[Inclosure 1 in No. 418—Telegram.]

Mr. Day to Mr. Hay.

DEPARTMENT OF STATE,
Washington, June 6, 1898.

Can arrangements be made confidentially with British company owning cable from Manila to Hongkong for use of same by United States authorities?

DAY.

[Inclosure 2 in No. 418—Telegram.]

Mr. Hay to Mr. Day.

AMERICAN EMBASSY,
London, June 7, 1898.

In obedience to your instructions, I have seen Lord Tweeddale. He sees no way to take our telegrams in face of formal prohibition of Spanish Government. Spain has refused his offer to take dispatches of both sides. He could suggest no means of getting over the Spanish prohibition, except our guaranteeing the company against all resulting losses, including forfeiture of concession.

* * * * * * *

HAY.

Mr. Hay to Mr. Day.

[Telegram.]

AMERICAN EMBASSY,
London, July 11, 1898.

Lord Tweeddale informs me Spanish Government have agreed to reopening Manila office to be free to all telegrams of every kind. If you agree maintenance steamer will be dispatched immediately.

HAY.

Mr. Day to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 12, 1898.

Thank Lord Tweeddale for kindly interest shown in Manila Hongkong cable matter, but postpone consideration of submitted proposal for the present.

DAY.

Mr. Hay to Mr. Day.

No. 455.] AMERICAN EMBASSY,
London, July 14, 1898.

SIR: I have the honor to inclose herewith copies of a letter dated 11th instant, which I have received from the Marquis of Tweeddale, chairman of the Eastern Extension Australasia and China Telegraph Company, Limited, of the cablegram which I thereupon sent you in cipher, and of your reply, with respect to the opening and neutralization of the Hongkong-Manila cable.

I have, etc.,

JOHN HAY.

[Inclosure in No. 455.]

Lord Tweeddale to Mr. Hay.

LONDON, E. C., *July 11, 1898.*

SIR: Since I last had the honor of discussing with your excellency the possibility of reopening the Hongkong-Manila cable before the termination of hostilities, the following telegram has been received from the company's general manager in the Far East:

Commodore Hongkong and shipping community much concerned now that typhoon season commences at absence weather telegrams from Manila, which are of immense value to life and property.

Authorities of all nations with whom commodore consulted agree and hope that representations and pressure on part company in proper quarters may bring about speedy restoration.

I also understand that at the request of the British admiral on the China Station, Her Majesty's Government have, through the British ambassador at Madrid, made urgent representations to the Spanish Government in favor of reopening the cable at the earliest possible moment.

The company have also been in communication with the telegraph department at Madrid on the subject, and have to-day received a letter (copy inclosed) from the accredited representative in London of that department, agreeing to the communication being at once restored, provided the cable and telegraph station in Manila are completely neutralized, so as to be available for the transmission of telegrams of every kind and from all sources.

Under these circumstances I venture to hope that the Government of the United States will be able to see their way to cooperate in the

matter by agreeing to the complete neutralization of the cable and telegraph station, and instructing Admiral Dewey accordingly. The company will then lose no time in dispatching one of their maintenance ships to Manila to repair the cable.

I have, etc., TWEEDDALE, *Chairman.*

[Subinclosure—translation.]

Mr. Vigil to Lord Tweeddale.

LONDON, *July 11, 1898.*

MONSIEUR LE DIRECTEUR: I have the honor to inform you that the negotiations conducted between you and me for the reopening of the cable, Hongkong-Manila, have had a favorable result, as, according to a telegram which the director-general of posts and telegraphs has addressed to me on the 9th instant, the Spanish Government intrusts the company, of which you are the worthy director, to take the necessary steps to obtain complete neutralization of the cable, giving you entire independence and freedom from interference on the part of the one or the other of the belligerents, on condition that your office at Manila is considered neutral territory to give free course to all telegrams—official, private, in plain or secret language, whether in code or in figures, without distinction, by senders of all nationalities or addressed to the same.

I have to request that you will be good enough to inform me what means you propose to adopt to hasten the reopening of communication, and to be kind enough to advise me of the probable date of the reopening of the cable for service.

I have, etc., VIGIL.

Mr. Hay to Mr. Day.

[Telegram.]

AMERICAN EMBASSY,
London, August 17, 1898.

Eastern Extension Telegraph Company inquires whether any objection now on the part of our Government to their repairing broken cable between Manila and Hongkong, with a view to prompt restoration of communication.

HAY.

Mr. Moore to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 17, 1898.

We do not object to the restoration of cable between Manila and Hongkong, and have requested French ambassador here to express to Spanish Government the hope that it will not object.

MOORE, *Acting.*

Mr. Hay to Mr. Day.

[Telegram.]

AMERICAN EMBASSY,
London, August 22, 1898.

Eastern Telegraph Company informs me Hongkong-Manila cable repaired and opened for business.

HAY.

AMERICAN PRISONERS (CONSTRUCTOR HOBSON ET AL.) AT SANTIAGO DE CUBA.

Mr. Moore to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, June 21, 1898.

DEAR SIR JULIAN: I return herewith your telegram to Sir Alexander Gollan and his reply, which you were so good as to leave with me, and inclose a paper containing a statement of the matters on which we hope to obtain information through Sir Alexander Gollan and Her Majesty's consul at Santiago de Cuba. I have put the statement into the form of a telegram to Sir Alexander Gollan in case you should find it convenient to use it for that purpose.

Sincerely yours, J. B. MOORE.

[Inclosure.]

DRAFT OF TELEGRAM.

Constructor Hobson and seven seamen, Montague, Charette, Murphy, Deignan, Phillips, Kelly, Clausen, on the U. S. ship *Merrimac*, when sunk at Santiago de Cuba, now held prisoners by Spaniards. United States desires to learn through Her Majesty's consul at Santiago de Cuba how prisoners are treated as to food, exercise, and attention, and especially whether they are kept in places in line of fire in military operations.

MEMORANDUM.

[Substance of a telegram from Her Majesty's consul-general, Sir A. Gollan.]

Her Majesty's consul at Santiago telegraphs to me as follows:

I have seen the American prisoners in barrack in close proximity to the town. They are supplied with as good food as the general scarcity permits of. Lieutenant Hobson expresses satisfaction at everything; he is well lodged. The lodging provided for the seamen is not so good; the ventilation is poor, and they are not given sufficient facilities for general exercise. I hope that there will be made an improvement in regard to this last particular.

"In case of an attack by land, it is quite possible that the prisoners would be exposed, as is the case with everybody else.

Mr. Moore to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, June 23, 1898.

DEAR SIR JULIAN: Pray accept our thanks for the memorandum communicating to the Department the substance of a telegram from Sir Alexander Gollan, Her Majesty's consul-general at Habana, in which he reports the result of an investigation made by the British consul at Santiago of the situation of Constructor Hobson and the seven seamen of the *Merrimac*, who are now held as prisoners of war at Santiago de Cuba. I am requested also to convey to you the thanks of the Navy Department.

Very truly, yours, J. B. MOORE.

PASSAGE OF WAR SHIPS THROUGH SUEZ CANAL.

Mr. Hay to Mr. Day.

No. 438.] AMERICAN EMBASSY,
London, June 25, 1898.

SIR: I received your instruction relative to the Suez Canal this morning and at once asked for an interview with the Marquis of Salisbury, which he granted me at 1.30 to-day. In accordance with your instruction, I assumed that no objection would be made to our use of the canal for the passage of our war ships, and merely asked whether there had been any modification of the convention of 1888, which would go to place the nonsignatory powers on any different footing from those signing the convention. He said there had been none, and I gathered from his remarks that he had no idea that any power would make any protest against our use of the canal, nor that any protest would hold if it were made. The attitude of the British Government is that we are unquestionably entitled to the use of the canal for war ships.

I presume you already have a copy of the convention, but in case you have not I inclose one in this dispatch. I also inclose a copy of your instruction and of my reply.

I am, etc., JOHN HAY.

[Inclosure 1.—Telegram.]

Mr. Day to Mr. Hay.

DEPARTMENT OF STATE,
Washington, June 25, 1898.

We desire to send war ships through the Suez Canal. Mention the matter to the minister for foreign affairs; and, while discreetly assuming that no objection will be made, ascertain probable source of objection, if any, and attitude of the Government of Great Britain thereon. Prompt action is important.

DAY.

[Inclosure 2.—Telegram.]

Mr. Hay to Mr. Day.

AMERICAN EMBASSY,
London, June 25, 1898.

Had an interview with Lord Salisbury. The convention of 1888 guarantees free navigation of Suez Canal to ships of all powers, belligerent or otherwise. Lord Salisbury thinks it improbable that any power should object, as there will be no ground for objection, if we should send war ships through the canal. I send by mail copy of convention.

HAY.

Mr. Day to Mr. Hay.

No. 746.] DEPARTMENT OF STATE,
Washington, July 14, 1898.

SIR: I have to acknowledge the receipt of your No. 438 of the 25th ultimo, in which you convey the purport of your conversation with the Marquis of Salisbury in relation to the passage of the Suez Canal by ships of war.

Your action in merely referring to the convention of Constantinople of October 29, 1888, in relation to the free navigation of the Suez Canal, as defining the attitude of the contracting parties on the subject, is approved.

The object of the Department in telegraphing to you was threefold:

1. It was desired to avoid even the possibility of objection being made to the use of the canal by our ships of war at a time when the need for such use might be immediate and imperative.

2. The Department, while recognizing the general and unrestricted purpose of the convention of October 29, 1888, was not disposed wholly to rely upon it or formally to appeal to it, since the United States is not one of the signatory powers.

3. The Department was not disposed, by a formal appeal to the convention, to recognize a general right on the part of the signatories to say anything as to the use of the canal in any manner by the United States.

So far as the Department is advised, Great Britain is the only Government that owns any stock, or at any rate a considerable amount of stock, in the canal, and therefore the only one in a position to assert any claim of control on that ground.

The Department is gratified with the response made by Lord Salisbury to your inquiry.

Respectfully yours, WILLIAM R. DAY.

SPANISH FLEET AT PORT SAID.

Mr. Hay to Mr. Day.

[Telegram.]

AMERICAN EMBASSY,
London, June 29, 1898.

British Government concludes Camara can not remain at Port Said more than twenty-four hours, except in case of necessity, and can not coal there if he has coal enough to take him back to Cadiz, which appears to be the case.

HAY.

REPORTED INTENTION OF SPANISH FLEET TO COAL AT PERIM.

Mr. Day to Mr. Hay.

No. 725.] DEPARTMENT OF STATE,
Washington, July 1, 1898.

SIR: I confirm the Department's telegram of the 29th ultimo, which deciphered reads as follows:

Inform British Government of report that Spanish fleet intends to coal from British colliers at island of Perim.

Respectfully, yours, WILLIAM R. DAY.

Mr. Hay to Mr. Day.

[Telegram.]

AMERICAN EMBASSY,
London, July 2, 1898.

Referring to your cipher telegram June 29, British Government has cabled resident at Aden and assistant resident at Perim about British vessel *Imaum;* the latter reports she arrived on June 28; is now discharging 5,000 tons coal consigned to Perim Coal Company there, and is to proceed when finished to Karachi. Every precaution taken to prevent violation of neutrality proclamation.

HAY.

SPANISH PRIVATEER REPORTED TO BE IN CANADIAN WATERS.

Mr. Day to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 6, 1898.

Consul at Vancouver, British Columbia, reports that Spanish privateer is lying in Gulf of Georgia and has offered pilot of Boston and Atlantic Steamship Company $8,000 for one month's service. Inform British Government.

DAY.

Mr. Day to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, July 6, 1898.

DEAR SIR JULIAN: Mr. Dudley, our consul at Vancouver, British Columbia, telegraphs under date of the 5th instant that he has received information that a Spanish privateer is lying in the Gulf of Georgia. The source of his information Mr. Dudley does not give, except, perhaps, in his statement that the Boston and Atlantic Steamship Company have reported to him that the privateer has offered one of their pilots $8,000 for a month's service.

Mr. Dudley states that he has telegraphed to Mr. Smith, the United States consul at Victoria, to make an investigation of the case. Meanwhile, I deem it a matter of prudence to bring it to your notice, in order that the authorities of the Dominion of Canada may take such steps as the circumstances justify.

Believe me, etc.,

WILLIAM R. DAY.

Mr. Day to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, July 8, 1898.

DEAR SIR JULIAN: With reference to my note of the 6th instant, I deem it my duty to say that the Department has just received from Mr. Dudley, United States consul at Vancouver, another telegram in

relation to the Spanish privateer referred to in his previous telegraphic message. Mr. Dudley states that the pilot who gave him the information on which that message was based now informs him that the privateer in question, with five guns, is at present between Queen Charlotte Sound and Dixon's Entrance. Mr. Dudley is also advised that the Spanish consul at Vancouver is endeavoring to purchase or charter steamers. Under the circumstances it is reasonable to infer that any steamers so purchased or chartered will be used as privateers.

Believe me, etc.,

WILLIAM R. DAY.

Mr. Day to Mr. Hay.

No. 734.] DEPARTMENT OF STATE.
Washington, July 8, 1898.

SIR: I append on the overleaf translation of my cipher telegram[1] of the 6th instant, advising you of the report of the United States consul at Vancouver that a Spanish privateer is lying in the Gulf of Georgia, and directing you to inform the British Government thereof.

Respectfully, yours,

WILLIAM R. DAY.

Mr. Day to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 8, 1898.

Consul at Vancouver reports the Spanish privateer with five guns now between Queen Charlotte Sound and Dixon's Entrance. Spanish consul is said to be endeavoring to purchase or charter steamer.

DAY.

Mr. Moore to Mr. Hay.

No. 737.] DEPARTMENT OF STATE,
Washington, July 9, 1898.

SIR: In connection with the Department's No. 734, of the 7th instant, I append on the overleaf translation of my cipher telegram[1] of July 8, in further relation to the reported presence of a Spanish privateer in the waters of British Columbia.

Respectfully, yours,

J. B. MOORE,
Acting Secretary.

Mr. Hay to Mr. Day.

No. 466.] AMERICAN EMBASSY,
London, July 22, 1898.

SIR: Referring to your instructions numbered 734 of 9th instant and 737 of 11th instant, I have the honor to inclose herewith the copy

[1] Inclosure printed, ante.

of a note, which I have received from the foreign office, stating that nothing has been seen or heard of a Spanish privateer in Canadian waters, and that the rumor on which your instructions were based is believed in Canada to be without foundation.

I have, etc., JOHN HAY.

[Inclosure.]

FOREIGN OFFICE, *July 20, 1898.*

YOUR EXCELLENCY: With reference to your communications of 7th and 9th instants, respectively, I have the honor to inform you that the Governor-General of Canada has reported that nothing has been seen or heard of a Spanish privateer seeking a pilot in Canadian waters. His excellency adds that the rumor is believed to be without foundation.

I have, etc.,

F. H. VILLIERS,
(For the Marquis of Salisbury.)

Mr. Day to Mr. Hay

No. 762.] DEPARTMENT OF STATE,
Washington, July 23, 1898.

SIR: I have received and communicated to the Secretary of the Navy your telegram of the 21st instant, which deciphered reads as follows:

British Government has made inquiry and is convinced there is no truth in report of Spanish privateer at Vancouver.

Respectfully, yours, J. B. MOORE,
Acting Secretary.

Mr. Hay to Mr. Day.

No. 491.] AMERICAN EMBASSY,
London, August 9, 1898.

SIR: With reference to my despatch No. 466 of 22d ultimo, and to previous correspondence relative to a Spanish privateer alleged to be in Canadian waters near Queen Charlotte Sound, I have the honor to inclose herewith the copy of a note which I have received from the foreign office stating that H. M. S. *Icarus* has made a thorough search of those waters, but has seen and heard nothing of the vessel in question.

I ha e, etc., JOHN HAY.

[Inclosure.]

FOREIGN OFFICE, *August 8, 1898.*

MY DEAR AMBASSADOR: With reference to your letter to Mr. Villiers of July 9, respecting the reported presence of a Spanish privateer near Queen Charlotte Sound, Lord Salisbury desires me to say that a telegram has been received from Lord Aberdeen reporting that

H. M. S. *Icarus* has made a thorough search of the territorial waters of Canada on that coast but has seen and heard nothing of the vessel in question.

Believe me, yours, very sincerely,

T. H. SANDERSON.

PROTECTION BY BRITISH CONSUL AT HABANA OF AMERICAN MISSIONARY PROPERTY.

Mr. Day to Sir Julian Pauncefote.

No. 1087.] DEPARTMENT OF STATE,
Washington, July 14, 1898.

EXCELLENCY: The Department is informed that the Home Mission Board of the Southern Baptist Convention, an incorporated organization, owns a considerable amount of real and personal property in Habana and in San Miguel, Cuba. All this property was lately in charge of Dr. Ed. Belot, who was assisted in the care of it by his niece, Miss Joerg, Prado 67, Habana. Upon a recent report of Dr. Belot's death, the Home Mission Board cabled Miss Joerg, authorizing her to take charge of the property in question, and it is desired that the British consul at Habana may be informed of the fact, in order that he may render her such good offices as may be needful and proper.

The Department will be greatly obliged if your excellency will be so good as to telegraph to this effect to Her Majesty's consular representative at Habana.

I have, etc.,

WILLIAM R. DAY.

Mr. Day to Sir Julian Pauncefote.

No. 1103.] DEPARTMENT OF STATE,
Washington, July 26, 1898.

EXCELLENCY: Referring to previous correspondence relative to obtaining from the British consular officer at Habana protection for certain property there in charge of Miss Joerg, belonging to the Home Mission Board of the Southern Baptist Convention, I have the honor to acknowledge, with thanks, the receipt of your note of the 21st instant, advising the Department of the contents of a telegram received by you to the effect that the British acting consul-general was at the point of taking up his residence in Miss Joerg's house.

I have, etc.,

WILLIAM R. DAY.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., August 5, 1898.

SIR: In continuation of my note of the 21st ultimo relative to the property of the Home Mission Board of the Southern Baptist Convention in Habana and San Miguel, I have the honor to inform you that I am in receipt of a telegram from Her Majesty's acting consul-

general in Habana, stating that an attempt has been made by a man named Sanchez to extort money from the Joerg Mission in connection with the will of the late Dr. Belot. The deceased was, Mr. Jerome states, a French citizen, and Mr. Springer, formerly United States vice-consul at Habana is an executor under the will.

Mr. Jerome adds that he is acting in concert with the French consul with a view to safeguarding the interests of the French and American heirs.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Day to Sir Julian Pauncefote.

No. 1125.] DEPARTMENT OF STATE,
Washington, August 9, 1898.

EXCELLENCY: Referring to previous correspondence relative to the property of the Home Mission Board of the Southern Baptist Convention in Habana, I have the honor to acknowledge the receipt of your note of the 5th instant, in which you say that you are in receipt of a telegram from Her Majesty's acting consul-general in Habana, stating that an attempt has been made by a man named Sanchez to extort money from the Joerg Mission in connection with the will of the late Dr. Belot.

A copy of your above-mentioned note has been sent to the chairman of the Home Mission Board of the Southern Baptist Convention for the information of those concerned.

I have, etc., WILLIAM R. DAY.

Mr. Day to Sir Julian Pauncefote.

No. 1180.] DEPARTMENT OF STATE,
Washington, September 14, 1898.

EXCELLENCY: Referring to the Department's note of July 14 last, asking you to request the British consul at Habana to use his good offices for the protection of certain property in Cuba belonging to the American Home Mission Board of the Southern Baptist Convention, which had been placed in charge of Miss Joerg, and with regard to the subsequent correspondence on the subject, I have the honor to inclose for your information copy of a letter[1] from Mr. Porter King, chairman of the Committee on Cuba of the Southern Baptist Convention, expressing the thanks of Miss Joerg and of the Mission Board for the kindness and courtesy shown to them by yourself and the British consul at Habana during the blockade.

I have, etc., WILLIAM R. DAY.

Mr. Adee to Sir Julian Pauncefote.

No. 1199.] DEPARTMENT OF STATE,
Washington, September 24, 1898.

EXCELLENCY: At the instance of the Home Mission Board of the Southern Baptist Convention I have the honor to inclose a resolution[1]

[1] Not printed.

adopted by the board in question, expressing its appreciation of the assistance rendered by your embassy and Her Majesty's consulate-general at Habana to its missionaries in that city.

I beg you to do me the favor to cause the contents of the resolution in question to be communicated to Her Majesty's consul-general at Habana.

I have, etc., ALVEY A. ADEE,
Acting Secretary.

RETURN OF SPANISH PRISONERS TO SPAIN.

Mr. Day to Mr. Hay.

No. 755.] DEPARTMENT OF STATE,
Washington, July 19, 1898.

SIR: I append on the overleaf translation of my cipher telegram of the 18th instant regarding the return by this Government of Spanish troops to Spain.

Respectfully, yours, WILLIAM R. DAY.

Mr. Day to Mr. Hay.

[Inclosure—Telegram.]

DEPARTMENT OF STATE,
Washington, July 18, 1898.

Under capitulation Santiago de Cuba this Government is to return Spanish troops to Spain.

We desire through British ambassador at Madrid an understanding with Spanish Government that transports will be considered neutralized both on inward and outward voyage, no belligerent act to be committed by or upon them. It is assumed that such transports will not be subjected to port charges, unless pilotage, but understanding is desired on this point also.

DAY.

Mr. Day to Mr. Hay.

No. 759.] DEPARTMENT OF STATE,
Washington, July 20, 1898.

SIR: In connection with my No. 755 of the 19th instant I append on the overleaf translation of the Department's cipher telegram of July 18 with further reference to the return by this Government of Spanish troops to Spain.

Respectfully, yours,

WILLIAM R. DAY.

Mr. Day to Mr. Hay.

[Inclosure—Telegram.]

DEPARTMENT OF STATE,
Washington, July 18, 1898.

Since telegram of yesterday offer has been received from Spanish Trans-Atlantic Line for transporting Spanish prisoners. We would give such ships, having only such armament as merchant ships usually carry, safe conduct on inward and outward voyage, provided they commit no unneutral act. We desire to know immediately at what Spanish port transports will be received. If American or neutral ships are used, we desire in case of contagion that quarantine station be established ashore, so ships can depart promptly. We desire, whatever the nationality of ships, to make following terms: Spain to provide medical and surgical attendance for prisoners on transports. United States furnish medical supplies. United States furnish rations, but Spain to designate one officer for each ship as commissary to see that rations are sufficient. Spanish officers to assume police regulation of ships.

DAY.

Mr. Hay to Mr. Day.

[Telegram.]

AMERICAN EMBASSY,
London, July 21, 1898.

Lord Salisbury has instructed British ambassador at Madrid to communicate to Spanish Government substance of your two telegrams about transportation of prisoners, and promises reply as soon as possible.

HAY.

Mr. Hay to Mr. Day.

[Telegram.]

AMERICAN EMBASSY,
London, July 24, 1898.

I have just received from Lord Salisbury the following communication from British ambassador at Madrid, dated July 23, 1898:

I have just received the following from the Spanish minister for foreign affairs: "The Spanish Government are willing to agree that the strictest neutrality should be observed by the vessels employed by the Transatlantic Company in the transport to Spain of the force which surrendered at Santiago de Cuba. The armament of these vessels shall only be for merchantmen, and no act of hostility shall be committed by them, while the United States on their part shall guarantee the same neutrality toward these vessels, both on their outward journey and on their return. The Spanish Government agree further that the necessary medical stores shall be supplied by the United States and an officer shall be appointed by the Spanish Government to inspect these stores and rations. Medical attendance for the crews and soldiers will be provided by the Spanish Government. The latter Government agree that the transports employed in this service shall, with the exception of the pilotage, be exempted from every kind of port dues. The British ambassador shall be informed with the least possible delay by the Spanish Government of the ports where the disembarkation of the troops is to take place. The desires of the United States with regard to all points connected with lazaretto will be observed."

The foregoing is a telegraphic summary of a note verbale from the Spanish Government to the British ambassador. The latter inquires whether this communication is sufficient or whether a formal agreement should be executed. Please enable me to answer this inquiry promptly. British ambassador at Madrid adds that, doubtless owing to the ships being Spanish, no mention is made in note of police.

HAY.

Mr. Hay to Mr. Day.

No. 472.] AMERICAN EMBASSY,
London, July 25, 1898.

SIR: Referring to my cipher telegram of the 24th instant, I have the honor to inclose herewith the copy of a note which I have received from the foreign office, transmitting the original and translation of the note verbale from the Spanish Government, of which I cabled you the substance on the above-mentioned date, relative to the return to Spain of the Spanish troops.

I have, etc., JOHN HAY.

[Inclosure.]

Lord Salisbury to Mr. Hay.

FOREIGN OFFICE, *London, July 27, 1898.*

YOUR EXCELLENCY: With reference to my communication of the 23d instant, I have the honor to transmit to you a copy and translation of the note verbale which Her Majesty's ambassador at Madrid has received from the Spanish Government relating to the transport of the Spanish troops from Santiago de Cuba to Spain.

I have, etc.,

F. H. VILLIERS,
(For the Marquis of Salisbury.)

[Subinclosure 1.]

Mr. Wolff to the Marquis of Salisbury.

MADRID, *July 28, 1898.*

MY LORD: With reference to my telegram No. 240 of last night, I have the honor to transmit herewith copy and translation of the note verbale from the Spanish Government in reply to the terms proposed by the United States to be observed in regard to the Spanish troops to be repatriated from Santiago de Cuba.

I have, etc., H. WOLFF.

[Subinclosure 2.]

The minister of state has the honor to inform Her Majesty's ambassador, in reply to his two "notes verbales" of yesterday's date, that His Majesty's Government is in perfect accord with the Government of the United States that the ships of the Spanish Transatlantic Line employed to bring home the troops that have capitulated in Santiago de Cuba shall observe the strictest neutrality, it being agreed that the said ships shall not carry more armament than is usual for merchant ships, and that they shall not commit any act of hostility so long as the said neutrality is guaranteed to these ships by the United States, both on the voyage there and back.

His Majesty's Government also agrees that the Government of the United States may provide the medical supplies and rations necessary for the voyage, and will name an official to examine them and to take under his charge the medical attendance on the soldiers and crew.

His Majesty's Government agrees to the conditions that the said transports shall be exempt from all port dues with the exception of pilotage.

His Majesty's Government will inform Her Britannic Majesty's ambassador as soon as possible at which Spanish ports the said troops should be landed, everything relative lazarettos to be determined, taking into account the wishes expressed on this point by the United States.

PALACE, *July 22, 1898.*

Mr. Moore to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 25, 1898.

Telegram received. Contract with Spanish Transatlantic Company concluded since Department telegraphed you on 18th instant renders proposed understanding with Spanish Government unnecessary. Company contracts to take officers and men from Santiago de Cuba to Spain for a certain sum for each individual, covering transportation, subsistence, and delivery on shore. This Government gives to ships while sailing under that contract to Santiago de Cuba and thence to Spain safe conduct against the acts of persons under the jurisdiction of the United States.

MOORE.

Mr. Hay to Mr. Day.

[Telegram.]

AMERICAN EMBASSY,
London, July 25, 1898.

Additional inquiry from Spanish Government just received through British minister for foreign affairs as to whether Transatlantic Company steamer *San Augustin* now at San Martinique fitted as hospital ship, with medical officers aboard, can be used to transport wounded to Spain. If request is granted the vessel will be sent immediately to Santiago de Cuba under same previously proposed conditions.

HAY.

Mr. Moore to Mr. Hay.

[Telegram.]

DEPARTMENT OF STATE, *July 26, 1898.*

Consul at Martinique instructed to issue safe conduct to *San Augustin*, and to allow surgeons and nurses to accompany ship.

MOORE, *Assistant.*

Mr. Hay to Mr. Day.

No. 475.] AMERICAN EMBASSY,
London, July 28, 1898.

SIR: I have the honor to inclose herewith copies of cablegrams exchanged between your Department and this embassy, and of notes to the British Government relative to the return to Spain of the troops who surrendered at Santiago.

I have, etc., JOHN HAY.

[Inclosure 1.]

Mr. Hay to the Marquis of Salisbury.

AMERICAN EMBASSY,
London, July 19, 1898.

MY LORD: I have the honor to acquaint your lordship that my Government desires to arrive at an understanding with that of Spain in respect to the neutrality both on the inward and outward voyage of the transports in which the troops that surrendered at Santiago de Cuba are to be returned to Spain, and I am instructed to express the hope that Her Majesty's Government will be so good as to allow Her Majesty's ambassador at Madrid to act as intermediary in the matter.

My Government would like it understood that no belligerent act is to be committed by or upon these transports, and that they will not be subjected to any port charges in Spain except pilotage.

I shall be much obliged if your lordship will have the goodness to cause the views of the Spanish Government in this matter to be ascertained with the least possible delay.

I have, etc., JOHN HAY.

[Inclosure 2.]

Mr. Hay to the Marquis of Salisbury.

AMERICAN EMBASSY,
London, July 20, 1898.

MY LORD: Referring to my note of yesterday, I have the honor to acquaint your lordship that I have received a later telegram from my Government informing me that they have received an offer from the Spanish Transatlantic Line for transporting Spanish prisoners. The American Government would give such ships, having only such armament as merchant ships usually carry, safe conduct on inward and outward voyage, provided they commit no unneutral act.

My Government desire to know immediately, or at the earliest possible moment, at what Spanish port transports will be received, if American or neutral ships are used.

They desire, in case of contagion, that quarantine stations be established ashore so that ships can depart promptly.

They desire, whatever the nationality of ships, to make the following terms:

Spain to provide medical attendance for prisoners on transports;

United States to furnish medical supplies;

United States to furnish rations, but Spain to designate one officer for each ship as commissary, to see that rations are sufficient;

Spanish officers to assume police regulations of ships.

I shall be under great obligations if your lordship will have the kindness to procure, through Her Majesty's ambassador at Madrid, as prompt a response as possible to these suggestions from the Government of Spain.

I have, etc., JOHN HAY.

[Inclosure 3.]

Lord Salisbury to Mr. Hay.

FOREIGN OFFICE, *July 23, 1898.*

YOUR EXCELLENCY: With reference to your note of the 20th instant respecting the arrangement for the removal to Spain of the Spanish troops who surrendered at Santiago de Cuba, I have the honor to transmit to your excellency a paraphrase of a telegram from Her Majesty's ambassador at Madrid giving the substance of the communication which he has received from the Spanish Government on this subject.

Sir H. D. Wolff states that a copy of the original note verbale will be forwarded on the 24th instant, and inquires whether a formal agreement should be executed.

I should be obliged if your excellency would inform me what answer the United States Government wish returned to this inquiry.

I have, etc.,

FRANCIS BERTIE,
(For the Marquis of Salisbury.)

[Subinclosure.]

Copy of paraphrase of telegram from Sir H. Wolff, No. 240.

MADRID, *July 23, 1898.*

I have just received the following from the Spanish ministry for foreign affairs:

"The Spanish Government are willing to agree that the strictest neutrality should be observed by the vessels employed by the Transatlantic Company in the transport to Spain of the force which surrendered at Santiago de Cuba. The armanent of these vessels shall only be such as it would be for merchantmen, and no act of hostility shall be committed by them, while the United States on their part shall guarantee the same neutrality toward these vessels, both on their outward journey and on their return.

"The Spanish Government agree further that the necessary rations and medical stores shall be supplied by the United States, and an officer shall be appointed by the Spanish Government to inspect these stores and rations.

"Medical attendance for the crews and soldiers shall be provided by the Spanish Government.

"The latter Government agree that the transports employed on this service shall, with the exception of pilotage, be exempted from every kind of port dues.

"The British ambassador shall be informed, with the least possible delay, by the Spanish Government of the ports where the disembarkation of the troops take place. The desire of the United States with regard to all points connected with lazarettos will be observed."

I will forward copy of the original note verbale; and I notice that, doubtless owing to the ships being Spanish, no mention has been made of police.

Is it desired that a formal agreement should be drawn up embodying the various points?

[Inclosure 4.]

Lord Salisbury to Mr. Hay.

IMMEDIATE.] FOREIGN OFFICE, *July 25, 1898.*

YOUR EXCELLENCY: With reference to my note of the 23d instant, respecting the arrangements for the removal to Spain of the Spanish troops who surrendered at Santiago de Cuba, I have the honor to transmit to you a paraphrase of a telegram from Her Majesty's ambassador at Madrid, giving the substance of a further communication which he has received from the Spanish Government, suggesting that the Transatlantic Company's steamer *San Augustine*, now lying at San Martinique, which has been fitted up as a hospital ship, should be made use of for the transportation to Spain of the sick and wounded troops from Santiago.

I should be obliged if your excellency would inform me what answer the United States Government wish returned to this proposal.

I have, etc.,

T. H. SANDERSON.
(For the Marquis of Salisbury.)

[Subinclosure.]

Paraphrase of telegram from Sir H. Wolff.

No. 245.] MADRID, *July 24, 1898.*

I have received an inquiry from the Spanish Government as to whether they can make use of the Transatlantic Company's steamer *San Augustine* for the transport to Spain of [sick and wounded] troops from Santiago de Cuba.

This vessel, which is now at Martinique, was fitted up before the war as a hospital ship, and a staff of military surgeons are now on board.

Should the United States Government accede to this request of the Spanish Government, the latter will at once dispatch the vessel to take the sick and wounded at Santiago, and the conditions laid down by the United States Government will be strictly observed in regard to her.

[Inclosure 5.]

Mr. Hay to Lord Salisbury.

IMMEDIATE.] AMERICAN EMBASSY,
London, July 25, 1898.

MY LORD: With reference to your note of the 23d instant, I have the honor to acquaint your lordship that I lost no time in cabling my Government the paraphrase of Sir H. Drummond Wolff's telegram of that date, which you were so good as to inclose, and I have just received a reply stating that the Department of State, since telegraphing me instructions on which my notes of the 19th and 20th instant were based, has concluded with the Spanish Transatlantic Company a contract which renders the proposed understanding with the Government of Spain unnecessary.

The company contracts to take officers and men from Santiago de Cuba to Spain for a certain sum for each individual, transportation, subsistence and delivery on shore being included.

My Government gives to the ships while sailing under that contract to Santiago de Cuba and thence to Spain safe conduct against the acts of persons under the jurisdiction of the United States.

I lost no time upon the receipt yesterday afternoon of your lordship's note of the same date, relative to the proposed use of the hospital ship *San Augustine*, in communicating its substance by telegraph to my Government, and I shall transmit to you with equal promptitude the purport of any reply which may reach me.

May I ask your lordship to be good enough to express to Her Majesty's ambassador at Madrid my sincere thanks for the courtesy and promptitude with which he has acted upon the requests recently made of him by my Government, and which I fear have added materially to his labors.

I have, etc.,

JOHN HAY.

[Inclosure 6.]

Mr. Hay to Lord Salisbury.

AMERICAN EMBASSY,
London, July 26, 1898.

MY LORD: Referring to your lordship's note of the 25th July, I have the honor to acquaint your lordship that the American consul at Martinique has been instructed to issue a safe conduct to the Transatlantic Company's steamer *San Augustine*, which has been fitted up as a hospital ship, and to allow surgeons and nurses to accompany the ship.

I shall be under renewed obligations to your lordship if you will cause this information to be conveyed to Her Majesty's ambassador at Madrid, to be communicated to the Spanish Government.

I have, etc.,

JOHN HAY.

[Inclosure 7—Telegram.]

Mr. Day to Mr. Hay.

DEPARTMENT OF STATE,
Washington, July 27, 1898.

About 1,600 Spanish sailors held at Portsmouth, N. H., as prisoners of war will be allowed to return to Spain on parole if Spanish Government will send neutral ship for them. Make proposal through the usual channel.

DAY.

[Inclosure 8.]

Mr. Hay to Lord Salisbury.

AMERICAN EMBASSY,
London, July 28, 1898.

MY LORD: I have the honor, in accordance with instructions from my Government, to request your lordship to be so good as to intimate

to the Government of Spain, through the medium of Her Majesty's ambassador at Madrid, that about 1,600 Spanish sailors held at Portsmouth, N. H., as prisoners of war will be allowed to return to Spain on parole if the Spanish Government will send a neutral ship for them.

I have, etc., JOHN HAY.

Mr. Hay to M . Day.

No. 494.] AMERICAN EMBASSY,
London, August 12, 1898.

SIR: Referring to your telegraphic instruction of the 27th ultimo, of which I inclose a copy herewith, relative to the return of the Spanish sailors held as prisoners at Portsmouth, N. H., I have the honor to transmit the copies of notes which I have received on the subject from the Marquis of Salisbury, dated the 6th and 10th instants, and of a cablegram which I sent you upon the receipt of the former.

I have, etc.,

JOHN HAY.

[Inclosure 1.]

Lord Salisbury to Mr. Hay.

IMMEDIATE.] FOREIGN OFFICE,
August 6, 1898.

SIR: With reference to your excellency's note of the 28th ultimo, I have the honor to inform you that a telegram has been received from Her Majesty's ambassador at Madrid stating that the Spanish Government are unable to avail themselves of the offer of the United States Government to allow the Spanish sailors held at Portsmouth, N. H., as prisoners of war to return to Spain on parole if the Spanish Government will send a neutral ship to fetch them.

The Spanish Government state that their naval code establishes a penalty for prisoners of war who obtain release by giving their parole not to bear arms against the enemy.

Sir H. D. Wolff promises further details by post, which will be communicated to your excellency.

I have, etc., FRANCIS BERTIE.
(In the absence of the Marquis of Salisbury.)

[Inclosure 2.]

Lord Salisbury to Mr. Hay.

FOREIGN OFFICE, *August 10, 1898.*

YOUR EXCELLENCY: With reference to my note of the 6th instant, I have the honor to transmit to your excellency translation of a letter which the Spanish minister for foreign affairs has addressed to Her Majesty's ambassador at Madrid, explaining the difficulty in the way of bringing home the sailors detained as prisoners of war at Portsmouth, N. H.

I have, etc., T. H. SANDERSON.
(In the absence of the Marquis of Salisbury.)

[Inclosure 8.]

[MADRID,] PALACE, *August 5, 1898.*

MY DEAR SIR H. D. WOLFF: My colleague, General Annon, answered me yesterday afternoon with regard to the sailors of the royal navy at present detained as prisoners of war at Portsmouth, N. H., United States.

While expressing his gratification at the possibility of so many gallant men being enabled to return to their native country, he finds an insurmountable obstacle to their returning home in the present form of one of the conditions put by the United States Government as set forth in your letter of July 28.

The Spanish naval code expressly marks a penalty for prisoners of war who obtain their release by giving their word of honor not to again bear arms against the enemy.

Although this stricture would seem to apply more to officers and not to common seamen, from whom such an engagement is not generally expected, our marine department does not feel itself in a position to consent to the adoption of a course with regard to one class of our naval forces which in another would be regarded and punished as a fault.

Believe me, etc., ALMODOVAR DEL RIO.

FUNDS FOR RELIEF OF AMERICAN CITIZENS IN HABANA.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., July 21, 1898.

SIR: I have the honor to inform you that I am in receipt of a telegraphic report from Her Majesty's acting consul-general at Habana, to the effect that many United States citizens who are in danger of starvation have applied at the British consulate-general for relief.

Mr. Jerome asks what steps should be taken by him toward relieving these persons.

I should be obliged if you would inform me of your wishes in the matter.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Day to Sir Julian Pauncefote.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 22, 1898.

Note of 21st instant received. Department will be grateful if you will cable Her Majesty's acting consul-general at Habana to draw on this Government from time to time up to $2,000 to relieve immediate needs of United States citizens in Habana, and to report as to the extent to which relief may be required in future.

DAY.

Mr. Moore to Sir Julian Pauncefote.

No. 1101.] DEPARTMENT OF STATE,
Washington, July 23, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 21st instant, saying that you are in receipt of a telegram from Her Majesty's acting consul-general at Habana stating that many American citizens who are in danger of starvation have applied to the British consulate there for relief and asking what steps should be taken toward relieving those persons.

Upon the receipt of your note the Department requested you by telegraph to cable Her Majesty's acting consul-general at Habana to draw on this Government from time to time up to $2,000 to relieve immediate needs of United States citizens in Habana, and to report as to the extent to which relief may be required in future.

A copy of the Department's telegram is appended on the overleaf.

I have, etc.,

J. B. MOORE,
Acting Secretary.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., July 27, 1898.

SIR: With reference to your telegram of the 22d instant sanctioning the expenditure of money for the relief of United States citizens at Habana, I have the honor to inform you that Her Majesty's acting consul-general at Habana has drawn upon you for the sum of $500.

Mr. Jerome adds that the $2,000 which he is authorized to draw will be sufficient for some time to come.

I have, etc. JULIAN PAUNCEFOTE.

Mr. Moore to Sir Julian Pauncefote.

No. 1115.] DEPARTMENT OF STATE,
Washington, August 1, 1898.

EXCELLENCY: Referring to your communication of the 21st ultimo, relative to the telegram received by you from Her Majesty's acting consul-general at Habana in relation to the application of American citizens to him for relief and with regard to subsequent correspondence on the subject, I have the honor to acknowledge with thanks the receipt of your note of the 27th ultimo, advising me that Mr. Jerome had drawn upon the Department for the sum of $500 for the purpose indicated.

I have, etc.,

J. B. MOORE, *Acting Secretary.*

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., August 5, 1898.

SIR: With reference to previous correspondence regarding the distribution of relief through Her Majesty's acting consul-general at Habana among United States citizens in that city, I have the honor to inform you that I am in receipt of a telegram from Mr. Jerome stating that of 107 American families which have applied to him 34 have received relief; in 4 cases the relief has been refused, and the remaining 69 cases are still under consideration.

I have, etc., JULIAN PAUNCEFOTE.

Mr. Day to Sir Julian Pauncefote.

No. 1129.] DEPARTMENT OF STATE,
Washington, August 10, 1898.

EXCELLENCY: Referring to your communication of the 21st ultimo, relative to the telegram received by you from Her Majesty's acting consul-general at Habana, in relation to the application of American citizens to him for relief and with regard to the subsequent correspondence on the subject, I have the honor to acknowledge the receipt of your note of the 5th instant, in which you advise me of the further action of Her Majesty's acting consul-general in regard to the matter in question.

In view of your report, I would be pleased to have you convey to Mr. Jerome an expression of the Department's high appreciation of his continued efficient and conscientious execution of its request.

I have, etc.,

WILLIAM R. DAY.

REPORT THAT BRITISH CRUISER BROUGHT SPANISH OFFICIALS FROM HABANA.

Mr. Day to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, July 21, 1898.

DEAR SIR JULIAN: The Department is in receipt of information that the British cruiser *Talbot* has, on two recent occasions, brought away Spanish officials from Habana. It is stated that on the first occasion she brought one Mendez, the official press censor, and on the second Raphael Cassares, captain of volunteers and secretary to Señor Congosto. It is said that Cassares was at the time on a special mission.

It is possible that the reports before me may not be entirely correct, and that, so far as they may have foundation, they may be susceptible of a ready explanation. It has seemed to me that I ought to bring them to your attention, instead of allowing them to remain unanswered on the files of the Department.

Believe me, etc., WILLIAM R. DAY.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., July 22, 1898.

DEAR MR. SECRETARY: I beg to acknowledge the receipt of your letter of the 21st instant calling my attention to the report that Spanish officials have, on two recent occasions, been brought away from Habana on board H. M. S. *Talbot.*

I have asked Her Majesty's consul-general at Habana by cable for a report on the case, and shall not fail to apprise you of such information as I may receive.

I am, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., July 26, 1898.

DEAR MR. SECRETARY: In reply to your letter of the 21st instant informing me of the report which had reached your Department concerning the recent departure of Spanish officials from Habana, I hasten to apprise you that Her Majesty's acting consul-general at Habana has assured me positively by telegraph that no Spanish officials have left on board H. M. S. *Talbot.*

As far as regards the two persons named in your letter Mr. Jerome is unable to give any information, but probably Sir Alexander Gollan, who has now left the island, may be able to explain the matter.

I should be glad to know whether you would desire that Sir A. Gollan be called upon for a report of the circumstance.

I am, etc.,

JULIAN PAUNCEFOTE.

Mr. Moore to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, July 30, 1898.

DEAR SIR JULIAN: I am in receipt of your communication of the 26th instant, touching the reported recent departure of Spanish officials from Habana on H. M. S. *Talbot*, referred to in my letter of July 21st.

I thank you for the inquiry that you instituted in the matter and am gratified that it has resulted, as I expected it would, in the positive assurance of Her Majesty's acting consul-general at Habana that no Spanish officials have left there on board the *Talbot.*

This assurance is quite sufficient, and it is not desired that you should make any further inquiry on the subject.

Very truly, yours,

J. B. MOORE.

RED CROSS FUND.—CONTRIBUTIONS OF AMERICANS IN ENGLAND.

Mr. Hay to Mr. Day.

No. 483.] AMERICAN EMBASSY,
London, August 5, 1898.

SIR: I have the honor to transmit my check for $1,100, being the amount of the contributions of a few Americans and friends of American residents in this country to the funds of the Red Cross Society of America, for the relief of the sick and wounded of the present war. I beg you will have the kindness to give this check the proper destination.

I am, etc.,

JOHN HAY.

COURTESIES TO UNITED STATES VESSELS AT HONGKONG.

Mr. Day to Mr. Hay.

No. 816.] DEPARTMENT OF STATE,
Washington, August 25, 1898.

SIR: I append on the overleaf translation of the Department's cipher telegram of the 22d, and of yours in reply of the 23d instant, regarding permission for Admiral Dewey to dock, clean, and paint the bottoms of the vessels under his command at Hongkong.

Respectfully, yours,

WILLIAM R. DAY.

[Inclosure 1—Telegram.]

Mr. Day to Mr. Hay.

DEPARTMENT OF STATE,
Washington, August 22, 1898.

Ascertain whether Admiral Dewey may dock, clean, and paint bottoms of vessels under his command at Hongkong. These operations could not under present circumstances be considered as connected with actual hostilities, but are in the nature of repairs affecting the preservation of vessels.

DAY.

[Inclosure 2—Telegram.]

Mr. Hay to Mr. Day.

AMERICAN EMBASSY,
London, August 23, 1898.

British Government telegraphed governor of Hongkong on Saturday to accede to Admiral Dewey's application.

HAY.

CUBANS IMPRISONED IN SPAIN.

Sir Julian Pauncefote to Mr. Adee.

BRITISH EMBASSY,
New London, Conn., September 19, 1898.

SIR: I have the honor to transmit to you herewith, under instructions from the Marquis of Salisbury, a petition addressed to the British consul at Barcelona, as representing the United States Government, by certain Cubans imprisoned in the Castle of San Fernando, Figueiras.

The petition asks for intervention with the Spanish Government for clemency, claiming that as Cubans they have become, under the terms of the peace protocol, subjects of the United States.

Her Majesty's consul mentions that such claims to American citizenship by Cubans are constantly received.

I have, etc., JULIAN PAUNCEFOTE.

[Inclosure—Translation.]

Various Cuban prisoners to the British consul at Barcelona.

CASTLE OF SAN FERNANDO,
Figueiras, August 20, 1898.

SIR: The undersigned, demanding the right of people living in civilized countries, beg to submit to you the following petition:

The peace [protocol] having been signed and hostilities suspended between the armies of Spain and the United States, the former having handed over to the latter her right of sovereignty over the island of Cuba, the inhabitants of the same become subjects (provisionally) of the latter Government (the United States of America); and as in Spain the interests and the persons of American subjects are under the protection of the British flag, it follows that Cubans during the occupation by the United States must be considered as such; we therefore appeal to the British flag to obtain protection, in the certainty of obtaining it from that powerful and generous nation.

The undersigned, in representation of the survivors of the 200 Cubans who were shut up in this castle on November 29, 1896, and of other parties of exiles, declare as follows:

That from the above-mentioned date they have been confined in an underground gallery, where the atmosphere is unhealthy and pestilential, owing to the damp and emanations from a people crowded into an unhealthy locality, filled with fleas and lice, which torment our bodies and produce germs which lead to diseases which have caused the death of a third of our original number. For one hour in the morning and one hour and a half in the afternoon we are allowed to take exercise in the moat of the fortress guarded by armed soldiers. On returning from the pure air to our quarters we find the atmosphere simply suffocating.

The food is insufficient to sustain life, although it has been somewhat improved the last few days. Formerly we suffered from actual hunger.

For all purposes we are provided with the sum of 50 centimos. We have not even a piece of soap, and suffer at the same time an isolation such that we are not allowed to speak with anybody, not even with our guards, and even the notes we send to our companions in hospital are under inspection.

But, as all reasons for this rigorous treatment, quite out of proportion to our position as exiles have now ceased to exist, and it not being likely that any indiscretion of ours can harm the Government, it is evident that the isolation and rigorous treatment we suffer should cease, as we do not intend to make any attempt to escape nor commit any illegal act whatever, and clemency is invoked by humanity.

In virtue of which we beg you, with all possible dispatch, to transmit this petition to the British ambassador in Spain, that he may obtain from the Government of Her Majesty the Queen Regent an act of pity to alleviate the misfortunes of the under-

signed, who commence and conclude with an invocation of the right of mankind, for which favor they will be hereafter most grateful to the distinguished diplomat to whom this petition is addressed and to the gracious sovereign who can not deny the favor we in justice ask.

PEDRO MARTINEZ FALIENTE ET AL.
(Fifteen additional signatures.)

Mr. Adee to Sir Julian Pauncefote.

No. 1197.] DEPARTMENT OF STATE,
Washington, September 23, 1898.

EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 19th instant, inclosing a translation of a petition addressed to the British consul at Barcelona, as representing the United States interests, by certain Cubans imprisoned in the Castle of San Fernando, Figueiras.

This petition, by its nature and contents, appeals strongly to the sympathetic and benevolent consideration of this Government, which is disposed to take whatever measures may seem prudent and feasible to secure to Cubans imprisoned for purely political offenses all possible amelioration in their unhappy condition, and to obtain for them, if possible, the relief prayed for in said petition. With a view to the accomplishment of this end, a copy of your note and of said petition will be promptly forwarded to the commission which is charged by this Government with the negotiations for a treaty of peace between the United States and Spain, for its consideration and for such action as may seem meet and proper.

I have, etc., ALVEY A. ADEE,
Acting Secretary.

COALING OF THE HELENA AT BERMUDA AND GIBRALTAR.

Mr. White to Mr. Hay.

No. 530.] AMERICAN EMBASSY,
London, September 26, 1898.

SIR: Referring to Mr. Adee's cipher telegram of 21st instant, I have the honor to inform you that I lost no time upon its receipt in addressing a note to the Marquis of Salisbury, of which I inclose a copy herewith. I took it myself to the foreign office and requested the under secretary (to whom I handed it) to read it at once, which he did, and I furthermore asked that the answer of Her Majesty's Government might be given as promptly as possible.

On the 24th I received a private note stating that the *Helena* will be permitted to coal at Bermuda and Gibraltar on the understanding that she will not reenforce our Asiatic Squadron should hostilities be renewed with Spain.

I therefore sent you the telegram, whereof a copy is inclosed, together with that of a note to the foregoing effect, which I have received to-day from the foreign office. I have expressed my thanks to the Marquis of Salisbury for the courtesy of Her Majesty's Government in the matter.

I have, etc., HENRY WHITE.

[Inclosure 1—Telegram.]

Mr. Adee to Mr. White.

DEPARTMENT OF STATE,
September 21, 1898.

It is desired to send small light-draft gunboat *Helena* to China for river service, for which purpose she was expressly built. Will sail about October 1, touching at Bermuda, Madeira, and Gibraltar. Ask permission to visit Bermuda and Gibraltar and coal therein, with understanding that the vessel does not reenforce Asiatic Squadron for operations against Spain should hostilities be resumed.

ADEE, *Acting.*

[Inclosure 2.]

Mr. White to Lord Salisbury.

AMERICAN EMBASSY,
London, September 22, 1898.

MY LORD: I have the honor to inform your lordship that my Government would like to send a small gunboat, the *Helena*, of light draft, to China for river service, for which purpose she has been expressly built. It is desired that she should sail from the United States about the 1st of October, touching at Bermuda and Gibraltar.

I am accordingly instructed to ask permission of Her Majesty's Government for the *Helena* to visit Bermuda and Gibraltar and to coal at those places, upon the understanding that she does not reenforce the Asiatic Squadron of the United States for operations against Spain should hostilities unfortunately be resumed between those countries.

I have, etc.,

HENRY WHITE.

[Inclosure 3.]

Lord Salisbury to Mr. White.

FOREIGN OFFICE, *September 24, 1898.*

SIR: In compliance with the request contained in your note of the 22d instant, on the understanding mentioned therein, I have the honor to inform you that permission will be granted for the U. S. gunboat *Helena* to coal at Bermuda and Gibraltar.

The secretary of state for the colonies has been requested to issue instructions to the governors of the two colonies to that effect.

I have, etc.,

F. H. VILLIERS,
(For the Marquis of Salisbury.)

[Inclosure 4—Telegram.]

Mr. White to Mr. Adee.

AMERICAN EMBASSY,
September 24, 1898.

British Government will allow *Helena* to coal at Bermuda and Gibraltar on the understanding stated in your telegram of 21st.

WHITE.

U. S. TORPEDO BOAT SOMERS—PERMISSION TO DEPART FROM BRITISH PORT.

Mr. Hay to Mr. White.

No. 959.] DEPARTMENT OF STATE,
Washington, November 19, 1898.

SIR: In view of a letter from the Secretary of the Navy, dated the 15th instant, you are instructed to make, if practicable, arrangements with the British Government permitting the bringing to the United States of the torpedo boat *Somers*, now stored at Falmouth, England, giving assurance that in case of the resumption of hostilities with Spain this vessel will not be made use of.

I am, etc.,

JOHN HAY.

Mr. White to Mr. Hay.

No. 601.] AMERICAN EMBASSY,
London, December 10, 1898.

SIR: Referring to your instruction 959, of the 19th ultimo, I have the honor to inform you that upon the day of its receipt I called at the foreign office and had an interview with Mr. Assistant Under Secretary Villiers, through whom I requested Her Majesty's Government to allow the torpedo boat *Somers* to leave Falmouth, on the understanding that, in the event of a renewal of hostilities between ourselves and Spain, she should not be made use of.

I subsequently addressed a note, of which I inclose a copy, to the Marquis of Salisbury on the subject, and you will observe from his lordship's reply, which is also transmitted herewith, that our request has been granted.

I yesterday communicated this fact to you by a telegram, whereof I inclose a copy.

I have, etc.,

HENRY WHITE.

[Inclosure 1.]

Mr. White to Lord Salisbury.

AMERICAN EMBASSY,
London, December 1, 1898.

MY LORD: I have the honor, in accordance with instructions from the Secretary of State, to invite the good offices of your lordship with a view to obtaining the consent of Her Majesty's Government to the departure from Falmouth, where she has been stored since the outbreak of the war, of the U. S. torpedo boat *Somers*.

I am instructed, in making this request, to give assurance to your lordship, in behalf of my Government, that, in case hostilities should unfortunately be resumed with Spain, which would now appear to be highly improbable, the *Somers* will not be made use of; and I venture to hope that, upon this understanding, Her Majesty's Government may see their way to allow her to leave for the United States.

I have, etc.,

HENRY WHITE.

Lord Salisbury to Mr. White.

FOREIGN OFFICE, *December 8, 1898.*

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant, in which you invite my good offices with a view of obtaining the consent of Her Majesty's Government to the departure from Falmouth, where she has been stored since the outbreak of the war, of the U. S. torpedo boat *Somers*. You add that you are instructed by the United States Government to give an assurance that in the event of hostilities being resumed with Spain, which would now appear to be highly improbable, the *Somers* will not be made use of.

In view of this assurance I have the honor to state that Her Majesty's Government are glad to comply with your request, and that the necessary instructions will at once be sent to the proper authorities in order to facilitate the departure of the vessel.

I have, etc.,

F. H. VILLIERS,
(For the Marquis of Salisbury.)

RETIREMENT OF SEÑOR DON ENRIQUE DUPUY DE LOME, SPANISH MINISTER AT WASHINGTON.

[Translation of letter written by Señor Don Enrique Dupuy de Lome to Señor Don José Canalejas. Undated, but from internal evidence probably written about the middle of December, 1897.]

LEGATION OF SPAIN, *Washington.*

His Excellency Don JOSÉ CANALEJAS.

MY DISTINGUISHED AND DEAR FRIEND: You have no reason to ask my excuses for not having written to me. I ought also to have written to you, but I have put off doing so because overwhelmed with work and nous sommes quittes.

The situation here remains the same. Everything depends on the political and military outcome in Cuba. The prologue of all this, in this second stage (phase) of the war, will end the day when the colonial cabinet shall be appointed and we shall be relieved in the eyes of this country of a part of the responsibility for what is happening in Cuba, while the Cubans, whom these people think so immaculate, will have to assume it.

Until then, nothing can be clearly seen, and I regard it as a waste of time and progress, by a wrong road, to be sending emissaries to the rebel camp, or to negotiate with the autonomists who have as yet no legal standing, or to try to ascertain the intentions and plans of this Government. The [Cuban] refugees will keep on returning one by one, and as they do so will make their way into the sheepfold, while the leaders in the field will gradually come back. Neither the one nor the other class had the courage to leave in a body and they will not be brave enough to return in a body.

The message has been a disillusionment to the insurgents, who expected something different; but I regard it as bad (for us).

Besides the ingrained and inevitable bluntness (groseria) with which is repeated all that the press and public opinion in Spain have said about Weyler, it once more shows what McKinley is, weak and a bidder for the admiration of the crowd, besides being a would-be politician (politicastro) who tries to leave a door open behind himself while keeping on good terms with the jingoes of his party.

Nevertheless, whether the practical results of it [the message] are to be injurious and adverse depends only upon ourselves.

I am entirely of your opinions; without a military end of the matter nothing will be accomplished in Cuba, and without a military and political settlement there will always be the danger of encouragement being given to the insurgents by a part of the public opinion if not by the Government.

I do not think sufficient attention has been paid to the part England is playing.

Nearly all the newspaper rabble that swarms in your hotels are Englishmen, and while writing for the Journal they are also correspondents of the most influential journals and reviews of London. It has been so ever since this thing began. As I look at it, England's only object is that the Americans should amuse themselves with us and leave her alone, and if there should be a war, that would the better stave off the conflict which she dreads but which will never come about.

It would be very advantageous to take up, even if only for effect, the question of commercial relations, and to have a man of some prominence sent hither in order that I may make use of him here to carry on a propaganda among the Senators and others in opposition to the junta and to try to win over the refugees.

So, Amblard is coming. I think he devotes himself too much to petty politics, and we have got to do something very big or we shall fail.

Adela returns your greeting, and we all trust that next year you may be a messenger of peace and take it as a Christmas gift to poor Spain.

Ever your attached friend and servant,

ENRIQUE DUPUY DE LÔME.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 9, 1898.

There has appeared in the public prints a letter, addressed early in December last by the Spanish minister to Mr. Canalejas, and which the minister admits was written by him. It contains expressions concerning the President of the United States of such character as to end the minister's utility as a medium for frank and sincere intercourse between this country and Spain. You are, therefore, instructed to at once say to the minister of state that the immediate recall of the minister is expected by the President.

DAY, *Acting.*

Mr. Woodford to Mr. Sherman.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, February 11, 1898.

Dispatch concerning Spanish minister received. Have seen Spanish minister for foreign affairs. Resignation of Spanish minister had

been asked and accepted by cable before our interview. The first secretary of legation at Washington will be placed at once in charge of the legation. New minister will be appointed at once, and will reach Washington in about 15 days. Full report by next mail.

WOODFORD.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 11, 1898.

Your last telegram as to De Lôme incident says, "Full report to follow." Telegraph that report, giving details.

DAY, *Acting.*

Mr. Woodford to Mr. Sherman.

No. 137.] LEGATION OF THE UNITED STATES.
Madrid, February 11, 1898,

SIR: I have the honor to acknowledge receipt on the morning of February 10, instant, of Department dispatch sent by telegraph, as follows:[1]

I endeavored all the morning of yesterday to obtain personal interview with the Spanish minister of foreign affairs, but he was engaged with the council of ministers and I did not succeed in seeing him until 4 o'clock in the afternoon. I then stated that it was with sincere regret that I must read to him the dispatch which I had received from my Government at Washington relating to Señor Dupuy de Lôme. I then read to him and at his request left with him a copy of the telegram received by me from the Department, and added that I would communicate at once to my Government by telegraph such answer as his excellency might make. He replied that the Spanish Government sincerely regretted the indiscretion of their minister at Washington, and that the resignation of the Spanish minister had been asked and accepted by cable before our then interview. He added that the first secretary of legation at Washington would be placed at once in charge of the legation and that a new minister would be appointed as soon as possible, and who might be expected to reach Washington in about fifteen days.

It is possible that I misunderstood the Spanish minister in what he said about asking the minister's resignation. He may have said that the resignation had been offered (instead of asked) and accepted by cable.

I at once telegraphed you.[1]

The minister of foreign affairs was cordial, direct and courteous. In public evidence of the cordiality of the personal relations subsisting between myself and the Spanish Government, it was at once arranged that the Spanish ministers of foreign affairs and of the colonies should join a small dinner which I am giving to-night.

I am, etc.,

STEWART L. WOODFORD.

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[1] Printed *ante.*

Señor du Bosc to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN AT WASHINGTON,
February 11, 1898.

Mr. SECRETARY: I have the honor to inform your excellency that the renunciation of his office of minister plenipotentiary of His Majesty in the United States which has been tendered by His Excellency Señor Don Enrique Dupuy de Lôme having been accepted by His Majesty's Government, the latter has been pleased to designate me as chargé d'affaires ad interim, of which office I take possession to-day.

I have the honor to acquaint your excellency with this for the information of the Government of which your excellency worthily forms part.

I avail myself, etc., JUAN DU BOSC.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 12, 1898.

The notably objectionable passages of the Spanish minister's letter read as follows:

First. "El mensage ha desengañado á los insurrectos que esperaban otra y ha paralizado la accion del congreso; pero yo lo considero malo. Ademas de la natural é inevitable prosería con que se repite cuanto ha dicho de Weyler la prensa y la opinion en España, demuestra una vez mas le que es McKinley, débil y populachero y además un politicastro que quiere dejarse una puerta abierta y quedar bien con los jingoes de su partido."

Second. "Seria muy importante que se ocuparan, aunque no fuera mas que para efecto, de las relaciones comerciales y que se enviase aquí un hombre de importancia para que yo le usara aquí para hacer propaganda entre los Senadores y otros en oposicion á la Junta y para ir guardar (ganando) emigrados."

The last word but one, "guardar," is almost illegible.

If, as is probable, the ministry has not possessed the text of the letter, you should acquaint the minister of state with the foregoing extracts, pointing out the insulting character of the first and the insincerity which underlies the second.

DAY, *Acting.*

Mr. Sherman to Señor du Bosc.

No. 354.] DEPARTMENT OF STATE,
Washington, February 12, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, in which you inform me that the renunciation of his office of minister plenipotentiary of His Majesty in the United States which has been tendered by His Excellency Señor Don Enrique Dupuy de Lôme having been accepted by His Majesty's Government, the

latter has been pleased to designate you as chargé d'affaires ad interim, of which office you took possession yesterday.

In reply, I have to assure you that it will afford me pleasure to take up with you the business arising out of your mission.

Accept, etc.,

JOHN SHERMAN.

Mr. Woodford to Mr. Sherman.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, February 12, 1898.

Have received telegram asking full report of de Lôme incident. Report acknowledges the receipt of telegrams and continues as follows:

Endeavored all the morning of yesterday (Thursday) to obtain personal interview with the minister of foreign affairs, but he was engaged with council of ministers. I did not succeed in seeing him until 4 o'clock p. m. I then stated that it was with great regret that I must read to him the dispatch which I had received from my Government, relating to Spanish minister at Washington. Then read to him. At his request left him a copy of the telegram received by me from the Department; and added that I would communicate to my Government at once by telegraph such answer as his excellency might make. He replied that the Spanish Government sincerely regretted the indiscretion of the Spanish minister at Washington, and that his resignation had been asked and accepted by cable before our then interview. He added that the first secretary would be placed in charge of legation, and a new minister will be appointed as soon as possible, who may be expected to reach Washington in about fifteen days.

It is possible that I misunderstood Spanish minister in what he said about asking minister's resignation. He may have said that the resignation had been offered instead of asked and accepted by cable. Spanish minister for foreign affairs was very courteous, cordial, and direct. In public evidence of the cordiality of personal relations subsisting between the Spanish Government and myself, it was at once arranged that the Spanish minister for foreign affairs and minister for the colonies should join a small dinner party which I am giving to-night (Friday).

Report ends here. While Spanish feeling grows more bitter against the United States each day, I do not think the De Lôme incident will be likely to affect diplomatic relations here, while it might delay negotiations in Washington as to commercial treaty. I still believe that the Spanish Government will make no further concessions, and will insist upon their own time to crush rebellion. I think they mean just what they say in their note of February 1. In conversation they tell me they have now done all they can, and that we ought to issue a new proclamation, and prevent filibustering expeditions, and break up New York junta at once.

WOODFORD.

Mr. Woodford to Mr. Sherman.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, February 14, 1898.

Telegram received. I have written the following letter to Spanish minister for foreign affairs. I repeat the text:

On the afternoon of last Thursday, the 10th day of February, and after the adjournment of His Majesty's council of ministers I had the honor to call upon your excellency and to read to you a copy of a telegram which I had received that morning from my Government and which related to a letter written by the Spanish min-

ister at Washington. I then stated that I would communicate to my Government at once by telegraph such answer as your excellency might make, and I left with you a copy of such telegram and statement. I understood your excellency to reply that the Spanish Government sincerely regretted the indiscretion of the Spanish minister at Washington and that his resignation had been asked and accepted by cable before our then interview. I telegraphed to my Government at once that the resignation had been asked and accepted by cable before our then interview. It is possible that I misunderstood your excellency in what was said about the minister's resignation having been asked for by your Government. It is now the fourth day since I had the honor of calling upon your excellency and I have not yet had the satisfaction of receiving any formal indication that His Majesty's Government regrets and disavows the language and sentiments which were employed and expressed in such letter addressed by the Spanish minister at Washington to a distinguished Spanish citizen. It is my hope and pleasure to believe that the Spanish Government can not have received the text of the letter written by Señor Dupuy de Lôme to Señor Canalejas in regard to which I called upon your excellency last Thursday, and it therefore becomes my duty to acquaint your excellency with the following extracts from such letter which are notably objectionable to my Government.

Here follow two Spanish extracts as telegraphed by the Department.

I beg to point out to your excellency the insulting character of the first passage and the insincerity which underlies the suggestions of the second.

Customary conclusion.

WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 140.] LEGATION OF THE UNITED STATES,
Madrid, February 14, 1898.

SIR: I have the honor to acknowledge the receipt on Sunday morning, February 13 instant, of telegram from the Department as follows:[1]

I have this Monday morning, February 14 instant, telegraphed you as follows:[1]

This note to the Spanish minister for foreign affairs was delivered at his office and receipt obtained this Monday morning at about 10 o'clock, so that it can be considered by the council of ministers, which, as I understand, has been called for to-day at 12 o'clock.

To complete the files of the Department I inclose herewith complete copy of such note.

I have, etc.,

STEWART L. WOODFORD.

[Inclosure in No. 140.]

Mr. Woodford to Señor Gullon.

No. 63.] LEGATION OF THE UNITED STATES,
Madrid, February 14, 1898.

EXCELLENCY: On the afternoon of last Thursday, the 10th day of February, and after the adjournment of His Majesty's council of ministers, I had the honor to call upon your excellency and to read to you a copy of a telegram which I had received that morning from my Government, and which related to a letter written by the Spanish minister at Washington. I then stated that I would communicate to my Government at once by telegraph such answer as your excellency might make, and I left with you a copy of such telegram and statement. I understood your excellency to reply that the Spanish Government sincerely regretted the indiscretion of the Spanish minister at Wash-

[1] Printed *ante*.

ington, and that his resignation had been asked and accepted by cable before our then interview.

I telegraphed to my Government at once that the resignation had been asked and accepted by cable before our then interview.

It is possible that I misunderstood your excellency in what was said about the minister's resignation having been asked by your Government.

It is now the fourth day since I had the honor of calling upon your excellency, and I have not yet had the satisfaction of receiving any formal indication that His Majesty's Government regrets and disavows the language and sentiments which were employed and expressed in such letter addressed by the Spanish minister at Washington to a distinguished Spanish citizen.

It is my hope and pleasure to believe that the Spanish Government can not have received the text of the letter written by Señor Dupuy de Lome to Señor Canalejas, in regard to which I called upon your excellency last Thursday, and it therefore becomes my duty to acquaint your excellency with the following extracts from such letter, which are notably objectionable to my Government:

First: "El mensaje ha desenganado á los insurrectos que esperaban otra cosa y ha paralizado la acción del Congreso, pero yo lo considero malo ademas de la natural é inevitable grosería con que se repite cuanto ha dicho de Weyler la prensa y la opinión en España demuestra una vez más lo que es McKinley debil y populachero y ademas un politicastro que quiere dejarse una puerta abierta y quedar bien con los jingoes de su partido."

Second: "Seria muy importante que se ocuparan aunque no fuera más que para efecto de las relaciones comerciales y que se enviase aquí un hombre de importancia para que yo le usara aquí para hacer propaganda entre los senadores y otros en oposición á la junta y para ir——— emigrantes."

The last word before "emigrantes," and which I have indicated by a dash, is almost illegible.

I beg to point out to your excellency the insulting character of the first passage and the insincerity which underlies the suggestions of the second.

I avail myself, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, February 17, 1898.

Have just received official communication from Spanish minister of foreign affairs that the Queen Regent has to-day signed decree appointing Señor Polo de Barnabé minister from Spain to the United States.

WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 143.] LEGATION OF THE UNITED STATES,
Madrid, February 17, 1898.

SIR: Late yesterday afternoon, February 16, I received the reply of the Spanish Government, dated February 15 instant, to my note of

February 14, relating to Señor Dupuy de Lôme and his letter of last December.

By working all night we have succeeded in completing translation of same, and I have just telegraphed you giving full text of my translation.

Such telegram is as follows:[1]

I inclose complete copy of the Spanish text,[1] so that the Department may revise my translation as given in the telegram repeated above.

I am, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 145.] LEGATION OF THE UNITED STATES,
Madrid, February 17, 1898.

SIR: I have the honor to report that the Gaceta de Madrid of this date publishes officially the decree of the Queen Regent accepting the resignation of Señor Dupuy de Lome as Spanish minister at Washington. It is dated February 10 instant, and contains no expression of commendation of his official service.

I inclose two copies of same for files of Department.

Yesterday afternoon, February 16, Señor Aguera, the subsecretary of the ministry of state, and Señor Polo de Barnabé, chief of the commercial bureau of same ministry, called on me in behalf of the minister of foreign affairs and notified me informally that Señor Polo de Barnabé had been appointed as minister from Spain to the United States at Washington in place of Señor Dupuy de Lôme resigned, and that such new appointment would be officially announced very soon.

I telegraphed you to-day in regard to such appointment as follows:

LEGATION OF THE UNITED STATES,
Madrid, February 17, 1898.

Polo de Barnabé will be appointed minister to Washington. He is the son of Admiral Polo, formerly minister. Is now chief of commercial bureau in Spanish state department. Speaks English and is familiar with commercial affairs. Was secretary of legation at Washington when his father was minister.

WOODFORD.

I have, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 146.] LEGATION OF THE UNITED STATES,
Madrid, February 17, 1898.

SIR: I have this moment received a note from the Spanish minister of foreign affairs, dated this 17th day of February, instant, informing me that Her Majesty the Queen Regent has signed a decree nominating Don Luis Polo de Bernabé to be envoy extraordinary and minister plenipotentiary of Spain in the Republic of the United States. Señor Polo de Bernabé was at the time of his appointment chief of the section or bureau of commerce of the foreign office of Spain.

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[1] Not printed; see inclosure with No. 147.

I telegraph you as follows:

MADRID, *February 17, 1898.*

Secretary SHERMAN, *Washington:*

Have just received official communication from Spanish minister of foreign affairs that the Queen Regent has to-day signed decree appointing Señor Polo de Bernabé minister from Spain to the United States.

WOODFORD.

I have the honor to be, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 147.] LEGATION OF THE UNITED STATES,
Madrid, February 17, 1898.

SIR: In addition to my dispatch No. 143, of this date, I inclose herewith copy of my translation of the Spanish note of February 15 instant, relating to Señor Dupuy de Lôme. My dispatch of to-day, translating such note, omitted the formal introduction and conclusion. This inclosed translation embraces both.

Very respectfully, yours,

STEWART L. WOODFORD.

[Inclosure in No. 147.]

Señor Gullon to Mr. Woodford.

No. 13.] MINISTRY OF STATE,
Palace, February 15, 1898.

EXCELLENCY:

MY DEAR SIR: There is, in fact, as your excellency yourself suspects, an error or misunderstanding, little surprising, in truth, in the references to our brief conversation of Thursday, the 10th instant, to which your excellency alludes in the note which I had the honor to receive yesterday.

After your excellency read to me the telegram transmitted by your Government, and an exact copy of which you were kind enough to leave with me, when you asked me to indicate to you the opinions and intentions of the cabinet of Madrid concerning the facts mentioned in the same dispatch I replied solely that the Spanish Government, like that of Washington, and like your excellency, with entire sincerity lamented the incident which was the cause of our interview; but that, while considering it and measuring its real significance, Señor Dupuy de Lome had already solved it by presenting the resignation of his charge, which the council of ministers had just accepted.

To this clear declaration I understood that I should limit my reply, because, in fact, the Spanish ministry, in accepting the resignation of a functionary whose services they had been utilizing and valuing up to that time, left it perfectly well established that they did not share, and rather, on the contrary, disauthorized, the criticisms tending to offend or censure the chief of a friendly State, although such criticisms had been written within the field of personal friendship, and had reached publicity by artful and criminal means.

This meaning which was involved and could not help being embodied in a resolution of the council of ministers adopted before I had the pleasure of receiving your excellency when the Government of Spain only in a general way, by vague telegraphic reports, learned the sentiments alluded to, is naturally the real meaning which the Spanish ministry, with equal or greater reason, gives to the decision referred to, after reading the words which your excellency copies in Spanish in the first of the two paragraphs which your courteous note transmits to me.

As regards the second paragraph which the same communication of your excellency almost literally reproduces, the Government of which I form a part is profoundly surprised that a private letter, dated, as it appears, on a day relatively

distant, and the opinions of which can not properly be formed now, subsequent to recent agreements, can be invoked now merely on account of the significance of the signature as a germ of suspicion and doubts as opposed to the unanswerable testimony of simultaneous and subsequent facts.

The present Spanish Government, before and after the date indicated, with respect to the new colonial regimen and the projected treaty of commerce gave such evident proofs of its real designs and of its innermost convictions that it does not now consider compatible with its prestige to lay stress upon or to demonstrate anew the truth and sincerity of its purposes and the unstained good faith of its intentions.

Publicly and solemnly it contracted, before the metropolis and its colonies, the responsibility of the political and tariff changes which it has inaugurated in both Antilles, and the natural ends of which in the domestic and international spheres it pursues with that perseverance and that firmness to which from the beginning, it adjusted and which in the future must inspire its entire conduct.

I take advantage, etc.,

PIO GULLON.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 18, 1898.

Note of minister of state received by you 16th instant satisfactorily closes the incident raised by publication of Spanish minister's private letter; indeed it would have been sooner closed had Department possessed the expressions of regret and disauthorization recited by the minister. You will assure minister of state of the gratification here felt at his frank statements, which this Government had from the outset confidently expected. Add that the new minister's antecedents and the recollection of his previous service as secretary here insure him a cordial personal welcome.

DAY, *Acting.*

Mr. Woodford to Mr. Sherman.

No. 150.] LEGATION OF THE UNITED STATES,
Madrid, February 19, 1898.

SIR: I have the honor to acknowledge the receipt this day of telegram from the Department as follows:[1]

Accordingly, I have to-day addressed an official communication to the Spanish minister of foreign affairs, stating that I am in receipt of telegraphic dispatch from the State Department directing me to inform his excellency that his note closes the incident raised by the publication of the private letter from the late minister of Spain at Washington and assuring his excellency of the gratification felt by my Government at his frank statements, which my Government had from the outset confidently expected.

I am, etc.,

STEWART L. WOODFORD.

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[1] Printed *ante*.

[Inclosure in No. 150.]

Mr. Woodford to Señor Gullon.

No. 67.] LEGATION OF THE UNITED STATES,
Madrid, February 19, 1898.

EXCELLENCY:

MY DEAR SIR: On receiving on February 16 instant your courteous note dated February 15 instant I translated it at once into English and telegraphed the complete text to my Government.

To-day I am in receipt of telegraphic dispatch from the State Department at Washington directing me to inform your excellency that your note closes satisfactorily the incident raised by the publication of the private letter from the late minister of Spain at Washington.

I am further directed to assure your excellency of the gratification felt by my Government at your frank statements, which my Government had from the outset confidently expected.

I avail myself, etc., STEWART WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 151.] LEGATION OF THE UNITED STATES,
Madrid, February 19, 1898.

SIR: In further acknowledgment of dispatch from the Department received this morning, and the receipt and translation of which I have this day acknowledged in my dispatch No. 150, I have now the honor to report that I have to-day written the Spanish minister for foreign affairs and acknowledged the receipt on February 17 instant of his note of that date informing me of the appointment of Don Luis Polo de Barnabé as minister from Spain to the United States. I have stated to him that I communicated the information at once to my Government by telegraph and that I am to-day in receipt of instructions directing me to inform his excellency that the antecedents of the new minister and the recollection of his previous services as secretary of legation at Washington will insure him a most cordial personal welcome.

I append copy of my note to the Spanish minister of foreign affairs, and am, etc.,

STEWART L. WOODFORD.

[Inclosure in No. 151.]

Mr. Woodford to Señor Gullon.

No. 68.] LEGATION OF THE UNITED STATES,
Madrid, February 19, 1898.

EXCELLENCY:

MY DEAR SIR: I have the honor to acknowledge the receipt on February 17 instant of your courteous note of that date informing me that His Majesty's Government has appointed His Excellency Don Luis Polo de Barnabe, envoy extraordinary and minister plenipotentiary from Spain to the Republic of the United States.

I communicated this information at once to my Government by telegraph and am to-day in receipt of instructions directing me to inform your excellency that the antecedents of the new minister and the recollection of his previous services as secretary of legation at Washington will insure him a most cordial personal welcome.

I avail myself, etc.,

STEWART L. WOODFORD.

Mr. Sherman to Mr. Woodford.

No. 137.] DEPARTMENT OF STATE,
Washington, February 23, 1898.

SIR: You will have acquired through the recent telegraphic correspondence on the subject a general knowledge of the circumstances which have brought about the retirement of Señor Dupuy de Lôme from the Spanish mission at this capital. For your fuller information it is appropriate to give you a more circumstantial account of the incident.

The morning papers of the 9th instant printed what purported to be a translation into the English language of a surreptitiously obtained letter addressed by Señor Dupuy de Lôme to Señor José Canalejas, which, although in the nature of a personal communication, contained expressions offensively disparaging to the person and office of the President, and indicative of insincerity on the part of the minister himself in regard to matters then under international consideration.

The disclosure so made was, should it be substantiated, of such a nature as obviously to put an instant end to the utility of Señor Dupuy de Lôme as a medium of the candid and sincere intercourse which should ever prevail among nations, as well as to gravely offend the Executive and the people of the United States, and it became necessary at once to inquire as to the authenticity of the published communication with a view to taking such action as a sense of self-respect and frankness prescribes in the intercourse of friendly states.

Some hours later there reached the Department copies of a New York newspaper containing a photolithographic facsimile of the letter in question, and an hour or two thereafter there was placed in my hands for the first time the original of the letter so reproduced. The genuineness of the paper appearing to be established by comparison with specimens of the minister's writing found in the Department, no room remained for longer entertaining, as I was at first disposed to do, a doubt as to the reality of the serious charge laid at the envoy's door; and I directed that the matter should be at once brought, with all permissible considerateness, to the attention of Señor Dupuy de Lôme himself. This was done by the Assistant Secretary of State, Mr. Day, in personal conference.

The minister admitted having written a letter of the described character. Having retained no copy of it, he was at first disposed to question the accuracy of the words ascribed to him by the published version; but on being shown the original he confirmed its genuineness, and, without in terms retracting the offensive utterances it contained, contended that the English translation had unfavorably intensified certain phrases which he claimed were permissible under the seal of private and colloquial correspondence. He also frankly stated that he recognized the impossibility of his continuing to hold official relations with this Government after the unfortunate disclosures, and informed Mr. Day that he had on the evening of the 8th and again on the morning of the 9th telegraphed to his Government, asking to be relieved of his mission.

Immediately after seeing Señor de Lôme, a telegraphic instruction was sent to you directing you to inform the Government of His Majesty that the publication in question had ended the Spanish minister's usefulness, and that the President expected his immediate recall.

For your information I inclose herewith an accurate copy made in the Department from the original letter of Señor Dupuy de Lôme, with a careful translation also prepared in the Department, together with the facsimile printed in the New York Journal of the 9th instant. Copy of the translation which appeared in the press, and which is infelicitous in some particulars and inaccurate in others, is also appended.

On the 10th instant I received your telegram informing me that prior to your presentation of the instruction sent you in regard to Señor Dupuy de Lôme's recall, the cabinet had accepted the minister's resignation, putting the affairs of the legation in charge of the secretary, and that your full report would follow. Thereupon I telegraphed you to report by cable.

Later, thinking it probable that the Spanish Government might not be in possession of the text of the letter written by Señor Dupuy de Lôme to Señor Canalejas and might therefore not be in a position to gauge the magnitude of the minister's offense, or to rightly estimate the insincerity which appeared to characterize his personal utterances respecting the object of the proposed negotiations for reciprocity with the island of Cuba, I directed that the Spanish text of the more notably objectionable passages should be telegraphed to you, which was done on the 12th instant.

Your telegraphic report of the interview had with the minister of state, which was received here on the night of the 12th instant, confirmed my conjecture that his excellency could not have had the full text of Señor Dupuy de Lôme's letter before him, otherwise it is scarcely conceivable that he would have confined himself to regretting the minister's "indiscretion," when, in point of fact, the language used by him disclosed much weightier reason for regarding the minister's usefulness as utterly destroyed, not only on account of the disparaging words in which he had spoken of the President, but more gravely still by reason of the want of candor which appeared to underlie the proposition for a reciprocity arrangement with the autonomous government of Cuba, which he shortly afterwards brought forward and advocated with much profession of earnestness. I think you will also discern a similar underthought in the passage in which Señor Dupuy de Lôme speaks of the institution of an autonomous government having the intended effect of relieving the Spanish Government in the eyes of the American people of a part of the responsibility for the occurrences in that island, and throwing it instead upon the Cubans themselves. But as this point will doubtless attract the attention of the Spanish cabinet, it seems unnecessary to pursue it further in this instruction.

All the facts being fully known, and the offense of the late minister being disclosed in all its enormity, I felt sure that the Government of His Majesty could not feel less concern than we ourselves feel in dispelling the painful and detrimental impressions touching the inwardness of the transactions recently had and even now pending between the two Governments which a perusal of the letter suggests. This assurance proved to be well grounded. You having, as reported in your telegram of the 14th instant, written a note to his excellency the minister of state, communicating to him the Spanish text of the passages of Señor Dupuy de Lôme's letter, his excellency replied on the 15th in a note of which you telegraphed me the entire text. I was happy to find therein not only that frank expression of regret which I

had from the outset confidently expected, and which it seems his excellency had made to you orally on the occasion of your first interview, but further and more complete announcement of the disauthorization of the minister's act, which was intended to be conveyed by the manner and form in which his retirement from the post of honor and trust he had so long filled was accomplished. Having communicated his Excellency's final note to the President and ascertained his gratification thereat, I telegraphed to you on the 18th instant expressing the satisfaction of this Government at the satisfactory termination of the incident.

As for the letter itself, I have had much pleasure in recognizing the personal claim of Señor Canalejas to its possession, even though it may never have reached his hands; and it was accordingly delivered, on the 14th instant, against receipt, to Mr. Calderon Carlisle, who presented himself as the agent of Señor Canalejas for that purpose.

Respectfully, yours,

JOHN SHERMAN.

Inclosures.

1. Copy of original letter of Señor Dupuy de Lôme. [Not printed.]
2. Translation of same. [Printed *ante*.]
3. Facsimile of letter as it appeared in the New York Journal. [Not printed.]
4. Copy of translation as it appeared in newspapers. [Not printed]

Mr. Woodford to Mr. Sherman.

No. 158.] LEGATION OF THE UNITED STATES,
Madrid, February 25, 1898.

SIR: Last evening, in obedience to diplomatic usage, I gave a dinner to Señor Polo de Barnabé, the newly appointed minister from Spain to the United States. He expects to leave Madrid to-morrow, February 26, instant, for Washington. He should arrive not later than March 10.

I have carefully refrained from newspaper interviews since my appointment to this post and have avoided all occasions for public speech. But, at the close of last night's dinner and in the presence of the representatives of the great powers and of members of the Spanish cabinet and of guests from the Spanish court, I gave the health of the Queen and of the new Spanish minister in these words:

My friends, I ask you to join me in drinking the health of Her Majesty, the Queen Regent of Spain. My Government is especially gratified that Her Majesty has named as her representative to the United States our friend and guest at this table, Señor Polo de Barnabé. He will be thrice welcome at Washington. His father, Admiral Polo, and his wife's father were long the honored representatives from Spain to the United States. In the new minister my people will recognize a worthy representative of the historic nation of Spain.

In the name of my President and people I wish him safe voyage and assure him of most cordial welcome by the Government at Washington.

I drink to peace. May peace always be and abide between the land of Columbus and that new land beyond the sea, which Columbus gave to civilization and to the future.

Señor Polo de Barnabé replied in like cordial terms.

I have, etc.,

STEWART L. WOODFORD.

Mr. Sherman to Mr. Woodford.

No. 144.] DEPARTMENT OF STATE,
Washington, March 1, 1898.

SIR: I have to acknowledge the receipt of your dispatch No. 140, of the 14th ultimo, in which you confirm the Department's telegram to you of February 12, giving the Spanish text of the cabled objectionable passages of the recently published letter of Señor Dupuy de Lôme, and your telegram of February 14th, giving the text of the note which you addressed to the minister of state on that day, communicating the said text.

Mr. Day's telegram of February 12 appears to have been correctly received by you with the exception of the punctuation.

I should add that the last word but one of the second Spanish extract which was almost illegible in the original and which was at first interpreted to read "guardar" is now understood to mean "ganando," so that the last words read "y para ir ganando emigrantes."

It is observed that in your note to the minister of state of February 14 you leave the word blank.

In this connection I have to acknowledge the receipt of your No. 137, of February 11th, in which you report the interview had by you with the minister of state about 4 o'clock in the afternoon of the 10th instant, for the purpose of communicating to his excellency the Acting Secretary's telegram to you of the evening of the 9th, received by you on the morning of the 10th, whereby you were directed to inform the minister of state that, as the utility of Señor Dupuy de Lôme as a medium of frank and sincere intercourse between this country and Spain was obviously ended, the prompt recall of the minister was expected by the President.

Respectfully yours, JOHN SHERMAN.

Mr. Woodford to Mr. Sherman.

No. 169.] LEGATION OF THE UNITED STATES,
Madrid, March 8, 1898.

SIR: I have the honor to acknowledge the receipt this day of Department dispatch No. 137, dated February 23, 1898, giving circumstantial account of the Dupuy de Lôme incident. This account agrees substantially with my understanding of the whole incident, excepting that my personal understanding of my interview with the Spanish minister of foreign affairs, in the afternoon of Thursday, February 10, is that he then confined himself to regretting the minister's indiscretion, while his excellency's understanding is that he then indicated or made the frank expression of regret, which was substantially enlarged in his formal note of disauthorization, dated February 15. As the minister speaks little English and I little Spanish, the possible misunstanding may have occurred easily.

I remain, etc., STEWART L. WOODFORD.

Mr. Sherman to Mr. Woodford.

No. 158.] DEPARTMENT OF STATE,
Washington, March 11, 1898.

SIR: I have to acknowledge the receipt of your No. 158, of the 25th ultimo, quoting the remarks made by you at the dinner which you gave to Señor Polo de Barnabé, the recently appointed minister from Spain to the United States. They are cordially approved by this Government.

Respectfully, yours, JOHN SHERMAN.

CASE OF THE "COMPETITOR."

Mr. Woodford to Mr. Sherman.

No. 68.] LEGATION OF THE UNITED STATES,
Madrid, November 17, 1897.

SIR: I have the honor to inform you that I have this day received a letter from the Spanish minister of foreign affairs, dated November 15th instant, informing me that the crew of the bark *Competitor* has been pardoned and that the American citizens involved therein will be placed at the disposal of the consul-general of the United States at Havana.

I have just telegraphed you as follows:

NOVEMBER 17, 1897.

Secretary SHERMAN, *Washington:*

Spanish cabinet just notify me that Queen has pardoned *Competitor* crew. Very cordial note. I have acknowledged same in friendly terms without committing our Government. Send copies of both by next mail.

WOODFORD.

I have written the Spanish minister of foreign affairs acknowledging his note and stating that I have had great pleasure in informing my Government this day by telegraph of the clemency of Her Majesty the Queen Regent, and adding that I appreciate most deeply the graceful and generous courtesy of his excellency's note in expressing so cordially the friendly sentiments subsisting between our two countries. I inclose copies of the note from the Spanish Government and of my reply thereto, and have the honor to be,

Very respectfully yours, STEWART L. WOODFORD.

(Inclosures.)

[Inclosure 1 in No. 68—Translation.]

Señor Gullon to Mr. Woodford.

MINISTRY OF STATE,
Palace, November 15, 1897.

EXCELLENCY.

MY DEAR SIR: The Government of His Majesty being desirous to contribute to the pacification of the island of Cuba with acts of mercy for those who are subject to the action of the courts or are suffering penalties for political offenses, decided to submit to the sanction of Her Majesty, my August Sovereign, a royal decree empowering the Governors-General of Cuba and Puerto Rico to grant pardon in all cases in which they thought proper to do so, without distinction of rights or jurisdictions.

In accordance with the provisions of said royal decree, pardon has been granted to the crew of the bark *Competitor*. The American citizens complicated (or involved) in this process will be placed at the disposal of the consul-general of the United States at Havana, informing them that they are free, but that they must leave the Spanish territory and not come back to it without a special authorization.

I fully hope that the Washington Cabinet and your excellency will appreciate with accuracy the satisfaction felt by the Government of His Majesty at a decision which, while responding to the magnanimity of the Queen as well as to the old and public purposes of her present ministers, harmonizes also with the friendly sentiments and with the cordiality of relations subsisting between our two countries.

I avail myself, etc.,

PIO GULLON.

To the MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

[Inclosure 2 in No. 68.]

Mr. Woodford to Señor Gullon.

No. 32.] MADRID, *November 17, 1897.*

EXCELLENCY: I have the honor and gratification to acknowledge the receipt this day of the very courteous and friendly communication from your excellency under date of November 15th instant, informing me that pardon has been granted to the crew of the bark *Competitor*, and that the American citizens who were under arrest have been placed at the disposal of the consul-general of the United States at Havana.

I have had great pleasure in informing my Government this day, by telegraph, of the clemency of Her Majesty the Queen Regent, and I appreciate most deeply the graceful and generous courtesy of your excellency's note in expressing so cordially the friendly sentiments subsisting between our two countries.

I avail myself of this opportunity to renew to your excellency the assurances of my highest consideration.

STEWART L. WOODFORD.

His Excellency the MINISTER OF STATE, etc.

Mr. Day to Mr. Woodford.

No. 82.] DEPARTMENT OF STATE,
Washington, December 2, 1897.

SIR: Your dispatch of the 17th ultimo, confirming your telegram of the same date, advising the Department of the pardon of the crew of the bark *Competitor*, and inclosing copies of the note from the Spanish minister of foreign affairs on that subject, and of your reply thereto, has been received.

The Department is gratified to learn of the clemency of Her Majesty the Queen Regent, and deeply appreciates the generous and humane motives which have prompted this act of grace.

Respectfully, yours,

WILLIAM R. DAY,
Acting Secretary.

Mr. Woodford to Mr. Sherman.

No. 101.] LEGATION OF THE UNITED STATES,
Madrid, December 27, 1897.

SIR: I have the honor to acknowledge the receipt of Department's dispatch No. 82, dated the 2d of December instant, relating to the pardon of the crew of the bark *Competitor*.

I have addressed a further note to the Spanish minister of foreign affairs, under date of December 24 instant, conveying to his excellency the gratification felt by the Government at Washington in learning of the clemency of Her Majesty the Queen Regent and its deep appreciation of the generous and humane motives which prompted this act of grace.

I inclose copy of such note to the Spanish minister, and have the honor to be,

Very respectfully, yours,

STEWART L. WOODFORD.

[Inclosure.]

Mr. Woodford to Señor Gullon.

LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, December 24, 1897.

EXCELLENCY: Referring to my note of November 17 ultimo, in which I expressed my deep appreciation of the grateful and generous courtesy of your excellency's note of November 15, informing me of the action of His Majesty's Government in regard to the crew of the bark *Competitor* and American citizens under arrest in Cuba, and in which I added that I had taken great pleasure in communicating this action to my Government, I now have the honor to convey to your excellency, by direction of the President, the gratification felt by the Government at Washington in learning of the clemency of Her Majesty the Queen Regent and its deep appreciation of the generous and humane motives which prompted this act of grace.

I avail myself of this opportunity to renew to your excellency the assurance of my highest consideration.

STEWART L. WOODFORD.

His Excellency the MINISTER OF STATE.

DESTRUCTION OF THE U. S. S. "MAINE" IN HAVANA HARBOR.

[Telegrams.]

General Lee to Mr. Day.

HAVANA, *January 12, 1898.*

Mobs, led by Spanish officers, attacked to-day the offices of the four newspapers here advocating autonomy. Rioting at this hour, 1 p. m., continues.

HAVANA, *January 12, 1898.*

Much excitement, which may develop into serious disturbances. The trouble commenced by those who oppose autonomy, and so far is directed against those who advocate it. No rioting at present, but rumors of it are abundant. Palace heavily guarded. Consulate also protected by armed men.

HAVANA, *January 13, 1898.*

After a day and night of excitement, all business suspended, and rioting, everything quiet at this hour. City heavily guarded. Soldiers

protect public squares and threatened points. Mobs shouted yesterday "Death to Blanco and death to autonomy," while "Viva Weyler" was frequently heard. Contest between Spanish factions. Attention has not yet been directed to other issues. Heard once yesterday of a few rioters shouting a proposal to march to our consulate. Presence of ships may be necessary later, but not now.

General Lee to Mr. Day.

HAVANA, *January 13, 1898.*

Three newspaper offices, not four, as previously cabled, were attacked yesterday by Spanish officers and mob. Saw mob assault two; saw soldiers sent to protect them fraternizing with mob; two attacks were attempted to-day. I am told that troops massed inside of palace to protect Governor-General shout "Death to autonomy! Death to Blanco!" Uncertainty exists whether Blanco can control the situation. If demonstrated he can not maintain order, preserve life, and keep the peace, or if Americans and their interests are in danger, ships must be sent, and to that end should be prepared to move promptly. Excitement and uncertainty predominates everywhere.

General Lee to Mr. Day.

HAVANA, *January 14, 1898.*

Noon. All quiet.

HAVANA, *January 15, 1898.*

Quiet prevails.

Mr. Day to Mr. Lee.

WASHINGTON, *January 22, 1898.*

Wire number and character naval vessels other countries now in port of Havana.

Mr. Lee to Mr. Day.

HAVANA, *January 22, 1898.*

None. Two German naval vessels are expected this month.

Mr. Day to Mr. Lee.

WASHINGTON, *January 24, 1898.*

It is the purpose of this Government to resume friendly naval visits at Cuban ports. In that view the *Maine* will call at the port of Havana in a day or two. Please arrange for a friendly interchange of calls with authorities.

Mr. Lee to Mr. Day.

HAVANA, *January 24, 1898.*

Advise visit be postponed six or seven days, to give last excitement more time to disappear. Will see authorities and let you know result. Governor-General away for two weeks. I should know day and hour visit.

Mr. Day to Mr. Lee.

WASHINGTON, *January 24, 1898.*

Maine has been ordered. Will probably arrive at Havana some time to-morrow. Can not tell hour; possibly early. Cooperate with authorities for her friendly visit. Keep us advised by frequent telegrams.

[Telegrams.]

Mr. Lee to Mr. Day.

HAVANA, *January 25, 1898.*

At an interview authorities profess to think United States has ulterior purpose in sending ship. Say it will obstruct autonomy, produce excitement, and most probably a demonstration. Ask that it is not done until they can get instructions from Madrid, and say that if for friendly motives, as claimed, delay unimportant.

Mr. Lee to Mr. Day.

HAVANA, *January 25, 1898.*

Ship quietly arrived 11 a. m. to-day. No demonstration so far.

Mr. Lee to Mr. Day.

HAVANA, *January 25, 1898.*

Commanders of Spanish naval ships and of German training ship have called upon commander of *Maine* and their visits will be returned afternoon. Salutes exchanged. All quiet.

Mr. Lee to Mr. Day.

HAVANA, *January 25, 1898*

Have just received visit of commander of *Maine* and will return it to-morrow. He had already returned official visits of Spanish and other naval officers. No disorders of any sort.

General Lee to Mr. Day.

HAVANA, *January 25, 1898.*

Another German naval vessel arrived this morning. Peace and quiet reign.

General Lee to Mr. Day.

HAVANA, *January 26, 1898.*

Have just had pleasant visit on *Maine*.

General Lee to Mr. Day.

HAVANA, *January 27, 1898.*

Just visited General Parrado, Acting Governor-General, with Sigsbee and two of his officers. We were most cordially received, and Parrado returns visit by going aboard *Maine* to-morrow.

General Lee to Mr. Day.

HAVANA, *January 28, 1898.*

Acting Governor-General Parrado and staff went with me this morning to return visit of Sigsbee. Inspected the *Maine*, were entertained and given the appropriate salute. Expressed pleasure at their reception and admiration for the splendid battle ship.

Mr. Day to General Lee.

WASHINGTON, *February 4, 1898.*

Secretary of the Navy thinks not prudent for a vessel to remain long in Havana; sanitary reasons. Should some vessel be kept there all the time? If another sent, what have you to suggest as to kind of ship? Telegraph your views.

General Lee to Mr. Day.

HAVANA, *February 4, 1898.*

Do not think slightest sanitary danger to officers or crew until April or even May. Ship or ships should be kept here all the time now. We should not relinquish position of peaceful control of situation, or conditions would be worse than if vessel had never been sent. Americans would depart with their families in haste if no vessel in harbor, on account of distrust of preservation of order by authorities. If another riot occurs, will be against Governor-General and autonomy, but might include anti-American demonstration also. First-class battle ship

should replace present one if relieved, as object lesson and to counteract Spanish opinion of our Navy, and should have torpedo boat with it to preserve communication with admiral.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 24, 1898.

Have just cabled consul-general of the United States at Habana:

It is the purpose of this Government to resume friendly naval visits at Cuban ports. In that view the *Maine* will call at the port of Havana in a day or two. Please arrange for a friendly interchange of calls with authorities.

DAY.

Please advise foreign minister of friendly visit as above indicated.

DAY.

Mr. Woodford to Mr. Sherman.

No. 128.] LEGATION OF THE UNITED STATES,
Madrid, January 25, 1898.

SIR: I have the honor to acknowledge the receipt to-day of your telegram in cipher dated yesterday.

I have this day officially informed the Spanish minister of foreign affairs of the proposed friendly visit by the United States steamer *Maine* at the port of Habana, and that the United States consul-general at Habana has been instructed by my Government to arrange with the Cuban authorities for a friendly interchange of visits.

I am, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 131.] LEGATION OF THE UNITED STATES,
Madrid, January 27, 1898.

SIR: I have the honor to confirm my cipher telegram of this date, as follows:

Secretary SHERMAN, *Washington:*

Spanish Government appreciate friendly character of visit of the *Maine* to Habana and will return the courtesy by sending Spanish ships to principal ports of the United States.

WOODFORD.

I have, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 132.] LEGATION OF THE UNITED STATES,
Madrid, January 28, 1898.

SIR: I have the honor to acknowledge the receipt of your telegram in cipher, which I translate as follows:

WASHINGTON, *January 28, 1898.*

WOODFORD, *Minister, Madrid:*

This Government appreciates the courtesy intended in the visit of Spanish ships to United States ports.

SHERMAN.

I have officially informed the Spanish minister of foreign affairs of the receipt of the above telegram, and have the honor to be,

Very respectfully, yours,

STEWART L. WOODFORD.

General Lee to Mr. Day.

HAVANA, *February 16, 1898—12.30 p. m.*

Maine blown up and destroyed to-night at 9.40 p. m. Explosion occurred well forward under quarters of crew; consequence many were lost. It is believed all officers saved, but Jenkins and Merritt not yet accounted for. Cause of explosion yet to be investigated. Captain-General and Spanish army and navy officers have rendered every assistance. Sigsbee and most of his officers on Ward steamer *City of Washington*. Others on Spanish man-of-war and in city. Am with Sigsbee now, who has telegraphed Navy Department.

Mr. Woodford to Mr. Sherman.

No. 142.] LEGATION OF THE UNITED STATES,
Madrid, February 16, 1898.

SIR: I have the honor to report that I have to-day telegraphed you as follows:

MADRID, *February 16, 1898.*

Secretary SHERMAN, *Washington:*

Spanish minister of colonies sends me copies of telegrams from Habana giving sad news of loss of U. S. S. *Maine*, with expressions of sincere syimpathy by the Spanish Government. Rear-Admiral Camara, of Spanish navy, has just called from Spanish minister of marine to express like sympathy of Spanish navy.

WOODFORD.

I have acknowledged Señor Moret's courtesy in a note of which I inclose copy. To-morrow I will call upon the Spanish minister of marine, accompanied by the naval and military attachés of this legation, to thank him for the prompt expression of sympathy by the Spanish navy.

I am, etc.,

STEWART L. WOODFORD.

Mr. Woodford to Señor Moret.

LEGATION OF THE UNITED STATES,
Madrid, February 16, 1898.

MY DEAR MR. MORET: I thank you deeply for your prompt and sincere expression of sorrow and sympathy in the sad tidings from Habana touching the loss of the U. S. S. *Maine*.

I have telegraphed the Secretary of State at Washington, telling him of your note and also of the call of sympathy which I have just received from Rear-Admiral Camara, of the Spanish navy, who has just called to express the sorrow of his excellency the Spanish minister of marine and of his own brother naval officers.

Sincerely, yours,

STEWART L. WOODFORD.

Señor du Bosc to Mr. Sherman.

[Translation.]

No. 13.] LEGATION OF SPAIN AT WASHINGTON,
Washington, February 17, 1898.

MR. SECRETARY: The Governor-General of the island of Cuba has, by a telegram which I have just received, charged me to cause to be brought to the knowledge of the President of the United States the sincere and respectful expression of condolence which the insular government, met in session under his presidency, has resolved to address to the President by reason of the terrible catastrophe caused by the destruction of the ironclad *Maine*, in which a great number of citizens and seamen of your nation perished.

General Blanco states to me at the same time how earnestly he deplores the circumstances that the port of Habana should have been the hospitable witness of so great a disaster.

In begging your excellency to be pleased to bring these communications of sympathy to the attention of the President, I avail myself of this occasion to reiterate the assurance of my highest consideration.

JUAN DU BOSC.

General Blanco to Señor du Bosc.

[Inclosure.—Telegram.—Translation.]

HABANA, *February 16, 1898.*

In to-day's session of the insular government under my presidency, it was resolved to direct through your excellency a respectful and feeling manifestation of condolence to the President of the United States for the terrible catastrophe which resulted in the destruction of the cruiser *Maine*, causing the death of a large number of citizens and sailors of that nation. In accordance with this resolution I request your excellency to pray the President of the United States to accept the condolence which I send, deploring as I do that this hospitable port should witness such a great misfortune for the American Navy.

BLANCO.

Mr. Day to Señor du Bosc.

No. 362.] DEPARTMENT OF STATE,
Washington, February 17, 1898.

SIR: I have the honor to acknowledge the receipt of your note of to-day's date in which you inform this Department that the Governor-General of the island of Cuba has charged you, by a telegram which you

had just received, to cause to be brought to the knowledge of the President of the United States, the sincere and respectful expression of condolence which the insular government, met in session under his presidency, has resolved to address to the President by reason of the terrible catastrophe caused by the destruction of the ironclad *Maine*, in which a great number of citizens and seamen of this nation perished. You further communicate General Blanco's regret that the port of Habana should have been the witness of so great a disaster.

The United States consul-general at Habana has been instructed to express the appreciation of this Government of the condolence and sympathy thus manifested.

Accept, etc.; WILLIAM R. DAY,
Acting Secretary.

Señor du Bosc to Mr. Sherman.

[Translation.]

No. 12.] LEGATION OF SPAIN AT WASHINGTON,
Washington, February 17, 1898.

MR. SECRETARY: By express charge of the Government of His Majesty the King, my august sovereign, I have the honor to transmit to your excellency expression of the profound sorrow of the Spanish Government by reason of the catastrophe which has occurred on the United States war vessel *Maine* lying in the bay at Habana.

In communicating to you this manifestation of sympathy on the part of my Government, I join thereto the sincere expression of sorrow which fills my soul because of so heavy a disaster, and I avail myself of this occasion to reiterate to you the assurance of my highest consideration.

JUAN DU BOSC.

Mr. Day to Señor du Bosc.

No. 359.] DEPARTMENT OF STATE,
Washington, February 17, 1898.

SIR: I have the honor to acknowledge the receipt of the note of this day's date, handed to me by you this morning, in which, being charged thereto by the Government of His Majesty, the King, you transmit the expression of the profound sorrow of the Spanish Government by reason of the catastrophe which has occurred on the United States war vessel *Maine* lying in the bay of Habana.

I have lost no time in telegraphing to the United States minister at Madrid, informing him of the communication you have thus made and instructing him to convey to His Majesty's Government the deep appreciation here felt because of the tribute so paid to the memory of the many who perished in the destruction of the *Maine*, and of this manifestation of the sympathy of your Government with the American people in their grief.

Accept, etc., WILLIAM R. DAY,
Acting Secretary.

Señor du Bosc to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN AT WASHINGTON,
Washington, February 17, 1898.

MR. SECRETARY: The alcalde of Habana, in a telegram which I have just received, expresses himself to me as follows:

The ayuntamiento has adopted the following resolution: "The catastrophe that has destroyed the cruiser *Maine* has most painfully smitten all hearts. The city of Habana offers to the American people the testimony of its grief, and asks the sad privilege of caring for the wounded and giving sepulchre to the dead. The ayuntamiento begs that there be transmitted to the President of the United States an expression of the heavy grief that weighs upon the city of Habana.
The Alcalde,

MARQUIS ESTEBAN.

I have the honor to transmit the foregoing to you, with the request that, if you think proper, you will bring it to the knowledge of the President.

I avail, etc., JUAN DU BOSC.

Mr. Day to Señor du Bosc.

No. 361.] DEPARTMENT OF STATE,
Washington, February 17, 1898.

SIR: I have the honor to acknowledge the receipt of your note of to-day's date, in which you advise this Department that you have received a telegram from the alcalde of Habana stating that the following resolution had been adopted by the ayuntamiento:

The catastrophe that has destroyed the cruiser *Maine* has most painfully smitten all hearts. The city of Habana offers to the American people the testimony of its grief, and asks the sad privilege of caring for the wounded and giving sepulchre to the dead. The ayuntamiento begs that there be transmitted to the President of the United States an expression of the heavy grief that weighs upon the city of Habana.

Copy of the above resolution was immediately communicated to the President.

The United States cousul-general at Habana has been instructed to state to the alcalde of Habana this Government's appreciation of the kindly sentiments expressed by the ayuntamiento.

Accept, etc.,

WILLIAM R. DAY,
Acting Secretary.

Señor du Bosc to Mr. Sherman.

Confidential.] LEGATION OF SPAIN AT WASHINGTON,
February 17, 1898.

DEAR MR. DAY: Through the minister of foreign affairs in Madrid I have been instructed by Her Majesty the Queen Regent of Spain, my august sovereign, to convey to the President of the United States of America her expression of grief at the misfortune which has befallen the American Navy in Spanish waters. Deferring entirely to your judgment in the matter, I would suggest that it would be fit and proper that I should obey Her Majesty's instructions in person, and not simply

in an official communication. If you agree with me upon this point, I beg you to ask the President to grant me an audience for that express purpose. Shall be glad to hear your views on the matter.

Believe me, etc.,

JUAN DU BOSC.

Mr. Woodford to Mr. Sherman.

No. 144.] LEGATION OF THE UNITED STATES,
Madrid, Febriary 17, 1898.

SIR: Yesterday afternoon, February 16, instant, Señor Aguera, subsecretary of the ministry of state, and Señor Polo de Bernabé, chief of the commercial bureau of same ministry, called at my residence, stated that the Spanish minister of foreign affairs being indisposed, they had come by his direction and in his place to express the sincere sympathy of Her Majesty the Queen Regent and of the Spanish foreign office with the Government, the Navy, and the people of the United States in the sad misfortune which had befallen the U. S. S. *Maine*, its officers and crew, in the harbor of Habana.

I assured them of my deep appreciation of the prompt and kindly sympathy of the Spanish Government, and told them that I would telegraph to the State Department at Washington the fact of their visit and generous sympathy. Accordingly, I send you to-day the following dispatch:

MADRID, *February 17, 1898.*

Secretary SHERMAN, *Washington:*

The Spanish minister of foreign affairs has sent Señor Aguera, subsecretary of the Spanish foreign office, and Señor Polo de Bernabe, chief of the commercial bureau of same ministry, to express the sincere sympathy of the Spanish Government with the Government, the Navy, and the people of the United States in the sad misfortune which has befallen the U. S. S. *Maine*, its officers and crew, in the harbor of Habana.

WOODFORD.

I have, etc.,

STEWART L. WOODFORD

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 17, 1898.

Spanish chargé has presented telegraphic message of condolence from His Majesty's Government. Convey deep appreciation of this tribute to the memory of the many who perished in the destruction of the *Maine*, and of this manifestation of sympathy with the American people in their grief.

DAY, *Acting.*

Mr. Woodford to Mr. Sherman.

No. 148.] LEGATION OF THE UNITED STATES,
Madrid, February 18, 1898.

SIR: I have the honor to acknowledge the receipt this morning of telegraphic dispatch from the Department.

As instructed, I have at once addressed an official note to the Spanish

minister of foreign affairs, conveying to his excellency the deep appreciation which the President, the Government, and the people of the United States feel for this generous tribute to the memory of our dead and for this manifestation of sympathy in our grief.

I will present this note to the Spanish minister in person this afternoon, and will also call personally upon Señor Sagasta, the president of the council of ministers.

I inclose copy of my note to the Spanish minister, and am, etc.,

STEWART L. WOODFORD.

[Inclosure.]

Mr. Woodford to Señor Gullon.

No. 65.] FEBRUARY 18, 1898.

EXCELLENCY.

MY DEAR SIR: I am to-day in receipt of a dispatch from the American Secretary of State informing me that the Spanish chargé d'affaires at Washington has presented a telegraphic message of condolence from His Majesty's Government to that of the United States, and I am instructed to convey at once to your Excellency the deep appreciation which the President, the Government, and the people of the United States feel for this generous tribute to the memory of the many who perished in the destruction of the United States steamer *Maine* and for this manifestation of sympathy with the American people in their grief.

I trust that your Excellency will permit me to add my own sincere expression of gratitude for the many and heartfelt expressions of sympathy which have come to me from the Government and the people of Spain in this great sorrow.

I avail myself of this occasion to renew to your Excellency the assurances of my most distinguished consideration.

STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 149.] LEGATION OF THE UNITED STATES,
Madrid, February 19, 1898.

SIR: Yesterday, the 18th instant, I had the honor to telegraph the President as follows:

MADRID, *February 18, 1898.*

President MCKINLEY, *Washington:*

Her Majesty the Queen has just sent one of the gentlemen of the royal household to express, through me to Your Excellency, her profound sorrow and sympathy in the sad accident which has befallen the U. S. S. *Maine* at Habana.

WOODFORD.

I have, etc.

STEWART L. WOODFORD.

The President to Mr. Woodford.

[Telegram.]

EXECUTIVE MANSION,
Washington, February 19, 1898—2.50 p. m.

Convey in appropriate manner my sincere appreciation of Her Majesty's message of condolence and sympathy as conveyed in your telegram just received.

WILLIAM MCKINLEY.

Mr. Woodford to Mr. Sherman.

No. 154.] LEGATION OF THE UNITED STATES,
Madrid, February 23, 1898.

SIR: I have the honor to acknowledge the receipt, on February 20, instant, of a telegram from the President of the United States.

This was in reply to a message which I had sent directly to the President, conveying the assurances of sympathy and condolence with Her Majesty the Queen Regent of Spain had just sent verbally to me through a gentleman of the royal household, and with the request that I would convey the same to the President.

I informed the Spanish minister of foreign affairs at once of the receipt of the telegram from the President, and Her Majesty promptly granted me a private audience yesterday afternoon, February 22, instant. I then presented to Her Majesty a copy of the telegram which I had received from the President, and assured her of the deep appreciation felt by the President, the Government, and the people of the United States for all the kindness and sympathy shown by Her Majesty, by the Spanish Government, and by the authorities and citizens of Habana on the sad occasion of the loss of the U. S. S. *Maine*.

My interview with Her Majesty was exceedingly cordial and satisfactory.

I have, etc.,

STEWART L. WOODFORD.

Mr. Sherman to Mr. Woodford.

No. 139.] DEPARTMENT OF STATE,
Washington, February 24, 1898.

SIR: I am instructed by the Secretary of the Navy to instruct you to express to the Spanish Government his high appreciation of the services rendered and honors paid by the Cuban authorities to the officers and men of the U. S. S. *Maine* on the occasion of the public funeral of the members of the crew lost in the disaster.

Respectfully, yours,

JOHN SHERMAN.

Mr. Woodford to Mr. Sherman.

No. 170.] LEGATION OF THE UNITED STATES,
Madrid, March 8, 1898.

SIR: I have the honor to acknowledge the receipt this day of Department dispatch No. 139, dated February 24, 1898, instructing me, at the request of the Secretary of the Navy, to express to the Spanish Government his high appreciation of the services rendered and honors paid by the Cuban authorities to the officers and men of the U. S. S. *Maine* on the occasion of the public funeral of the members of the crew lost in the disaster.

I have this day addressed an official communication to the Spanish minister of foreign affairs, expressing such appreciation.

I have, etc.,

STEWART L. WOODFORD.

Mr. Day to Mr. Woodford, March 20, 1898.

[Telegram.]

(See p. 692.)

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 26, 1898.

Board of inquiry finds destruction of *Maine* due to submarine mine inducing explosion of one or more of her magazines; fixes no responsibility on any person. President intends sending this report with message to Congress, Monday. It is thought no further action then taken than reference to proper committees. Will send you cable instruction this afternoon to be presented at your discretion.

SHERMAN.

Mr. Sherman to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 26, 1898.

The following is a summary of the report made March 21 by the United States Board of Inquiry in case of the *Maine:*

The *Maine* arrived at Habana January 25. Notices of her intended arrival had been given by the United States consul-general to the authorities on the preceding evening, and she was conducted by the regular Government pilot to buoy No. 4, in from 5½ to 6 fathoms of water. Dicipline on ship excellent, and all her orders and regulations strictly carried out. Ammunition properly stored and cared for. Magazines and shell rooms always locked, after being opened, and after destruction of ship the keys were found in proper place in captain's cabin. Temperatures of magazine and shell rooms daily taken and reported. Only magazine showing undue heat was after 10-inch magazine, which did not explode. Torpedo warheads were stored in after part of ship under wardroom, and did not explode. Dry gun-cotton primers and detonators were stored in cabin aft, and remote from explosion. Waste carefully looked after under special orders of commanding officer; and varnishes, driers, alcohol, and like combustibles, were stored on or above main deck. Medical stores were aft under wardroom. No dangerous stores below in any other storerooms. The coal bunkers inspected daily. Of those adjacent to forward magazine four were empty, while one was full of coal. This coal before it was received was carefully inspected, and the bunker was inspected by engineer officer on duty on day of explosion. No case of spontaneous combustion of coal had ever occurred on the *Maine*, and fire alarms in bunkers were in working order. Two after boilers in use at time of disaster, but for auxiliary purposes only, at comparatively low temperature and under watch, and could not have caused explosion. Four

forward boilers found by divers in fair condition. *Maine* destroyed at 9.40, evening of February 15. Everything had been reported secure at 8 o'clock p. m., and all on board was quiet. There were two distinct explosions, with brief interval. The first, with report like that of a gun, lifted ship very perceptibly. Second was more open, prolonged, and of great volume, and caused by partial explosion of two or more of forward magazines. Evidence obtained by divers as to condition of wreck more or less incomplete, but it appears after part of ship sank practically intact. As to forward part, testimony established following facts:

Portion of port side protective deck, which extends approximately from frames 30 to 41, was blown up aft and over to port. The main deck from approximately frames 30 to 41 was blown up aft and slightly over to starboard, folding the forward part of the middle superstructure over and on top of the after part. This was in opinion of the board caused by partial explosion of two or more of forward magazines. But at frame 17 the outer shell, from a point 11½ feet from middle line of ship and 6 feet above normal keel, was forced up and remained above water, about 34 feet above normal position. The outside bottom plating is bent inward, and a portion about 15 feet broad and 32 feet long is doubled back upon itself. The vertical keel is broken in two at frame 18, and the flat keel is bent into an angle similar to that formed by the plating. This plate is now about 6 feet below surface of water and 30 above its normal position. This effect could, in court's opinion, have been produced only by explosion of a mine under bottom of ship. In conclusion, court finds that loss of *Maine* was not due to any fault or negligence of any of officers or crew, but to explosion of a submarine mine, which caused partial explosion of two or more forward magazines. No evidence, however, obtained fixing responsibility on any person or persons.

Upon the facts as thus disclosed a grave responsibility appears to rest upon the Spanish Government. The *Maine*, on a peaceful errand, and with the knowledge and consent of that Government, entered the harbor of Habana, relying upon the security and protection of a friendly port. Confessedly she still remained, as to what took place on board, under the jurisdiction of her own Government, yet the control of the harbor remained in the Spanish Government, which, as the sovereign of the place, was bound to render protection to persons and property there, and especially to the public ship and the sailors of a friendly power.

The Government of the United States has not failed to receive with due appreciation the expressions of sympathy by the Government of the Queen Regent with the United States in the loss of its ship and sailors. This fact can only increase its regret that the circumstances of the case, as disclosed by the report of the board of inquiry, are such as to require of the Spanish Government such action as is due where the sovereign rights of one friendly nation have been assailed within the jurisdiction of another. The President does not permit himself to doubt that the sense of justice of the Spanish nation will dictate a course of action suggested by the friendly relations of the two Governments.

You will communicate the contents of this instruction to the minister of state and give him a paraphrase if desired.

SHERMAN.

Mr. Woodford to Mr. Sherman.

No. 189.] MADRID, *March 25, 1898.*

(See p. 698.)

Mr. Woodford to Mr. Sherman.

No. 192.] LEGATION OF THE UNITED STATES,
Madrid, March 26, 1898.

SIR: In continuation of my dispatch No. 189, dated yesterday, March 25, I have the honor to report that last evening at about 9 o'clock I received a memorandum from the Spanish minister for foreign affairs, with English translation of same, which translation the Spanish minister wished me to telegraph to the President. Accordingly I have telegraphed such translation to the President in cipher. I inclose herewith copy of the Spanish text of such memorandum and of translation of same.

This morning, March 26, I received from the Spanish minister for foreign affairs an enlarged memorandum or statement, being the same memorandum received last night with paragraphs prefixed thereto and relating to the question of the U. S. S. *Maine*. I inclose copy of such Spanish memorandum, with English translation of same.

I will keep the Department promptly advised of any reply I may make to this Spanish memorandum, which is dated March 25, instant.

Very respectfully, etc.,

STEWART L. WOODFORD.

[Translation.]

MINISTRY OF STATE.

As to the last part of the document handed to the minister of state by his excellency the United States minister—that is to say, as to a suggestion or proposal which might be made by Spain in order to secure an immediate and honorable peace—Her Majesty's Government are at present more than ever of opinion that the suggestions and means repeatedly mentioned to the United States would, in a very short time, bring about that peace so largely desired by all. If, however, the United States Government in making known in different terms and under a fresh aspect this requirement of an honorable and immediate peace has in mind conditions for the making or consolidation of peace which are or may be directly or indirectly connected with the political system already established in Cuba, Her Majesty's ministers consider it their duty to remind, in all sincerity, the said Government that nothing can be done in this direction without the natural participation of the insular parliament, which is to meet on the already near date of May 4 proximo, and will give its special attention, either spontaneously or on the motion of the representative of the central Government, to the measures most appropriate for rapidly bringing about a lasting peace in the island.

[Translation.]

MINISTRY OF STATE, *March 25, 1898.*

At the time the cabinet was informed of the conference which had taken place in the afternoon of Wednesday, March 23, at the residence of the minister of state, between the latter, the minister for the colonies, and the United States minister, it

was in possession of news somewhat altering the bearings of the questions briefly treated in the course of that interview.

It now appears that the captain of the U. S. S. cruiser *Maine* has asked leave to destroy with dynamite the wreck of his ship, thus annihilating the only proofs which in case of doubt or disagreement could be again examined in order to determine, if necessary, the cause and nature of a catastrophe in the midst of which Spanish sailors and officials displayed the greatest abnegation and oblivion of all personal risk and a generous wish to circumscribe or diminish the dreadful calamity which befell the crew of the American vessel.

Even without seeing in the request of the captain of the *Maine* any other meaning than that personally expressed in the petition signed by him, the Spanish Government considers as utterly unjustifiable and inadmissible the resolution which submits to a political assembly the report drawn up by the official American board of inquiry on the causes and circumstances of the blowing up or explosion of the *Maine*. As yet nothing is known of the report of the Spanish commission. After having invited in vain the United States naval officers to take part in its labors and go through the necessary investigations conjointly with its members, it has finished and drawn up its conclusions with a complete knowledge of the scene of a disaster so deplorable and painful for all Spaniards.

One of the principal, if not the principal, basis of judgment is therefore wanting for every individual or body of men who may wish to weigh the facts with perfect impartiality. Under these circumstances to place before a popular deliberating assembly without correction, explanation, or counterproof of any kind a report which, issued by the fellow-citizens of the members of that body, must necessarily meet with approval inspired rather by sentiment than by reason, is not only to resolve beforehand a possible future discussion, but apparently reveals an intention of allowing national enthusiasm, commisseration, or other like natural and comprehensible feelings so frequently found in all numerous and patriotic assemblies to form an a priori judgment not founded on proof, and to reject, before even knowing its terms, any affirmation which may give rise to doubt or seem distasteful. The most elementary sense of justice makes it in these cases a duty to previously examine and discuss in an atmosphere of absolute calmness two different inquiries tending to one common end. Only in the supposition of an irreconcilable discrepancy or complete opposition between one and the other would it be proper to submit them, as equity demands, to evidence less prone to prejudice and, if necessary, to fresh investigations and different judges.

As to the last part of the document handed to the minister of state by his excellency the United States minister—that is to say, as to a suggestion or proposal which might be made by Spain in order to secure an immediate and honorable peace—Her Majesty's Government are at present more than ever of opinion that the suggestions and means repeatedly mentioned to the United States would, in a very short time, bring about that peace so eagerly desired by all. If, however, the United States Government in making known in different terms and under a fresh aspect this requirement of an honorable and immediate peace has in mind conditions for the making or consolidation of peace which are or may be directly or indirectly connected with the political system already established in Cuba, Her Majesty's ministers consider it their duty to remind the said Government, in all sincerity, that nothing can be done in this direction without the natural participation of the insular parliament, which is to meet on the already near date of May 4 proximo, and will turn its special attention, either spontaneously or on the motion of the representative of the central Government, to the measures most appropriate for rapidly bringing about a lasting peace in the island.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 27, 1898.

(See p. 711.)

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 27, 1898.

With reference to the first part of the Saturday memorandum, you may explain that the captain of the *Maine* merely sought permission to employ small explosive charges on upper works, to clear away wreckage and get at bodies and guns, but finding his request misunderstood and opposed, he withdrew it, under instructions from the Secretary of the Navy.

DAY.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 28, 1898.

The President's message with *Maine* report read in both Houses. Referred without debate to Committees Foreign Affairs. The House adjourned.

DAY.

Mr. Woodford to Mr. Sherman.

No. 194.] LEGATION OF THE UNITED STATES,
Madrid, March 28, 1898.

SIR: I have the honor to acknowledge the receipt on yesterday, March 27 instant, of cipher telegram signed by yourself, and informing me that you will send telegraphic summary of the report of the naval board of inquiry on the loss of the U. S. S. *Maine;* also the receipt on the same day of second cipher telegram signed by yourself and giving the summary of such report, with instructions as to my action thereon.

I inclose herewith my translations of such two cipher telegrams.

I have also to-day, March 28, received a cipher telegram signed by Assistant Secretary Day in regard to so much of the Spanish memorandum of March 25 as related to the request of the captain of the *Maine* to use explosives on the wreck of the *Maine.* I inclose translation of this also. This morning in an official note, of which I inclose copy, I asked the Spanish minister for foreign affairs for an interview. In that note I explained the request of the captain of the *Maine* touching the use of explosives on the wreck of the ship, and that incident may be considered as closed. The interview was granted, and this afternoon I have read to him the summary of the report upon the *Maine,* and at his request and pursuant to your instructions I handed to him an official note containing such summary, and expressing the belief of the President that the sense of justice of the Spanish nation will dictate a course of action suggested by the friendly relations between the two Governments.

I inclose copy of this note, and am, etc.,

STEWART L. WOODFORD.

[Enclosure 1 in No. 194.—Telegram—Received Sunday, March 27, 10 a. m.]

WOODFORD, *Minister, Madrid:*

Board of inquiry finds destruction of *Maine* due to submarine mine inducing explosion of one or more of her magazines. Fixes no responsibility on any person. President intends sending this report with message to Congress Monday. It is thought no further action then taken than reference to proper committees. Will send you instructions by cable this afternoon to be presented. Use your discretion.

SHERMAN.

[Enclosure 2 in No. 194.—Telegram.]

MARCH 26—10 p. m.
(Received March 27—12.30 p. m.)

WOODFORD, *Minister, Madrid:*

The following is a summary of the report made March 21 by the United States board of inquiry in case of the *Maine*. The *Maine* arrived at Havana January 25. Notice of her intended arrival had been given by the United States consul-general to the authorities on the preceding evening, and she was conducted by the regular Government pilot to buoy No. 4 in from 5½ to 6 fathoms of water. Discipline on ship excellent, and all her orders and regulations strictly carried out. Ammunition properly stored and cared for. Magazines and shell rooms always locked after being opened, and after destruction of ship the keys were found in proper place in captain's cabin. The temperatures of magazine and shell rooms daily taken and reported. Only magazine showing undue heat was after 10-inch magazine, which did not explode. Torpedo war heads were stored in after part of ship, under wardroom, and did not explode. Dry gun-cotton primers and detonators were stored in cabin aft, and remote from explosion. Waste carefully looked after under special orders of commanding officer, and varnishes, dryers, alcohol, and like combustibles were stored on or above main deck. Medical stores were aft, under wardroom. The coal bunkers inspected daily. Of those adjacent to forward magazine four were empty, while one was full of coal. This coal before it was received was carefully inspected, and the bunker was inspected by engineer officer on duty on day of explosion. No case of spontaneous combustion of coal had ever occurred on the *Maine*, and fire alarm in bunkers were in working order. Two after boilers in use at the time of disaster, but for auxiliary purposes only, at comparatively low temperature and under watch, and could not have caused explosion. Four forward boilers found by divers in fair condition. *Maine* destroyed at nine-forty, evening of February 15.

Everything had been reported secure at 8 o'clock p. m. and all on board was quiet. There were two distinct explosions, with brief interval. The first, with report like that of a gun, lifted ship very perceptibly; second was more open, prolonged, and of greater volume, and caused by partial explosion of two or more of forward magazines. Evidence obtained by divers as to condition of wreck more or less incomplete, but it appears after part of ship sunk practically intact. As to forward part, testimony establishes following facts: Portion of port side protective deck, which extends approximately from frames 30 to 41, was blown up aft and over to port; the main deck from approximately frames 30 to 41 was blown up aft and slightly over to starboard, folding the forward part of the middle superstructure over and on top of the after part. This was, in opinion of the board, caused by partial explosion of two or more forward magazines. But at frame 17 the outer shell from a point 11½ feet from middle line of ship and 6 feet above normal keel was forced up and remained above water about 34 feet above normal position. The outside bottom plating is bent inboard, and a portion about 15 feet broad and 32 feet long is doubled back upon itself. The vertical keel is broken in two at frame 18, and the flat keel is bent into angle similar to that formed by the plating. This break is now about 6 feet below surface of water and 30 above its normal position. This effect could, in the court's opinion, have been produced only by explosion of a mine under bottom of ship.

In conclusion, court finds that loss of *Maine* was not due to any fault or negligence of any of officers or crew, but to explosion of a submarine mine, which caused partial explosion of two or more of the forward magazines. No evidence, however, obtained fixing responsibility on any person or persons. Upon the facts as thus disclosed a grave responsibility appears to rest upon the Spanish Government. The *Maine*, on a peaceful errand and with the knowledge and consent of that Government, entered the harbor of Habana, relying upon the security and protection of a friendly port.

Confessedly she still remained, as to what took place on board, under the jurisdiction of her own Government; yet the control of the harbor remained in the Spanish Government, which, as the sovereign of the place, was bound to render protection to persons and property there, and especially to the public ship and the sailors of a friendly power.

The Government of the United States has not failed to receive with due appreciation the expressions of sympathy by the Government of the Queen Regent with the United States in the loss of its ship and sailors. This fact can only increase its regret that the circumstances of the case as disclosed by the report of the board of inquiry are such as to require of the Spanish Government such action as is due where the sovereign rights of one friendly nation have been assailed within the jurisdiction of another. The President does not permit himself to doubt that the sense of justice of the Spanish nation will dictate a course of action suggested by the friendly relations of the two Governments. You will communicate the contents of this instruction to the minister of state and give him paraphrase if desired.

SHERMAN.

[Inclosure 3 in No. 194.—Telegram.]

WASHINGTON, *March 27, 1898—3 p. m.*
(Received March 28, 8.30 a. m.)

WOODFORD, *Minister, Madrid:*

With reference to the first part of the Saturday memorandum, you may explain that the captain of the *Maine* merely sought permission to employ small explosive charges on upper works to clear away wreckage and get at bodies and guns, but finding his request misunderstood and opposed he withdrew it under instructions from the Secretary of the Navy.

DAY.

[Inclosure 4 in No. 194.]

Mr. Woodford to Señor Gullon.

No. 91.] MARCH 28, 1898.

EXCELLENCY.

MY DEAR SIR: On yesterday, Sunday, March 27 instant, about noon, I received a cipher dispatch from my Government giving the substance of the report of the naval board of inquiry concerning the loss of the U. S. S. *Maine*. The translation of this cipher dispatch was only completed late last night. I will call upon you at any hour to-day which you may appoint and communicate to you the substance of such report as telegraphed to me.

With regard to the first part of the memorandum or statement which you showed me on Friday afternoon, March 25, and sent to me on Saturday morning, March 26, and which related to the loss of the steamer *Maine* and to the request of the captain of the *Maine* to use explosives in connection with the wreck of such steamer, I am instructed by my Government to explain to you that the captain of the *Maine* merely sought to employ small explosive charges on the upper works of the vessel for the sole purpose of clearing away wreckage and so as to get at the bodies and guns which were still in the wreck, but finding his request misunderstood and opposed by the authorities at Habana, he withdrew such request by the instructions of the Secretary of the American Navy. I am sure that this expla...tion will remove all doubt or suspicion from your mind with regard to the request which the captain made.

I am further instructed to explain to your excellency that the President of the United States intends to send the report of the American naval board of inquiry with brief message to Congress this Monday, March 28, and that it is thought no other action will be taken in Congress to-day than the usual reference of such reports to the proper committees.

From the best information I can get, I believe that a feeling of deliberation prevails in both Houses of the American Congress and that there is no just reason for the Spanish Government to expect that anything will be done hastily or unjustly.

I avail, etc.,

STEWART L. WOODFORD.

[Inclosure 5 in No. 194.]

Mr. Woodford to Señor Gullon.

No. 92.] MARCH 28, 1898.

EXCELLENCY.

MY DEAR SIR: At the request of your excellency and by direction of the President I have the honor to communicate to your excellency the following summary, received by telegraph from my Government, of the report made on March 21, 1898, by the United States board of inquiry in the case of the U. S. S. *Maine*.

The *Maine* arrived at Habana January 25, 1898. Notice of her intended arrival had been given by the United States consul-general to the authorities of Habana on the preceding evening, and she was conducted by the regular Government pilot to Buoy No. 4, in from 5½ to 6 fathoms of water. The discipline on the ship was excellent, and all her orders and regulations were strictly carried out. The ammunition was properly stored and cared for. The magazines and shell rooms were always looked after, being opened, and after the destruction of the ship the keys were found in their proper place in the captain's cabin. The temperatures of the magazines and shell rooms were taken daily and reported. The only magazine showing undue heat was the after 10-inch magazine, which did not explode. The torpedo war-heads were stored in the after part of the ship, under the wardroom, and did not explode. The dry gun-cotton primers and detonators were stored in the cabin, aft, and remote from the explosion. The waste was carefully looked after, under special orders of the commanding officer, and varnishes, dryers, alcohol, and like combustibles were stored on or above the main deck. The medical stores were aft, under the wardroom. No dangerous stores were below in any other storeroom.

The coal bunkers were inspected daily. Of those which were adjacent to the forward magazine, four were empty, while one was full of coal. This coal, before it was received, was carefully inspected, and the bunker was inspected by the engineer officer on duty on the day of the explosion. No case of spontaneous combustion of coal had ever occurred on the *Maine*, and the fire alarms in the bunkers were in working order.

Two after boilers were in use at the time of the disaster, but for auxiliary purposes only, at a comparatively low temperature and under watch, and could not have caused the explosion. The four forward boilers were found by the divers in fair condition.

The *Maine* was destroyed at 9.40 o'clock on the evening of February 15. Everything had been reported secure at 8 o'clock p. m., and all on board was quiet.

There were two distinct explosions, with a brief interval; the first, with a report like that of a gun, lifted the ship very perceptibly; the second was more open, prolonged, and of greater volume, and was caused by the partial explosion of two or more of the forward magazines.

The evidence obtained by the divers as to the condition of the wreck is more or less incomplete, but it appears that the after part of the ship sunk practically intact.

As to the forward part, the testimony establishes the following facts:

That portion of the port side protective deck which extends, approximately, from frames 30 to 41 was blown up, aft, and over to port. The main deck from approximately frames 30 to 41 was blown up, aft, and slightly over to starboard, folding the forward part of the middle superstructure over and on top of the after part. This was, in the opinion of the board, caused by the partial explosion of two or more of the forward magazines.

But at frame 17 the outer shell, from a point 11½ feet from the middle line of the ship and 6 feet above the normal, the keel was forced up and remained above water, about 34 feet above the normal position. The outside bottom plaiting is bent inboard, and a portion about 15 feet broad and 32 feet long is doubled back upon itself. The vertical keel is broken in two at frame 18, and the flat keel is bent into an angle similar to that which is formed by the plating. This break is now about 6 feet below the surface of the water and 30 above its normal position. This effect could, in the court's opinion, have been produced only by the explosion of a mine under the bottom of the ship.

In conclusion, the court finds that the loss of the *Maine* was not due to any fault or negligence of any of the officers or crew, but to the explosion of a submarine mine, which caused the partial explosion of two or more of the forward magazines.

No evidence, however, was obtained fixing the responsibility on any person or persons.

Having thus communicated to your excellency the foregoing summary of the report of the United States board of inquiry in the case of the U. S. S. *Maine*, I am further instructed to communicate the following:

Upon the facts as thus disclosed a grave responsibility appears to rest upon the Spanish Government. The *Maine*, on a peaceful errand and with the knowledge and consent of that Government, entered the harbor of Habana, relying upon the security and protection of a friendly port. Confessedly she still remained, as to what took place on board, under the jurisdiction of her own Government. Yet the control of the harbor remained in the jurisdiction of the Spanish Government, which, as the sovereign of the place, was bound to render protection to persons and property there, and especially to the public ship and to the sailors of a friendly power.

The Government of the United States has not failed to receive, with due appreciation, the expressions of sympathy tendered by the Government of Her Majesty the Queen Regent to the United States in respect to the loss of its ship and sailors. This fact can only increase its regret that the circumstances of the case, as disclosed by the report of the board of inquiry, are such as to require of the Spanish Government such action as is due where the sovereign rights of one friendly nation have been assailed within the jurisdiction of another.

The President does not permit himself to doubt that the sense of justice of the Spanish nation will dictate a course of action suggested by the friendly relations of the two Governments.

I avail, etc., STEWART L. WOODFORD.

Señor Polo de Bernabé to Mr. Sherman.

[Translation.]

LEGATION OF SPAIN IN WASHINGTON.
March 28, 1898.

MR. SECRETARY: In the fulfillment of instructions which I have received from my Government, I have the honor to transmit to your excellency a copy of an extract from the report made by the Spanish commission on the *Maine* disaster, while awaiting the transmission of the original report.

I avail myself, etc., LUIS POLO DE BARNABÉ.

[Inclosure in Spanish minister's note of March 28, 1898.—Translation.]

EXTRACT FROM THE REPORT OF THE SPANISH COMMISSION ON THE MAINE CATASTROPHE.

The report contains the depositions of eye witnesses and experts, and, by reproducing, by means of these depositions, the act of explosion, at each moment of its duration, in its external appearances, proves the absence of all the incidents which always necessarily accompany the explosion of a torpedo.

It is known, through these same depositions of witnesses very near the *Maine*, that there was only a single explosion; that no column of water was thrown up; that there was no movement of the water; that there was no dash of the water against the sides of the nearest vessel; that there was no shaking of the shore, and that no dead fish were seen subsequently. The deposition of the chief pilot of the port shows that there was a great abundance of fish in the bay after the explosion, and the same thing is asserted by the assistant engineer of the harbor works, who says that he has always found dead fish after many explosions (blastings) made for the works in the bay.

The divers, when examining the hull of the *Maine*, could not see its bottom, as it was buried in the mud, but they examined the sides, and the rents in them outwards are an infallible sign that the explosion was internal.

When the bottom of the bay around the vessel was examined not a single sign of the action of a torpedo was found, and, moreover, the district attorney (fiscal) finds no precedents of the blowing up of the magazines of a vessel by torpedoes in any case.

The report states that the peculiar nature of the procedure followed and the thorough observance of the principle of the extraterritoriality of the *Maine* have prevented the making such investigations in the interior of the vessel as would furnish

the means of deciding, at least hypothetically, the internal cause of the disaster; and this inability was increased by the unfortunate refusal which prevented the establishment of the necessary and appropriate cooperation between the Spanish commission on the one side, and the commander and crew of the *Maine*, the American officials commissioned to investigate the causes of the event, and those subsequently charged with the recovery (salvamento) on the other side.

Lastly, the report affirms that the internal and external examination of the *Maine*, when it can be accomplished, and provided the labors for the total or partial recovery of the wreck do not cause any change in it, and the examination of the spot in the bay where the vessel is sunk, will prove that, as has been said, the explosion was produced by an internal cause.

A true copy:

JUAN DU BOSC.

Mr. Day to Señor Polo de Bernabé.

DEPARTMENT OF STATE,
Washington, March 28, 1898.

DEAR MR. POLO:

* * * * * * *

I had the pleasure of handing to you yesterday at the Department copy[1] of the report of the commission which I promised you in a recent conversation, and to which you refer in your note of the 26th instant.

Very truly, yours,

WILLIAM R. DAY.

Mr. Sherman to Mr. Woodford.

No. 177.] DEPARTMENT OF STATE,
Washington, March 31, 1898.

SIR: I transmit herewith six copies of Senate Document No. 207,[2] Fifty-fifth Congress, second session, containing the message of the President, transmitting the report of the naval court of inquiry upon the destruction of the United States battle ship *Maine* in Habana Harbor, February 15, 1898, together with the testimony taken before the court.

Respectfully, yours, JOHN SHERMAN.

Señor Polo de Bernabé to Mr. Sherman.

[Translation.]

No. 33.] LEGATION OF SPAIN IN WASHINGTON,
April 2, 1898.

MR. SECRETARY: I have the honor, by order of my Government, to transmit to your excellency the full testimony[3] in the inquiry instituted by the maritime authority of the Habana station by reason of the catastrophe which befell the U. S. ironclad *Maine* in that port, in

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[1] The full report is published in Senate Document No. 207, Fifty-fifth Congress, second session.

[2] Not printed herein.

[3] The full report is published in Senate Report No. 885, Fifty-fifth Congress, second session.

the night of the 15th of February last, which awful misfortune to the American people has been so deeply and sincerely lamented by the Spanish Government and people.

I improve this opportunity, etc.,

LOUIS POLO DE BERNABÉ.

Señor Polo de Barnabé to Mr. Sherman.

[Memorandum.]

APRIL 10, 1898.

(See p. 747.)

MESSAGES OF CONDOLENCE.

Mr. Garcia Meron to Mr. Sherman.

[Telegram.]

LEGATION OF THE ARGENTINE REPUBLIC,
Southampton, February 18, 1898.

Secretary SHERMAN, *Washington, D. C.:*

I beg your excellency to accept the deepest expressions of my condolence for the disaster which mourns the American nation.

GARCIA MERON.

Mr. Del Viso to Mr. Sherman.

LEGATION OF THE ARGENTINE REPUBLIC,
Washington, D. C., February 19, 1898.

MR. SECRETARY OF STATE: I have the honor to inform your excellency that I have received instructions from my Government to convey, in its name, an expression of its condolence on account of the disaster which has befallen the *Maine*, and which so naturally afflicts the American people. The news of this misfortune was received with sincere pain by the Argentine Republic, which shares the grief that has been caused in the United States by the terrible accident at Habana, whereby the lives of so many American citizens were sacrificed.

I desire, at the same time, to convey to your excellency the expression of my deepest sympathy on account of this lamentable disaster, and I avail myself of this occasion to reiterate to you the assurances of my highest and most distinguished consideration.

A. DEL VISO,
Chargé d'Affaires.

Mr. Jones to Mr. Sherman.

No. 476.] LEGATION OF THE UNITED STATES,
Buenos Ayres, April 5, 1898.

SIR: I have the honor to acknowledge the receipt of your No. 318 of February 24 last, and to transmit herewith copy of my note to the

minister of foreign relations conveying to his excellency the grateful appreciation of the Government of the United States for the tender of sympathy on behalf of the Government of the Argentine Republic in the recent disaster to the U. S. S. *Maine*.

I have, etc.,

FRANÇOIS S. JONES,
Chargé d'Affaires ad interim.

[Inclosure in No. 476.]

Mr. Jones to Dr. Alcorta.

LEGATION OF THE UNITED STATES,
Buenos Ayres, April 5, 1898.

MR. MINISTER: I have the honor to inform your excellency that my Government has received from the chargé d'affaires ad interim of the Argentine Republic at Washington a note conveying the expression of condolence of your excellency's Government in view of the recent disaster of the U. S. S. *Maine*.

In response thereto I am charged to assure your excellency of my Government's grateful appreciation for the tender of these sentiments of sympathy.

In acquitting myself of this duty, etc.,

FRANÇOIS S. JONES,
Chargé d'Affaires ad interim.

Mr. Tower to Mr. Sherman.

No. 63.] UNITED STATES LEGATION,
Vienna, May 6, 1898.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 95, of the 15th of April, 1898, which refers to a letter of the Secretary of the Navy, transmitting a communication from Capt. C. D. Sigsbee, U. S. N., lately commanding the U. S. S. *Maine*, in regard to the action of the commander and officers of the Austrian man-of-war *Donau* in placing flowers upon the graves of the dead sailors of the *Maine* in the cemetery at Havana, and instructs me to acquaint the Austrian Government with the sympathetic and graceful deed of its representatives, and to express in suitable terms the appreciation of the United States Navy Department.

Unfortunately, the copy of the letter of the Secretary of the Navy and the communication of Captain Sigsbee, which was intended to be inclosed in your dispatch, was omitted. I respectfully request that it be sent here to complete the record of this legation.

In compliance with the instructions contained in your dispatch, I communicated to the Count Goluchowski, Austro-Hungarian minister of foreign affairs, on the 30th of April, the appreciation of the Navy Department of the action of the commander and officers of the *Donau*. Copies of my note to him and of his reply thereto are submitted herewith.

I have, etc., CHARLEMAGNE TOWER.

[Inclosure in No. 63.]

Mr. Tower to Count Goluchowski.

F. O., No. 48.] UNITED STATES LEGATION,
Vienna, April 30, 1898.

YOUR EXCELLENCY: I have the honor to inform your excellency, under instructions from the Government of the United States, that Capt. C. D. Sigsbee, of the United States Navy, former commander of the U. S. S. *Maine*, has made an official report to the Secretary of the Navy, in which he communicated to him, with sentiments of profound respect and gratitude, the action of the commander and officers of the Austrian man-of-war *Donau*, who recently went ashore and placed flowers on the graves of the dead sailors of the *Maine* lying buried in the cemetery of Havana.

I am directed by the Government of the United States to acquaint the Imperial and Royal Government of Austria-Hungary with the sympathetic deed of its representatives and to express the deep appreciation of the Navy Department of the touching action of the commander and officers of the *Donau* upon that occasion.

I avail myself, etc.,

CHARLEMAGNE TOWER.

[Inclosure in No. 63.—Translation.]

Count Goluchowski to Mr. Tower.

VIENNA, *May 2, 1898.*

SIR: The undersigned, minister of the imperial and royal house and of foreign affairs, has had the honor to receive the esteemed note of April 30 last, numbered 48, in which the envoy extrordinary and minister plenipotentiary of the United States of America, Mr. Charlemagne Tower, was pleased to convey the intelligence that the officers and crew of H. M. ship *Donau*, as officially reported by Capt. C. D. Sigsbee, the former commander of the U. S. S. *Maine*, had deposited a wreath upon the grave of the crew of that ship, and that the United States minister had been instructed by his Government to express the thanks of the Secretary of the Navy of the United States for this expression of sympathy on the part of their companions in arms.

The undersigned will not fail to convey to the knowledge of the imperial and royal naval department the contents of the above-mentioned note, and he begs leave to avail himself, etc.

GOLUCHOWSKI.

Count de Lichtervelde to Mr. Sherman.

LEGATION OF BELGIUM,
Washington, February 18, 1898.

MR. SECRETARY OF STATE: I have to-day received a telegram charging me to express to your excellency the very sorrowful emotion and the grievous sympathy of the King and of Belgium in connection with the catastrophe to the *Maine*.

Be pleased, etc., LICHTERVELDE.

Mr. Storer to Mr. Sherman.

No. 90.] LEGATION OF THE UNITED STATES,
Brussels, February 19, 1898.

SIR: I have the honor to report that the condolences and sympathies of the Belgian Government with the people of the United States on the frightful disaster to our marine in the loss of the *Maine* have been most warmly expressed by the minister of foreign affairs, who called

on me for that purpose, with the request that the same be transmitted to you.

Similar feelings on the part of the King were brought to me by his chief du cabinet.

I take pleasure in reporting that nearly all the representatives of the various powers represented at Brussels also called to express in the most sincere way their own feelings and those of their respective governments of sympathy and regard for the United States, the first to do so being the Spanish minister, M. de Villa Uevetia.

I have, etc.,

BELLAMY STORER.

Mr. Paz to Mr. Sherman.

LEGATION OF BOLIVIA IN THE
UNITED STATES OF NORTH AMERICA,
29 Avenue Friedland, Paris, February 18, 1898.

MR. SECRETARY: The misfortune that the United States of America has just experienced in the loss of the *Maine*, one of its important war vessels, as well as in the loss of many brave mariners who went down with her, victims to military duty, has caused in the mind of my Government a very sad impression.

In its name, as well as in my own, I have the honor to convey to your excellency a word of profound sympathy in so sad an occurrence.

Be pleased, your excellency, to accept it as an expression of the affection which Bolivia professes for the great republic of North America.

I renew, etc., L. PAZ.

Mr. Bridgman to Mr. Sherman.

No. 18.] LEGATION OF THE UNITED STATES,
La Paz, Bolivia, April 16, 1898.

SIR: I have the honor to report that I have duly acknowledged to the Bolivian Government the receipt by the Department in Washington of the note of sympathy from the Bolivian minister relative to the disaster to the battle ship *Maine*, adding thereto my own appreciation of the kindly and friendly spirit of the Government and people of Bolivia by which the message was prompted.

I have the honor, etc.,

GEO. H. BRIDGMAN.

Mr. Dawson to Mr Sherman.

No. 109.] LEGATION OF THE UNITED STATES,
Petropolis, February 17, 1898.

SIR: I have the honor to confirm my telegram of this date, as follows:

SHERMAN, *Washington:*
President Moraes telegraphs expression sympathy *Maine* disaster.

DAWSON.

And to state in reference thereto that to-day I received a telegram from the minister for foreign affairs desiring me to convey to the Government of the United States the expression of the sorrow felt by the President of Brazil on account of the disaster to the cruiser *Maine*.

And further that I have written a note to the minister for foreign affairs saying that I was sure my Government would be grateful for this timely expression of sympathy and good-will. I inclose a copy and translation of Mr. Cerqueira's telegram and of my note replying thereto.

I also have the honor to inform you that the Spanish minister to Brazil called upon me this afternoon for the purpose of expressing his regret and grief over the disaster. I thanked him for his thoughtfulness.

I have, etc., THOMAS C. DAWSON.

[Inclosure 1 in No. 109.]

Mr. Cerqueira to Mr. Dawson.

[Translation.]

RIO DE JANEIRO, *February 17, 1898.*

To the AMERICAN CHARGÉ D'AFFAIRES:

I beg you to accept and to transmit to your Government the expression of the sorrow that the news of the disaster to the cruiser *Maine* has caused to the President of this Republic.

DIONISIO CERQUEIRA,
Minister for Foreign Affairs.

[Inclosure 2 in No. 109.]

Mr. Dawson to Mr. Cerqueira.

LEGATION OF THE UNITED STATES OF AMERICA,
Petropolis, February 17, 1898.

I have this moment received the telegram of General Dionisio E. de Castro Cerqueira, minister for foreign affairs, expressing the sorrow that His Excellency the President of the Republic feels over the disaster to the cruiser *Maine*.

I have telegraphed to my Government the fact that His Excellency the President and your excellency have had this kindness.

I feel sure that it will afford the Government and people of the United States of America great comfort and sincere gratification to know that His Excellency is not unmindful of them on such an occasion, and I am confident I express their sentiments when I desire to thank your honored President for this timely evidence of his good will.

I am, etc., THOMAS C. DAWSON.

Mr. Dawson to Mr. Sherman.

No. 110.] LEGATION OF THE UNITED STATES,
Petropolis, February 21, 1898.

SIR: I have the honor to acknowledge and confirm your telegram as follows:

WASHINGTON, *February 19, 1898.*

DAWSON, *Chargé:*

Express gratitude President Moraes' condolence.

DAY, *Acting.*

And to state that I have, complying therewith, written a note to the minister for foreign affairs, a copy of which I inclose, requesting him to convey to the President of Brazil the thanks of the President of the United States for his message of condolence for the disaster to the *Maine*.

The news of her destruction has called forth many expressions of regret in the Brazilian press.

I have, etc., THOMAS C. DAWSON.

[Inclosure in No. 110.]

Mr. Dawson to Mr. Cerqueira.

LEGATION OF THE UNITED STATES OF AMERICA,
Petropolis, February 21, 1898.

I have the honor to request your excellency to convey to His Excellency the President of the United States of Brazil the expression of the sincere gratitude of the President of the United States of America for the message of condolence he had the goodness to send on the occasion of the disaster to the battle ship *Maine*.

President McKinley is deeply touched by this evidence of the kindness and good will of your honored President toward him and the American people.

It is with great pleasure that I comply with the formal instructions of my Government in this regard.

I gladly, etc., THOMAS C. DAWSON.

On February 19, 1898, the Brazilian minister called at the Department of State, and on behalf of his Government extended its sympathy to the Government and people of the United States on account of the disaster to the U. S. S. *Maine* in the harbor of Habana.

Mr. Corea to Mr. Sherman.

LEGATION OF THE GREATER REPUBLIC
OF CENTRAL AMERICA.
Washington, D. C., February 17, 1898.

SIR: I have received instructions from the Diet of the Greater Republic of Central America to inform the Supreme Government of the United States of America, through your excellency, that both it and the governments of the States which compose that Republic feel profound regret on account of the disaster which befell the *Maine* night before last in the port of Habana.

In obeying these instructions I take pleasure in renewing to you, Mr. Secretary, the assurances of my highest consideration.

LUIS F. COREA.

Mr. Gana to Mr. Sherman.

LEGATION OF CHILE,
Washington, February, 17, 1898.

MR. SECRETARY: The Government and people of Chile sincerely take part in the sentiments of profound grief which have been aroused in

the Government and people of the United States by the news of the tragic and calamitous destruction of the war vessel *Maine* and by the loss of so many valuable lives.

In having the honor to convey to your excellency the expression of the sympathy felt by my Government, I beg to be allowed respectfully to add that of my own, and to subscribe myself your excellency's faithful and obedient servant,

DOMINGO GANA.

Mr. Wilson to Mr. Sherman.

No. 26.] LEGATION OF THE UNITED STATES,
Santiago, March 4, 1898.

SIR: The sad intelligence of the disaster to the United States battle ship *Maine* was received here on the evening following its occurrence.

The news created widespread interest and universal sympathy. All the representatives of foreign governments residing near this Government called at this legation to express their sympathy. The British minister was especially sympathetic and kind in his remarks, and some of the British societies here have referred to the disaster in sympathetic resolutions.

I have, etc., HENRY L. WILSON.

Mr. Wu Ting Fang to Mr. Sherman.

CHINESE LEGATION,
Washington, February 17, 1898.

SIR: I have the honor to express the sincere sympathy of my Government with the Government and people of the United States on account of the deplorable disaster which has befallen the *Maine*. I may add that I was shocked to hear of the terrible catastrophe, and I deeply sympathize with the families of the unfortunate victims.

Accept, sir, etc.,

WU TING FANG.

Mr. Rengifo to Mr. Sherman.

LEGATION OF COLOMBIA,
Washington, February 18, 1898.

Honorable MR. SECRETARY: I have the honor to inform you that I have received express instructions from my Government to convey to the President of the United States of America, as I hereby do, through your excellency, an expression of the very sincere and deep pain with which the Government of Colombia has learned of the lamentable disaster which has befallen the United States war vessel *Maine*, together with the expression of its sincere condolence.

With sentiments of the highest and most distinguished consideration, I have the honor once more to sign myself, Mr. Secretary of State, your obedient servant,

JULIO RENGIFO M.,
Chargé d'Affaires ad interim.

Mr. Calvo to Mr. Sherman.

LEGATION OF COSTA RICA,
Washington, February 17, 1898.

SIR: Being deeply touched by the terrible news of the destruction of the United States war steamer *Maine*, with the loss of many lives and the injury of a considerable number of persons belonging to the crew of said steamer, I desire to express to your excellency, faithfully interpreting the sentiments of my Government, the deepest and most sincere sympathy on account of this occurrence, which was as dreadful as it was unexpected.

Joining the expression of my own personal sentiments to this official manifestation of condolence, I reiterate to your excellency the assurances of my highest and most distinguished consideration.

J. B. CALVO.

Mr. Powell to Mr. Sherman.

No. 23.] LEGATION OF THE UNITED STATES,
Santo Domingo, February 28, 1898.

SIR: I respectfully inform the Department, the Government of Santo Domingo, through a representative and in subsequent interviews, also the consuls of the several nations, have called at the legation and expressed their great regret at the loss our Government has sustained in the appalling accident that has occurred to the U. S. S. *Maine*, resulting in such loss of life. I have expressed the thanks of our Government for their sympathetic expressions.

Your obedient servant, W. F. POWELL.

Mr. Powell to Mr. Sherman.

Dominican Series, No. 43.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, March 15, 1898.

SIR: I have the honor to inclose copy of letter sent to Mr. Frias, in answer acknowledging his cablegram to the President of the United States, expressing sorrow at the loss of the U. S. S. *Maine*, according to instructions covered in dispatch No. 117.

I have, etc., W. F. POWELL.

[Inclosure 1 in No. 43.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, March 15, 1898.

Mr. FRIAS, *Santo Domingo City, Santo Domingo.*

SIR: Permit me, sir, in behalf of Mr. McKinley, President of the United States, to acknowledge your cablegram to him expressing your deep sympathy and sorrow at the loss of the brave officers and seamen on the U. S. S. *Maine*, in the harbor of Habana, Cuba.

In his behalf, allow me to express the thanks he feels in your personal cablegram in a loss which has brought sorrow and distress in once happy homes, and in the loss to our Navy of one of its finest vessels.

Again thanking you, sir, for the sympathy you personally express, I am, sir, etc.,

W. F. POWELL, *United States Minister.*

Mr. Carbo to Mr. Sherman.

LEGATION OF ECUADOR,
New York, February 17, 1898.

MR. MINISTER: This legation having been informed of the terrible catastrophe which has occurred at Habana owing to the destruction, by an explosion, of the American war vessel *Maine*, and of the consequent loss of so many valuable lives that were devoted to the service and defense of their country, the undersigned presents to the American Government and people, through you, an expression of the deepest and most sincere sympathy on account of this irreparable disaster, which has filled the entire world with horror.

Ecuador, being a loyal friend of the United States of America, can not do otherwise than be among the first to deplore this unfortunate occurrence, and I therefore beg you to inform the President of the Republic that both the President of Ecuador and the Ecuadorian people join with all their hearts in this official expression of condolence, for they consider this lamentable occurrence as a veritable family misfortune to the nations of this hemisphere.

With sentiments of high consideration, etc.,

L. F. CARBO.

Mr. Sampson to Mr. Sherman.

No. 19.] LEGATION OF THE UNITED STATES,
Quito, March 4, 1898.

SIR: I have been personally waited upon by the minister of foreign relations of this Republic, who, in the name of President Alfaro and of the Republic, expressed the fullest sympathy over the *Maine* disaster, and desired me to assure President McKinley that no nation is in fuller sympathy and accord with the United States than Ecuador.

This was meant to be the more emphatic because not merely formal and in writing.

I have, etc., ARCHIBALD J. SAMPSON.

Mr. Sampson to Mr. Sherman.

No. 26.] LEGATION OF THE UNITED STATES,
Quito, April 7, 1898.

SIR: Your No. 13 received. I have complied with your request, as therein indicated.

In my No. 19 I advised you that the President of this Republic had sent his minister of foreign relations to my office to express to

me, to communicate to you, sympathy for the loss of the *Maine*. He has since given such expressions to me personally, and a strong assurance of sympathy with the United States generally.

I have, etc.,

ARCHIBALD J. SAMPSON.

Mr. Porter to Mr. Day.

No. 179.] EMBASSY OF THE UNITED STATES,
Paris, February 21, 1898.

Sir: I inclose herewith copies of the telegram of condolence I sent you at the request of President Faure with regard to the catastrophe of the *Maine* and of your reply thereto, which was at once delivered to the President.

Many other messages of the same character have been received by me upon this lamentable occasion. The minister of marine, Admiral Besnard, sent an officer to convey his condolence and those of his department. The British and Spanish ambassadors called in person, and a large number of cards, letters, and telegrams were received from the representatives of other countries, expressing feelings of sympathy and condolence.

There have been but few events occurring in foreign countries which have so deeply touched the hearts of all classes of people here.

I have, etc.,

HORACE PORTER.

[Inclosure.—Telegram.]

Mr. Porter to Mr. Sherman.

EMBASSAY OF THE UNITED STATES,
Paris, February 17, 1898.

President Faure asked personal interview, in which he requested me to express his warmest sympathy and profound sense of condolence to President McKinley regarding the appalling catastrophe to the *Maine*, and to convey an assurance that the French people and especially the French navy are deeply touched by the death of the gallant officers and men who lost their lives at their post of duty.

PORTER.

[Inclosure.—Telegram.]

Mr. Day to Mr. Porter.

(Received February 18, 1898.)

The President, for himself and in behalf of the American nation, directs you to convey to President of the French Republic grateful acknowledgment of the touching tribute of sympathy and condolence your telegram communicates in behalf of French Goverment and nation by reason of the deep affliction which has brought bereavement to many homes and stricken our people with grief.

DAY, *Acting.*

Mr. Porter to Mr. Sherman.

No. 184.] EMBASSY OF THE UNITED STATES,
Paris, February 28, 1898.

SIR: As an expression of sympathy for the victims of the *Maine* disaster a solemn requiem mass was celebrated on the 26th instant by the Passionist Fathers at the Catholic church in the Avenue Hoche, specially frequented by the English-speaking population of Paris. The service was largely attended, and among the members of the diplomatic corps who were present were the British and Spanish ambassadors accompanied by their secretaries. I inclose an extract[1] from the Daily Messenger giving an account of the ceremony.

I have, etc.,

HORACE PORTER.

Mr. White to Mr. Sherman.

No. 301.] EMBASSY OF THE UNITED STATES,
Berlin, February 19, 1898.

SIR: The loss of the ship of war *Maine* has caused much utterance of friendly sentiments in Germany.

Shortly after the reception of the news, having occasion to meet the Emperor, I gave him the first information regarding the calamity, whereupon he expressed his regret and sympathy. His first question was whether the catastrophe was caused by a torpedo from outside the ship, and on my assuring him that all the circumstances pointed to an explosion within the vessel, he expressed his satisfaction that it was not the result of hostile action.

No one feels the value of a thoroughly equipped modern battle ship more than he, and his strong liking for ships extends to sailors. He especially expressed his regret at the loss of so many brave men in their full strength.

The following morning the marine minister, Admiral Tirpitz, sent a message of sympathy by one of his officers, and Commanding Admiral Von Knorr came in person to the embassy on a similar errand.

Somewhat later Minister of State Von Buelow forwarded to me a copy of His Majesty's telegram to the President, with the assurance of the minister's personal sympathy in so cruel a loss.

Still later in the day Her Majesty the Empress Frederick, who had asked Mrs. White and myself to dinner, expressed her regret and condolence in very earnest terms, and from many quarters have since come messages of sympathy which by their heartiness seem much more than mere formalities. The fact is that those competent to judge in Germany have unquestionably formed a high opinion of our new war vessels, with a real respect for the feeling which has led the United States to rebuild her Navy, whose achievements are among the most honorable in history, and the sudden loss of so fine a ship, so well manned, and so splendidly equipped, strikes the imagination of all with great force.

The President's telegraphic reply to the Emperor has given general satisfaction, and the conduct of the commander of the ship as recorded

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[1] Not printed.

by the press is evidently regarded with admiration by all competent to form an opinion.

I may add that, in deference to the feeling of the American colony here, so far as it has been ascertained, the festivities usual on Washington's birthday have been indefinitely postponed, only excepting the simple reception during the afternoon at the house of the ambassador.

I am, etc.,

AND. D. WHITE.

Sir Julian Pauncefote to Mr. Sherman.

WASHINGTON, *February 17, 1898.*

SIR: I have the honor to inform you that I am commanded by the Queen to convey to the President the expression of Her Majesty's sympathy with the American people on the occasion of the sad disaster which has befallen their Navy by the loss of the battle ship *Maine* and of so many members of her crew. I request that you will be good enough to transmit the above message to its high destination.

I have, etc.,

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Sherman.

WASHINGTON, *February 19, 1898.*

SIR: I have the honor to inform you that I am in receipt of a telegram from the Earl of Aberdeen, Governor-General of Canada, stating that the Dominion Government desire to offer to the President of the United States the expression of their deep sympathy with the whole American nation concerning the lamentable loss of the *Maine* and of so many of the officers and men of her brave crew.

I request that you will be good enough to transmit the above message to its high destination.

I have, etc., JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Sherman.

WASHINGTON, *February 21, 1898.*

SIR: At the request of Sir Alfred Maloney, governor of the Windward Islands, I have the honor to convey the heartfelt sympathy of that colony with the Government and people of the United States in the loss sustained through the explosion on board the *Maine.*

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. White to Mr. Sherman.

No. 267.] AMERICAN EMBASSY,
London, February 18, 1898.

SIR: I have the honor to inclose herewith copies of telegrams which I sent yesterday, at the request of the personages mentioned therein, with respect to the terrible disaster which has befallen the *Maine;* also

copies of telegrams from the Duke of Connaught and the Lord Mayor of London, and of my replies thereto, and those of a letter from Sir Francis Knollys, private secretary to the Prince of Wales, on which my telegram conveying the sympathy of His Royal Highness was based, and of my answers to the same.

I have the honor furthermore to inclose the copy of a note which I addressed to the Marquis of Salisbury upon the receipt of Mr. Day's telegram conveying the President's thanks for the Queen's message of sympathy.

I also transmit herewith for your information leading articles from all the principal London morning newspapers of the 17th instant, being the day after the news of the disaster was made public.

I may add that most of the ambassadors and chefs de mission accredited to this court have either called or sent their naval attachés to express to me their deep sympathy with our Government and people in this terrible calamity; and I have also received letters, cards, and visits from many officers of Her Britannic Majesty's military and naval services, as well as from private citizens, expressive of their deep sympathy.

It would perhaps be proper to mention that Lord Glenesk, better known under his later name of Sir Algernon Borthwick, the owner of the Morning Post newspaper, asked me yesterday whether any public subscription is to be opened in the United States for the families of those lost in the *Maine*, as in that event he would like to open one here in his newspaper and to subscribe thereto himself.

I also inclose copies of telegraphic instructions received from the Department.

I have, etc.,

HENRY WHITE.

[Inclosure 1 in No. 267.]

[Copy of telegram received at the embassy from the State Department February 17, 1898.]

WHITE, *American Embassy, London:*

President deeply touched by Her Majesty's sympathetic message, conveyed through ambassador here, and charges you to express through appropriate channel grateful appreciation in name of Government and people of the United States.

DAY, *Acting.*

[Inclosure 2 in No. 267.]

[Copy of Mr. White's note to the Foreign Office.]

AMERICAN EMBASSY,
London, February 18, 1898.

MY LORD: I have the honor to acquaint you that I have just received telegraphic instructions from my Government to request your lordship to be so good as to inform the Queen that the President of the United States is deeply touched by the sympathetic and friendly message which he received yesterday from Her Majesty through her ambassador at Washington.

The President has furthermore charged me to convey to the Queen the assurance that he gratefully appreciates, as do the Government and people of the United States, the sympathy which Her Majesty has been pleased to express in respect to our loss, under such appalling circumstances, of the cruiser *Maine*.

I have the honor to ask your lordship to have the further goodness to cause the President's message to be transmitted to the Queen with the least delay possible.

I have, etc.,

HENRY WHITE.

[Inclosure 3 in No. 267.]

[Copy of letter from Sir Francis Knollys, C. B., private secretary to His Royal Highness the Prince of Wales.]

MARLBOROUGH HOUSE,
Pall Mall, S. W., February 17, 1898.

MY DEAR WHITE: The Prince and Princess of Wales desire me to ask you to be so good as to convey to the President and the Secretary of the Navy the expression of their horror at the terrible accident which has happened to the *Maine*, and of their profound sympathy with them and the whole American nation at the occurrence.

Yours, sincerely,

FRANCIS KNOLLYS.

[Inclosure 4 in No. 267.]

AMERICAN EMBASSY,
London, February 17, 1898.

MY DEAR KNOLLYS:

I have lost no time in telegraphing to Washington the message of sympathy which the Prince and Princess of Wales were pleased to send through me to the President and Secretary of the Navy, who, as well as the other members of the Government and the whole American nation, will, I am sure, be much touched and gratified by the feeling thus shown for them by their royal highnesses, in respect to the terrible disaster which has befallen the *Maine*. Will you have the goodness to express to the Prince and Princess my sincere thanks for their sympathy. I shall doubtless receive instructions from my Government to express the thanks of the President and of the Secretary of the Navy to their royal highnesses.

Yours, very sincerely,

HENRY WHITE.

[Inclosure 5 in No. 267.]

Copy of telegram from H. R. H. the Duke of Connaught to the Embassy, February 16, 1898.

UNITED STATES AMBASSADOR,
123 Victoria Street, London:

Pray accept my most sincere sympathy at the terrible accident which has befallen the warship *Maine*. I deeply deplore the loss which your Navy and country have sustained.

DUKE OF CONNAUGHT.

[Inclosure 6 in No. 267.]

[Telegraphic reply thereto February 17, 1898.]

His Royal Highness the DUKE OF CONNAUGHT, K. G., *Bagshot:*

I beg to express to your royal highness my most sincere thanks for your telegram of sympathy with my country and its Navy in the loss of the *Maine* under such appalling circumstances. I immediately cabled your sympathetic message to my Government. The ambassador is in Egypt.

HENRY WHITE.

[Inclosure 7 in No. 267.]

[Further telegraphic reply February 18, 1898.]

His Royal Highness the DUKE OF CONNAUGHT, K. G., *Bagshot:*

The President of the United States directs me to convey to your royal highness the expression of his deep appreciation of your sympathy and condolence, by reason of the appalling disaster which has befallen our Government and people in the loss of the *Maine* and her crew.

HENRY WHITE.

[Inclosure 8 in No. 267.]

[Copies of telegrams received at the embassy from the Department of State February 17, 1898.]

WHITE, *American Embassy, London:*

President directs you to convey to His Royal Highness the Duke of Connaught deep appreciation of his sympathy and condolence by reason of the appalling disaster that has befallen this Government and people in the loss of the *Maine* and her crew.

DAY, *Acting.*

[Inclosure 9 in No. 267.]

WHITE, *American Embassy, London:*

Secretary of the Navy joins me in returning heartfelt thanks for message of sympathy from First Lord of Admiralty.

DAY, *Acting.*

[Inclosure 10 in No. 267.]

[Copy of a telegram received from the Right Hon. The Lord Mayor of London, at the Embassy, February 17, 1898.]

UNITED STATES AMBASSADOR, *Victoria Street:*

On the part of the citizens of London, and for myself personally, I beg to convey to your excellency heartfelt sympathy in the terrible calamity which has befallen the American people by the loss of so many of their gallant sailors.

HORATIO DAVID DAVIES,
Lord Mayor, London.

[Inclosure 11 in No. 267.]

[Copy of telegram in reply February 17, 1898.]

The Right Hon. The LORD MAYOR, *Mansion House, E. C.:*

In the absence of the ambassador in Egypt, I beg to acknowledge the receipt of, and to thank your lordship most sincerely for, your telegram of sympathy in respect to the disaster to the *Maine*, which I at once cabled to my Government. My countrymen will appreciate highly the sympathy of the citizens of London and of the chief magistrate.

HENRY WHITE, *Chargé d'Affaires.*

Copies of telegrams sent from the Embassy to the Department of State on February 16, 1898.

[Inclosure 12 in No. 267.]

SHERMAN, *Secretary, Washington:*

I have received following message from Duke of Connaught:

"Pray accept my most sincere sympathy at the terrible accident which has befallen the warship *Maine*. I deeply deplore the loss which your Navy and country have sustained."

WHITE.

[Inclosure 13 in No. 267.]

LONDON, *February 17, 1898.* (Received 2.50 p. m.)

SHERMAN, *Secretary, Washington:*

Prince and Princess of Wales request me to convey to the President and Secretary of the Navy the expression of their horror at the terrible accident which has happened to the *Maine*, and their profound sympathy with them and the whole American nation at the occurrence.

HENRY WHITE.

[Inclosure 14 in No. 267.]

LONDON, *February 17, 1898.*

SHERMAN, *Secretary, Washington:*

The First Lord of the Admiralty requests me to express Admiralty's and his personal sympathy with our Government and Navy in the loss of the *Maine*. Various members of the diplomatic body have called, including the Spanish ambassador.

WHITE.

[Inclosure 15 in No. 267.]

LONDON, *February 17, 1898.*

SHERMAN, *Secretary, Washington:*

I have just received the following telegram from the lord mayor of London:

"On the part of the citizens of London, and for myself personally, I beg to convey to your excellency heartfelt sympathy in the terrible calamity which has befallen the American people by the loss of so many of their gallant sailors."

4.26 p. m.

WHITE.

[Inclosure 16 in No. 267.]

AMERICAN EMBASSY, *London, February 18, 1898.*

DEAR MR. GOSCHEN: I have just received from the Secretary of State of the United States the following telegram in reply to the message of sympathy which you asked me yesterday to send the Secretary of the Navy in behalf of yourself and of the Admiralty, in respect to the loss of the *Maine*, viz:

"Secretary of the Navy joins me in returning heartfelt thanks for message of sympathy from First Lord of the Admiralty."

Believe me, etc.,

HENRY WHITE.

[Telegram.]

Mr. White to Mr. Sherman.

EMBASSY OF THE UNITED STATES,
London, February 19, 1898.

SHERMAN, *Secretary, Washington.*

Have received expression profound sympathy with our Government and Navy from Duke and Duchess of York. As a sailor the Duke deeply feels terrible catastrophe to *Maine*. Have carried out your recent telegraphic instructions.

WHITE.

Mr. White to Mr. Sherman.

No. 268.] AMERICAN EMBASSY,
London, February 19, 1898.

SIR: Referring to my dispatch No. 267, of yesterday's date, I have the honor to inclose herewith copies of further communications which I have received from you, together with copies of letters which I have written in pursuance thereto.

I also inclose copies of a letter which I have received from the equerry to the Duke of York, and of my reply to the same; and also of my telegram to you based thereupon.

I have, etc.,

HENRY WHITE.

Copies of telegrams received from the Department at the Embassy, February 18, 1898.

WHITE, *American Embassy, London:*

Please convey to the Lord Mayor of London the President's deep appreciation of his message expressing the sympathy of the citizens of London in the terrible bereavement that has afflicted the American people. In their name the President returns grateful thanks.

DAY, *Acting.*

WHITE, *American Embassy, London:*

Make suitable acknowledgment of telegraphic condolences on *Maine* disaster received from N. M. Rothschild & Sons and from Irish meeting, St. James Hall, James O'Kelly, chairman; also thank Señor Garcia Meron, through Argentine legation, London, for his telegram dated Southampton.

DAY, *Acting.*

[Mr. White to His Royal Highness the Prince of Wales, K. G.]

SIR: I have just received a telegram from my Government stating that the President of the United States has received the touching message of sympathy which was sent to him by Your Royal Highness and the Princess of Wales.

The President directs me to express to Your Royal Highnesses in the name of the American people, no less than in his own, his grateful appreciation of your tribute to our nation in respect to the calamity which has befallen us in the loss of the *Maine*.

I have the honor to be, etc., HENRY WHITE.

YORK COTTAGE,
Sandringham, Norfolk, February 18, 1898.

DEAR WHITE: The Duke and Duchess of York desire me to write to you and to say with what horror they have heard of the awful calamity which has befallen the *Maine*. His Royal Highness, as a sailor, deeply feels for the Government and the Navy in this terrible catastrophe, and the Duchess of York joins with him in the expression of their profound sympathy.

Believe me, yours, sincerely,

DEREK KEPPEL, *Equerry in Waiting.*

AMERICAN EMBASSY, *London, February 19, 1898.*

DEAR KEPPEL: Pray convey to the Duke and Duchess of York an expression of my sincere thanks for the message of sympathy with my Government and the American Navy which their Royal Highnesses have been so good as to send me, and which I have lost no time in telegraphing to the Secretary of State, to whom I am also forwarding a copy of your letter to-day.

I am sure that the sympathy of so distinguished a sailor as the Duke of York will be particularly acceptable under the circumstances to the Secretary as well as to the officers and men of our Navy.

Yours, sincerely, HENRY WHITE.

AMERICAN EMBASSY, *London, February 19, 1898.*

LORD MAYOR: I have received telegraphic instructions from my Government to express to your Lordship the President's deep appreciation of your message, which I at once communicated to him, expressing the sympathy of the citizens of London and of yourself with the American people in the terrible disaster which has befallen them by reason of the loss of the *Maine* under such appalling circumstances.

In their name the President charges me to convey to your Lordship an expression of his grateful thanks.

I have, etc., HENRY WHITE.

Lord Salisbury presents his compliments to Mr. White, and has the honor to acknowledge the receipt of his letter of this day's date, conveying the reply of the President of the United States to the message which Sir Julian Pauncefote was instructed to deliver, by command of the Queen, in regard to the loss of the U. S. cruiser *Maine*.

Lord Salisbury begs to state that he will at once lay Mr. White's communication before Her Majesty.

FOREIGN OFFICE, *February 18, 1898.*

Mr. White to Mr. Sherman.

No. 272.] AMERICAN EMBASSY,
London, February 23, 1898.

SIR: Referring to my dispatch No. 258, of the 19th instant, I have the honor to acquaint you that, in accordance with the instructions contained in Mr. Day's telegrams of the 18th and 20th instant, I have written letters of thanks for their expressions of sympathy, in connection with the loss of the *Maine*, to the Duke of York (of which I inclose a copy); to Mr. James O'Kelly, chairman of the Irish meeting held last week at St. James's Hall; to Messrs. N. M. de Rothschild & Sons; to Señor Garcia Meron, and to the Navy League.

I also inclose copies of letters which I have received from the Duke of Abercorn, president of the British South Africa Company (better known as the "Chartered Company"), which I have acknowledged, and from a Mr. McIlquham.

The latter refers to an invention of the writer's (of whom I have never heard) for raising sunken ships, which, in the absence from England, under instructions from the Navy Department, of our naval attaché, I deem it best to transmit to you, in case you should see fit to forward it to the Secretary of the Navy.

I may add that, in addition to the letters which I have forwarded to you, I have received a very large number of expressions of condolence from naval and military officers, and others not holding official positions under Government at the present moment, as well as from private individuals of all classes, relative to the loss of the *Maine*, which has undoubtedly aroused a profound feeling of sympathy in this country.

Some inquiries have also been made here as to the names of those who perished in the disaster, to which I have been unable to reply. I should be glad, if any list be made out of those lost in the *Maine*, that a copy thereof be sent to this embassy for the information of inquiring relatives and friends. The father of the master-at-arms, White by name, has made several inquiries as to his son.

I also inclose a letter signed "Velox," suggesting a possible cause for the explosion which destroyed the *Maine*.

I have, etc., HENRY WHITE.

VILLA MARGUERITE,
Valescure, St. Raphael, Var, France, February 19, 1898.

MY DEAR WHITE: As an outsider, and in the absence of your ambassador, permit me to write one line to you to express my horror at the fearful accident that has happened to the *Maine*. It is bad enough for men-of-war to founder with all their

crews, but to be blown up into the air is too horrible. I do not for a moment think that it was malicious—merely an accident; but the horror remains the same.

I am sure you will receive the sympathy of the whole British nation, and I can not refrain from writing to say what I feel.

Yours, very sincerely, ABERCORN.

ABERYSTWYTH, *February 19, 1898.*

To His Excellency The UNITED STATES AMBASSADOR,
The Embassy, London.

SIR: I have read in the papers of the unfortunate disaster to the U. S. cruiser *Maine*, and sincerely sympathize with your people.

My object in writing your excellency is to lay before your Government an invention by Mr. Syer (formerly an engineer in the British Navy) for raising sunken and floating off stranded ships by means of his patent submersible controllable vessels.

I inclose copy of experts' opinion, and need only point out to your excellency the name of Sir E. J. Reed, K. C. B., F. R. S., N. I. N. A. (late chief constructor of the navy), as a guaranty of the importance and practicability of the invention, which will without doubt be the future mode of lifting sunken and floating off stranded ships.

In the case of the *Maine* a pair of these vessels, on a small scale, could easily be constructed at very little expense, to raise the whole of her guns, engines, and other heavy material.

We can by our vessels raise the *Maine* more cheaply, expeditiously, and successfully than by any other known system in use at the present time, and a pair of small ones would bring to surface her guns, etc., if divers could detach and afterwards attach them.

I will be pleased to hear from your excellency, and would arrange to meet any representative of your Navy or minister of marine in London, fully explain the invention, and show the models in operation.

I have, etc., JAMES MCILQUHAM,
Bridge End House, Aberystwyth, Wales.

Mr. White to Mr. Sherman.

[Telegram.]

AMERICAN EMBASSY,
London, February 28, 1898.

Correspondent of the New York Journal asks me to preside over a meeting of Americans which is shortly to be called for the purpose of raising funds for national monument to sailors of the *Maine* which Journal is organizing. Would it be proper for me thus to identify our Government with a newspaper project. Pray instruct me promptly, confidentially. Shall I accept or decline on my own responsibility without having mentioned you?

WHITE.

Mr. White to Mr. Sherman.

No. 288.] AMERICAN EMBASSY,
London, March 2, 1898.

SIR: Referring to my dispatch No. 272, of the 23d ultimo, I have the honor to inclose herewith two letters which have appeared in the Times, one from the pen of Sir E. J. Reed, late chief constructor of

the British navy, with respect to the raising of the *Maine;* also a letter of condolence from the president of the Glasgow Chamber of Commerce and Manufactures, for which I duly thanked him.

I have, etc.,

HENRY WHITE.

[Inclosure.]

Mr. Galloway to Mr. Hay.

CHAMBER OF COMMERCE AND MANUFACTURES,
Glasgow, February 21, 1898.

SIR: The Glasgow Chamber of Commerce, of which I have the honor to be president, representing the commercial interests of Glasgow and the west of Scotland, have read with deep emotion the accounts of the sad catastrophe which befell the United States battle ship *Maine*, at Habana, on the 15th current, and which has resulted in the loss of so many brave officers and gallant seamen. Permit me, in the name and on behalf of the whole members of the chamber, to assure you of their deep sympathy with the President and people of the United States in this appalling calamity.

I have, etc.,

J. GALLOWAY, *President.*

Col. JOHN HAY,
The United States Ambassador in England.

Mr. White to Mr. Sherman.

No. 301.] AMERICAN EMBASSY,
London, March 15, 1898.

SIR: Referring to my dispatch No. 289, of 2d instant, and to those preceding it on the same subject, I have the honor to inclose herewith a letter, which I received in the absence of the ambassador, from Commander William Dawson, R. N., secretary to the Missions to Seamen, transmitting a resolution of sympathy on the destruction of the *Maine.*

I immediately wrote him a letter of thanks in reply.

I have, etc.,

HENRY WHITE.

[Inclosure in No. 301.]

THE MISSIONS TO SEAMEN,
11 Buckingham Street, Strand, London, W. C.

SIR: At the first meeting of the committee of the Missions to Seamen since the calamitous disaster which has befallen the sailors of the United States in the quiet harbor of Habana, they unanimously passed the subjoined resolution of profound sympathy and condolence with your Navy and the bereaved relatives, which I am directed to forward to your excellency in the respectful hope that it may be accepted as a brotherly tribute of regard for our suffering seafaring brethren:

"The committee of the Missions to Seamen, sitting in London, desire to express to the Navy of the United States of America, through his excellency the ambassador from the United States, their deep sympathy with the officers and men of that illustrious service in the sad loss of the cruiser *Maine* and so many of its brave officers and crew; and they pray that God may sustain and bless their bereaved relations and friends in this hour of sore trial."

I have the honor to be, your excellency's obedient servant,

WM. DAWSON,
Commander R. N. and Secretary.

His Excellency the Honorable JOHN HAY,
Ambassador of the United States, 5 Carlton House Terrace, S. W.

Mr. Arriaga to Mr. Sherman.

LEGATION OF GUATEMALA AT WASHINGTON,
Washington, D. C., February 17, 1898.

MR. SECRETARY: The news of the disaster to the war vessel *Maine* in the bay of Habana, and of the destruction of life among the seamen belonging to the American Navy, has caused profound grief to my Government, and, in its name, I have the honor so to inform your excellency, and to beg you to be pleased to convey to His Excellency President McKinley this expression of sympathy on account of this deplorable occurrence.

I take pleasure in renewing, etc.,

ANTONIO LAZO ARRIAGA.

Mr. Leger to Mr. Sherman.

LEGATION OF THE REPUBLIC OF HAITI,
Washington, February 16, 1898.

MR. SECRETARY OF STATE: The news of the sad accident which has befallen the *Maine* has deeply touched me, and I beg leave to express my condolence and sympathy with the families of the unfortunate victims. My Government can not fail to feel deep concern on account of the loss which the United States have just experienced.

Be pleased to accep etc.,

J. N. LEGER.

Mr. Hatch to Mr. Sherman.

HAWAIIAN LEGATION,
Washington, March 3, 1898.

SIR: By personal direction of President Dole, I beg to extend to you, and through you to the President, an expression of President Dole's sincere and heartfelt sympathy upon the loss of the battle ship *Maine* and so many of her gallant crew.

I have, etc.,

FRANCIS M. HATCH.

Mr. Sewall to Mr. Sherman.

No. 120.] LEGATION OF THE UNITED STATES,
Honolulu, H. I., March 2, 1898.

SIR: I have the honor to report that the news of the disaster to the U. S. S. *Maine* has caused a widespread feeling of sympathy and grief throughout this community and group.

Having no instructions, upon receipt of the news from Admiral Miller I went to his residence, when he read me his telegram from Secretary Long.

At the admiral's suggestion I notified the Hawaiian Government that the colors would be placed at half mast on the ships of his squadron until further notice.

On the same day the Hawaiian minister of foreign affairs addressed me a note expressive of sorrow (inclosed).

The commissioners of Portugal and France, and residents generally, verbally extended their sympathy.

On the 26th instant the Hawaiian Legislature adopted a resolution of sympathy, the flag was directed to be placed at half mast over the senate chamber, and as a token of its sympathy the house adjourned.

I have, etc.,

HAROLD M. SEWALL.

[Inclosure in No. 120.]

Mr. Cooper to Mr. Sewall.

DEPARTMENT OF FOREIGN AFFAIRS,
Honolulu, H. I., February 25, 1898.

SIR: I received with profound sorrow the information conveyed in your letter of the 25th instant of the calamity to the United States ship *Maine*, and note that Admiral Miller has directed that the colors of his squadron be placed at half mast until further notice.

In token of the sympathy of this Government for the Government of the United States in the loss of its gallant officers and men, the garrison flag will be placed at half staff during to-morrow the 26th instant.

I have, etc.,

HENRY E. COOPER,
Minister of Foreign Affairs.

Mr. Sewall to Mr. Sherman.

No. 126.] LEGATION OF THE UNITED STATES,
Honolulu, H. I., March 5, 1898.

SIR: I have the honor to inclose copy of the joint resolution of the Hawaiian Legislature expressing sympathy at the loss of life by the destruction of the *Maine*, which I am requested to transmit.

I have, etc.,

HAROLD M. SEWALL.

[Inclosure in No. 126.]

SENATE CHAMBER.

[Joint Resolution No. 1.]

The Legislature of the Republic of Hawaii, in regular session assembled, does hereby extend to the United States of America its deep and earnest sympathy in the great loss of life sustained by the destruction of the battle ship *Maine* in the harbor of Habana, Cuba, February 15, 1898.

Resolved, That a copy of these resolutions be presented to the American minister for transmission to the President of the United States of America.

February 26, 1898.

Approved this 4th day of March, A. D. 1898.

SANFORD P. DOLE,
President of the Republic of Hawaii.

I hereby certify that the foregoing Resolution No. 1 passed in the Senate of the Republic of Hawaii by a unanimous vote, this 26th day of February, A. D. 1898.

W. C. WILDER, *President.*

GEORGE MANSON, *Clerk.*

I hereby certify that the foregoing Resolution No. 1 passed in the House of Representatives of the Republic of Hawaii by a unanimous vote, this 26th day of February, A. D. 1898.

JOHN LOT KANLUKON, *Speaker.*

JAS. N. K. KEOLA, *Clerk.*

Mr. Sewall to Mr. Sherman.

No. 131.] LEGATION OF THE UNITED STATES,
Honolulu, H. I., March 16, 1898.

SIR: I have the honor to inclose copy just received of resolution adopted by the American League of this city expressing sympathy at the disaster to the *Maine*, which I am requested to transmit.

I have, etc.,

HAROLD M. SEWALL.

[Inclosure in No. 131.]

AMERICAN LEAGUE.

Whereas we have learned with profound regret of the disaster to the battle ship *Maine* in the harbor of Habana on the evening of February 15, 1898, and the terrible fate of 253 of our countrymen at that time: Therefore be it

Resolved, That the American League of Hawaii, as a body and as 500 individual men, hereby express their deep sympathy for the mother country in the disaster thus occasioned, and unite with her in lamenting the destruction of the crew of the *Maine* and the vessel itself.

THEO. P. SEVERIN, *Secretary.*
T. B. MURRY, *President.*

HALL OF THE AMERICAN LEAGUE,
Honolulu, H. I., March 2, 1898.

Count Vinci to Mr. Sherman.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY.
Washington, February 17, 1898.

MR. SECRETARY OF STATE: His excellency the minister for foreign affairs, by a telegram which reached me this evening, has instructed me to convey to the United States Government an expression of deep horror and heartfelt sympathy on account of the terrible catastrophe that has befallen the *Maine*.

I have the honor to be the interpreter near Your Excellency of these sentiments of my Government, and I avail myself, etc.,

G. C. VINCI.

Count Vinci to Mr. Sherman.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY.
Washington, February 17, 1898.

MR. SECRETARY OF STATE: His excellency Mr. Brin, secretary of the navy, has this morning sent me the following telegram:

ITALIAN EMBASSY, *Washington:*

The Italian navy participates deeply in the sorrow that has befallen the Navy of the United States in the serious disaster that has occurred on board the *Maine*. I beg you to transmit to the Department of the Navy of the United States these our sentiments.

MINISTER BRIN.

I shall be grateful to Your Excellency if you will kindly forward this telegram to your honorable colleague the Secretary of the Navy.

I avail myself, etc.,

G. C. VINCI.

Mr. Chin Pom Ye to Mr. Sherman.

LEGATION OF KOREA,
Washington, February 18, 1898.

SIR: I hereby desire to express on behalf of His Majesty the Emperor and the Government of Korea sympathy with the United States on the loss of the battle ship *Maine* and so many brave officers and men.

Accept, etc.,

CHIN POM YE.

Mr. Allen to Mr. Sherman.

No. 74, Diplomatic.] LEGATION OF THE UNITED STATES,
Seoul, Korea, February 19, 1898.

SIR: I have the honor to inform you that I have received the following telegram from Captain Wildes, of the U. S. S. *Boston*, at Chemulpo:

Battle ship *Maine* destroyed by accident at Habana 15th instant. Will half-mast colors until further orders.

WILDES.

In consequence of which I have placed the flag of this legation at half-mast for to-day, and the other legations and consulates here have done the same in response to my circular giving them information as to the cause of our flag being at half-mast. I may add that for three days, beginning with to-morrow, our flag will be at half-mast for Prince Akira Yamashina, who died at Kyoto, Japan, on the 17th instant.

I have, etc.,

HORACE N. ALLEN.

Mr. Romero to Mr. Sherman.

LEGATION OF MEXICO,
Washington, February 18, 1898.

MR. SECRETARY: As soon as I learned of the terrible disaster which took place in the bay of Habana on the night of the 15th instant, and which caused the destruction of the United States war ship *Maine*, together with the loss of the lives of about 250 of her crew, I verbally expressed to the Acting Secretary of State, in my personal and official capacity, the deep pain which that terrible calamity caused me and which I was sure that it would cause to my Government.

I now have the honor to inform you that I have received instructions by telegraph from the Mexican Government to convey to the United States Government an expression of the profound sorrow felt by the Government and people of Mexico on account of the catastrophe in question.

Be pleased, etc.,

M. ROMERO.

Mr. Clayton to Mr. Sherman.

No. 316.] LEGATION OF THE UNITED STATES,
Mexico, March 11, 1898.

SIR: I have the honor to forward, through you, to the President of the United States a series of resolutions expressing the sorrowful sentiments of those assembled at a memorial meeting in the Trinity Methodist Episcopal Church, in the city of Mexico, on the 6th of March, 1898, over the loss of the ship *Maine* and her brave seamen.

I have, etc.,

POWELL CLAYTON.

[Inclosure.]

Resolution from the memorial service held in Trinity Methodist Episcopal Church.

MEXICO CITY, *March 6, 1898.*

Resolved, That we, American citizens resident in Mexico, in memorial meeting assembled, join with our fellow-countrymen in mourning the loss of the *Maine* and her gallant seamen. The mystery that surrounds the cause of this catastrophe commands our patience; but however caused, it is a sacred and significant sacrifice upon the altar of humanity. Our hearts go out to the bereaved survivors and to the families of the honored dead, to whom we extend deepest sympathy.

Resolved, That while we, in common with the whole American people, sympathize with every people struggling for independence and self-government, we commend the patience and dignity with which the President of the United States is endeavoring to maintain peace and promote good will among nations.

Resolved, That while we deplore war, we shall welcome it and will share it whenever and wherever it shall have become necessary in vindication of the flag of our country.

Resolved, That the sufferings of Cuba call to mankind for succor and peace.

Resolved, That it is the sense of this memorial meeting that copies of these resolutions be delivered to Hon. Powell Clayton, American minister, to be forwarded with expressions of our esteem and confidence to the President of the United States.

S. R. PEALE.
WILLARD S. ISHAM.
ARLINGTON A. BETT.
E. C. BUTLER.
H. A. BASSETT.
W. W. BLAKE.
SYDENHAM P. C. HENRIQUES.
W. J. DE GRESS.
HUBERT W. BROWN.
PAUL HUDSON.

Mr. Clayton to Mr. Sherman.

No. 332.] LEGATION OF THE UNITED STATES,
Mexico, March 17, 1898.

SIR: As instructed in your No. 327, of the 8th instant, I have to-day addressed a note to the foreign office, copy inclosed, expressing our Government's grateful appreciation of an expression, made by the Mexican minister at Washington, of the profound sorrow of the catastrophe which befell the U. S. battle ship *Maine*.

I have, etc.,

POWELL CLAYTON.

[Inclosure in No. 332.]

Mr. Clayton to Mr. Mariscal.

MARCH 17, 1898.

MR. MINISTER: The Department of State at Washington has received, through your distinguished minister there, an expression of the profound sorrow felt by the Government and people of Mexico on account of the catastrophe which lately befell the U. S. battle ship *Maine* and a large number of her seamen.

The sympathy of the Mexican Republic, whose friendship we so earnestly cherish, is a source of great consolation to the people of the United States, for which sympathy I beg to express through you to your Government the grateful appreciation of the Government of the United States.

I have, etc., POWELL CLAYTON.

Mr. Clayton to Mr. Sherman.

No. 341.] LEGATION OF THE UNITED STATES,
Mexico, March 25, 1898.

SIR: Replying to your No. 349, of the 19th instant, I have to-day expressed in writing to the committee of the memorial services lately held in Trinity Methodist Episcopal Church in this city, growing out of the disaster to the *Maine*, the Government's appreciation of the manifestations of sympathy and patriotism on the part of our countrymen assembled upon said occasion, as expressed in their resolutions lately forwarded through me to the Department.

I have, etc.,

POWELL CLAYTON.

Mr. Clayton to Mr. Sherman.

No. 355.] LEGATION OF THE UNITED STATES,
Mexico, April 4, 1898.

SIR: I have the honor to transmit herewith a copy and translation of a note from Mr. Mariscal, in reply to my note of the 17th ultimo, reported in my dispatch No. 332, of the same date, regarding the late catastrophe to the U. S. battle ship *Maine*.

I have, etc., POWELL CLAYTON.

[Inclosure 2 in No. 355.—Translation.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, March 28, 1898.

MR. MINISTER: The President has learned with satisfaction, through your excellency's note dated the 17th instant, of the appreciation with which the Government of the United States has received the expressions of sympathy of the Government and people of Mexico on account of the catastrophe to the U. S. S. *Maine.*

Accept, etc.,

IGNO. MARISCAL.

[Copy of a telegram from the minister of foreign affairs at The Hague, received February 17, 1898, by the minister of the Netherlands, at Washington.]

Be pleased to convey the expression of the sincere sympathy of Admiral Roell and of the royal marine of the Netherlands on the occasion of the disaster which has befallen the valiant Navy of the United States. Government of the Netherlands most heartily shares these sentiments.

BEAUFORT.

Mr. Newel to Mr. Sherman.

No. 79.] LEGATION OF THE UNITED STATES,
The Hague, February 19, 1898.

SIR: I have the honor to append on the overleaf a copy of Department's cablegram relating to the Government's thanks to Admiral Roell and his royal marine, and to say that the instructions have been complied with.

I have, etc.,

STANFORD NEWEL.

[Cablegram received.]

NEWEL, *Minister, Hague:*

Return grateful thanks to Admiral Roell and royal marine for sympathy shown to American Navy and people in this hour of sore affliction.

DAY, *Acting.*

Mr. Newel to Mr. Sherman.

No. 80.] LEGATION OF THE UNITED STATES,
The Hague, February 21, 1898.

SIR: I have the honor to state that immediately upon receipt of the news of the sad disaster to the cruiser *Maine* the minister of foreign affairs personally called upon me to express the deep sympathy of his Government, and also that the Spanish and German ministers to this court took an early opportunity of evincing their deep regret and condolence with the American people.

I have, etc.,

STANFORD NEWEL.

Mr. Finch to Mr. Sherman.

No. 17.] LEGATION OF THE UNITED STATES,
Montevideo, February 21, 1898.

SIR: I have the pleasure to transmit herewith a note of condolence from the minister of foreign affairs of the Republic of Uruguay deploring the calamity which befell the American war ship *Maine*, and expressing sympathy with the United States Government; also a telegram of condolence and sympathy from the minister of foreign affairs for the Republic of Paraguay, referring to the same calamity. I send you translations of both, and also copies of my reply.

Your obedient servant,

W. R. FINCH.

[Inclosure in No. 17.]

[Telegram of condolence from Paraguay.]

ASUNCION, *February 19, 1898.*

The President of the Republic has charged me to express to your excellency his most sincere condolences for the lamentable accident of the *Maine*. The Paraguayan people join the American people in deploring the accident that has afflicted that noble nation in the loss of the brave sailors that have succumbed in the horrible catastrophe.

I salute your excellency with my most distinguished consideration.

JOSÉ S. DECOND.

[Reply to Paraguay's message.]

MY DEAR SIR: The sentiments of sympathy expresssd in your dispatch of the 19th instant will be appreciated by the American people. The disaster to the American war ship *Maine*, attended as it was by the loss of nearly 300 human lives, has assumed the proportions of a national bereavement, and the President would be lacking in feeling and appreciation if he were not touched by these sincere expressions of sympathy from the representatives of other peoples and nations, of which yours is a notable example.

Permit me to thank you for the President and people of the United States, who will join me in hoping that your people and country may continue to enjoy the blessings of peace, freedom, and exemption from calamities.

I have the honor to be, very sincerely, yours.

Mr. Eguiguren to Mr. Sherman.

LEGATION OF PERU,
Washington, February 17, 1898.

SIR: I perform the duty of expressing to the United States Government the sentiments of condolence and sympathy of the Government of Peru, together with my own, on account of the catastrophe which has befallen the war steamer *Maine* and the loss of the lives of so many citizens of the United States.

Peru, which considers all the Republics of this continent as her sisters, laments their misfortunes and feels them as she does her own. The grief, therefore, which now afflicts the Great Republic is also ours.

I reiterate, etc., VICTOR EGUIGUREN.

Mr. Dudley to Mr. Sherman.

No. 99.] LEGATION OF THE UNITED STATES,
Lima, Peru, March 21, 1898.

SIR: Pursuant to the instructions contained in your No. 71, of February 26, I have undertaken to make appropriate acknowledgment to the Government of Peru of its message of condolence upon the sad occasion of the loss of the *Maine* and the lives of so many of her ill-fated crew, and I have the honor to inclose herewith a copy of a note which I addressed to the Peruvian foreign office for that purpose.

I wish to add that the expressions of sympathy and regret which have come to this legation in consequence of the *Maine* disaster have been numerous both from the other legations of this capital and from private persons. The Spanish legation was notably prompt and earnest in expressing its condolence.

I have, etc., IRVING B. DUDLEY.

[Inclosure in No. 99.]

Mr. Dudley to Dr. de la Riva-Aguero.

No. 26.] LEGATION OF THE UNITED STATES,
Lima, Peru, March 21, 1898.

MR. MINISTER: Through the Peruvian legation at Washington the Government of the United States is recipient from the Government of Peru of a message of condolence upon the loss of the battle ship *Maine;* and, in recognition thereof, it is my desire, both in obedience to official instructions and my own impulse, to make grateful acknowledgment.

At a time of profound sorrow, when my nation was mourning a great and mysterious loss, when the sudden and unforeseen calamity which blotted out of existence one of her battle ships and the lives of more than 250 brave American sailors was shedding an all-pervading gloom; and while perhaps the long funeral procession of the *Maine's* dead was yet wending its solemnly impressive course through the narrow streets of the Cuban capital the oppressed spirit of our President and his counselors was lightened, and the gratitude of our people aroused by spontaneous expressions of fraternal sympathy such as were extended by the enlightened, humane, and justice-loving Republic of Peru. Therefore am I called upon to make known to your excellency's Government the appreciation felt by my own of its delicate and kindly courtesy.

Accept, etc., IRVING B. DUDLEY.

Mr. Dudley to Mr. Sherman.

No. 102.] LEGATION OF THE UNITED STATES,
Lima, Peru, March 24, 1898.

SIR: Refering to your instructions No. 71, of February 26, 1898, I have the honor to inclose herewith a copy of a note received from the Peruvian minister for foreign relations, together with a translation in reply to one from this legation, a copy of which accompanied my No. 99, of March 21, 1898.

I have, etc., IRVING B. DUDLEY.

[Inclosure in No. 102—Translation.]

Dr. de la Riva-Aguero to Mr. Dudley.

No. 19.] FOREIGN OFFICE,
Lima, March 23, 1898.

MR. MINISTER: I have had the honor to receive your excellency's esteemed note of the 21st instant, in which, in accordance with instructions received by you from your Government, you thank that of Peru for the expressions of condolence transmitted by our legation at Washington to the Department of State on account of the sensible loss of the American cruiser *Maine*.

The traditional and sincere friendship that exists between our respective people made particularly painful to Peru a catastrophe whose horrible echoes have made the world tremble, awakening the most heartfelt sympathies for the brave sailors who perished on board the said ship, and on addressing the honorable Mr. Sherman on the subject, Mr. Eguiguren did not do so in order to comply with a simple duty of courtesy, but truthfully interpreted the sentiments of my Government and of the whole nation, as heartily participating in the grief that afflicts the American people.

Upon this occasion, etc.,

E. DE LA RIVA-AGUERO.

Mr. Townsend to Mr. Sherman.

No. 24.] LEGATION OF THE UNITED STATES,
Lisbon, February 17, 1898,

SIR: I have the honor to inform the Department that I received last evening through a news agency a telegram containing the painful news of the explosion on board the *Maine*, and that I immediately sent a copy of the same to Commodore Howell, commanding the European Squadron, on board the *San Francisco*, now at this port.

The Lisbon newspapers of this morning contained telegrams from Washington and Habana confirming the awful catastrophe, and a few hours later I received a visit from the minister for foreign affairs, who came direct from His Majesty to offer the condolence and sympathy of His Majesty and the Government of Portugal on this sad event. This afternoon, by appointment, I took the officers of the *San Francisco* and *Bancroft* to present them to His Majesty. The latter spoke most freely on the subject, reminding us that a similar accident occurred in China many years ago to a Portuguese frigate, and that an American man-of-war, which was near, rendered great assistance.

His Majesty charged me to convey to the President, the Government, and the people of the United States his deep and heartfelt sympathy.

I have, etc., LAWRENCE TOWNSEND.

Mr. Townsend to Mr. Sherman.

No. 26.] LEGATION OF THE UNITED STATES,
Lisbon, February 25, 1898.

SIR: I have the honor to transmit herewith a translation of a note just received from the Chamber of Commerce of Lisbon, expressing the profound sorrow of that body on receiving the news of the loss of the *Maine* in the harbor of Habana.

I have, etc., LAWRENCE TOWNSEND.

[Inclosure.]

Note from Lisbon Chamber of Commerce.

[Translation.]

SIR: The awful catastrophe that befell the cruiser *Maine* in the wat rs of Habana has mournfully resounded in Portugal, as it has all over Europe. The loss of so many victims is matter for profound grief, not in one nation alone, but for humanity in general. It is for this reason that the Commercial Association of Lisbon, in the name of the entire commercial body of this city, approaches your excellency to give expression of its sorrow, begging your excellency to be kind enough to convey this note of condolence to the Government of the Republic of the United States of America, which your excellency so worthily represents at this court, and which so many ties of sympathy connect our own country.

God preserve your excellency.

COMMERCIAL ASSOCIATION OF LISBON,
AJ. SIMVES D'ALMEIDO, *President.*

FEBRUARY 21, 1898.

Mr. Hitchcock to Mr. Sherman.

No. 43.] LEGATION OF THE UNITED STATES,
St. Petersburg, February 18, 1898.

SIR: The Russian journals of yesterday brought to my knowledge the news of the sad accident to the U. S. cruiser *Maine*, by which so many lives of our brave officers and seamen have been lost.

To-day I am in receipt of a note of kind sympathy from the imperial foreign office, copy of which I inclose, as well as copy of my reply.

The health of Count Mouravieff, who is suffering from varioloid precluded his writing himself.

I have, etc., ETHAN A. HITCHCOCK.

[Inclosure.]

Count Lamsdorff to Mr. Hitchcock.

[Translation.]

ASSISTANT MINISTER OF FOREIGN AFFAIRS,
St. Petersburg, February 5/17, 1898.

MR. ENVOY: Having heard of the terrible catastrophe to the American cruiser *Maine*, I hasten to express to you my very sincere sympathy on account of this sad event.

Count Mouravieff has requested me to transmit to you on his part the expression of his profound sympathy in this unfortunate occasion, which has cost the lives of so many brave American sailors.

Be pleased to accept, Mr. Envoy, the assurance of my most distinguished consideration.

CTE. LAMSDORFF.

Mr. HITCHCOCK, etc.

[Inclosure.]

Mr. Hitchcock to Count Lamsdorff.

LEGATION OF THE UNITED STATES,
St. Petersburg, February 6/18, 1898.

YOUR EXCELLENCY: I am profoundly touched by the kind words of sympathy conveyed in your note of yesterday in referring to the sad accident to the American cruiser *Maine*, by which the families of so many of our brave seamen are plunged into mourning..

May I beg of your excellency to convey to His Excellency Count Mouravieff, with sentiments of my deep solicitude for his health, which I am gratified to learn is improving, my sincere thanks for his kind and thoughtful sympathy.

I avail myself, etc.,

ETHAN A. HITCHCOCK.

Mr. Hitchcock to Mr. Sherman.

No. 44.] LEGATION OF THE UNITED STATES,
St. Petersburg, February 24, 1898.

SIR: Referring to my No. 43 of February 18, inclosing copy of a note of condolence from the imperial ministry of foreign affairs, I now have the honor to inform you that since the dispatch above referred to, I have received a visit of condolence from His Excellency Sir Nicholas O'Conor, the British ambassador, in which he expressed his profound sympathy with our country in the loss of the cruiser *Maine*, by which so many brave lives perished. It gives me great pleasure to add that Mr. William Edward Goschen, British minister plenipotentiary, performing the functions of counsellor to the embassy, and Captain Alfred Paget, naval attaché, both of whom have been in diplomatic service at Washington, have written me cordial notes of sympathy.

It is to be remarked that neither the Spanish ambassador nor any member of the Spanish embassy has referred to the catastrophe so far as this legation is concerned.

I have, etc., ETHAN A. HITCHCOCK.

IMPERIAL LEGATION OF TURKEY.

The chargé d'affaires ad interim of Turkey has the honor to convey to his excellency the Secretary of State the expression of the sincere regret of the Ottoman Government on account of the deplorable accident which has befallen the *Maine*.

February 17, 1898.

His Excellency the SECRETARY OF STATE,
Washington.

[Inclosure in No. 17, from Mr. Finch, see p. —.]

Message of condolence from Uruguay.

The minister for foreign affairs has the honor of saluting his excellency the minister plenipotentiary of the United States of North America, and presents in the name of the Uruguayan Government the deepest regret for the catastrophe on board the cruiser *Maine*.

MONTEVIDEO, *February 17, 1898.*

Mr. Loomis to Mr. Sherman.

No. 99.] LEGATION OF THE UNITED STATES,
Caracas, March 15, 1898.

SIR: In reference to the disaster to the United States ship of war *Maine*, I have the honor to report that all of the foreign ministers have taken occasion to express their sense of regret and sorrow to me

in a very earnest, sincere, and satisfactory way, save the ministers of Italy and Spain, who have said nothing.

The English and German ministers called personally at the legation within two or three hours after the news of the loss of the *Maine* was confirmed.

I have, etc. FRANCIS B. LOOMIS.

Mr. Sherman to Señor del Viso.

No. 17.] DEPARTMENT OF STATE,
Washington, February 24, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 19th instant, stating that you have been instructed by your Government to express its condolence in view of the disaster which occurred to the U. S. S. *Maine*.

In reply I have to say that the Government of the United States gratefully appreciates the message of sympathy thus conveyed from the Government of the Argentine Republic.

Accept, etc.,

JOHN SHERMAN.

NOTE.—Similar acknowledgments were made to the diplomatic representatives of the following countries: Belgium, Bolivia, Greater Republic of Central America, Chile, China, Colombia, Costa Rica, Ecuador, Germany, Great Britain, Guatemala, Haiti, Hawaii, Italy, Korea, Mexico, Netherlands, Peru, Russia, Spain, and Turkey.

Mr. Sherman to Mr. Jones.

No. 318.] DEPARTMENT OF STATE,
Washington, February 24, 1898.

SIR: The Department has received from the chargé d'affaires ad interim of the Argentine Republic at this capital a note conveying the condolence of the Argentine Republic in view of the recent disaster to the U. S. S. *Maine*.

You are instructed to inform the foreign office that the Government of the United States gratefully appreciates the message of sympathy transmitted by the Argentine Republic.

Respectfully, yours,

JOHN SHERMAN.

NOTE.—Similar instructions were sent to the diplomatic representatives of the United States accredited to the following countries: Austria, Belgium, Bolivia, Brazil, Chile, China, Colombia, Dominican Republic, Ecuador, France, Great Britain, Guatemala, Haiti, Hawaii, Italy, Korea, Mexico, Netherlands, Nicaragua, Peru, Portugal, Russia, Spain, and Venezuela.

OUTRAGE ON THE UNITED STATES CONSULATE AT MALAGA.

Mr. Woodford to Mr. Sherman.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, April 16, 1898.

Informed this morning (Saturday) by the United States consul at Malaga that his consulate was mobbed last night. I immediately demanded protection by Spanish Government of all American consulates in Spain. Local Spanish authorities at Malaga have suppressed the mob and replaced the United States shield, which had been destroyed.

Saturday Evening.

WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 226.] LEGATION OF THE UNITED STATES,
Madrid, April 16, 1898.

SIR: I am this morning in receipt of telegram from Mr. Bartleman, United States consul at Malaga, Spain, stating that his residence was stoned last evening. I have at once asked the Spanish Government to protect all United States consuls and consular offices throughout Spain.

Respectfully,

STEWART L. WOODFORD.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 17, 1898.

The United States consul at Malaga reports civil governor called, expressing regrets. Shield replaced. Order restored. Your course in asking due precautions is approved and the prompt action of the authorities at Malaga is appreciated.

DAY.

No. 227.] *Mr. Woodford to Mr. Sherman.*

MADRID, *April 17, 1898.*

SIR: In continuation of my dispatch No. 226, dated April 16 instant, I have the honor to report that last evening I received telegram from Mr. Bartleman, consul at Malaga, that authorities had placed new coat of arms at consulate.

I at once cabled you as follows:

* * * * * * *

Early this morning I have received another telegram from Consul Bartleman, stating that civil governor had called and expressed regret; that consulate is a wreck; and that archives and records are safe.

I telegraph him this morning authorizing him to leave Malaga at his discretion whenever he shall feel that his personal safety requires his departure, and have instructed him in such case to turn his consulate over to the British consul at Malaga. Mr. Bartleman seems to have acted with coolness, courage, and discretion, and I commend him to the approval of the Department.

I cable you in cipher as follows:

MADRID, *April 17, 1898.*

SHERMAN, *Secretary, Washington:*

Have authorized United States consul at Malaga to leave Malaga whenever his personal safety shall require. Have instructed him to turn consulate over to British consul should he be compelled to leave.

WOODFORD.

The Spanish authorities at Malaga seem to have acted honorably and with reasonable promptitude, but the mob was evidently ugly and determined.

I am, etc., STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 229.] MADRID, *April 17, 1898.*

SIR: I have just received and acknowledged an official note from the Spanish minister of foreign affairs expressing the sincere regret of His Majesty's Government for the excesses committed against the United States consulate at Malaga, and stating that competent instructions have been given to the Spanish authorities for the due protection of the persons and property of the consular representatives of the United States. I have accordingly telegraphed you in cipher as follows:

MADRID, *April 17, 1898.*

SHERMAN, *Secretary, Washington:*

I have just received an official note from the Spanish Government expressing the sincere regret of Spain for the excesses committed against the United States consul at Malaga, and stating that competent instructions have been given to the authorities for the due protection of the persons and property of the consular representatives of the United States throughout Spain.

WOODFORD.

I am, etc., STEWART L. WOODFORD.

Mr. Woodford to Mr. Sherman.

No. 238.] LEGATION OF THE UNITED STATES,
Madrid, April 20, 1898.

SIR: I have the honor to inclose copy of report from R. M. Bartleman, United States consul at Malaga, dated April 18, instant, giving detailed account of the recent disturbances at Malaga. In acknowl-

edging to him the receipt of the report I have renewed the expression of the appreciation of the Government of his admirable conduct at so trying a time.

Very respectfully, yours,

STEWART L. WOODRUFF.

[Inclosure in No. 238.]

No. 4.] CONSULATE OF THE UNITED STATES,
Malaga, April 18, 1898.

MR. MINISTER: On the evening of the 15th instant, about 8 p. m., a group of students, bent upon showing their patriotism, started from the neighborhood of the institute toward the central part of the city, shouting praises to the army and navy; en route they were joined by the crowd, the procession growing from a few to several thousand.

I had just finished dinner when the clerk of the consulate called at my residence to inform me that the procession had passed the office without referring in any way to the United States; that the object of the demonstration was apparently against the attitude of the Spanish Government. Scarcely had Mr. Troughton departed when he found himself obliged to return, stating that the crowd had divided itself into two or more divisions, one portion going toward the Alameda, the other to the Plaza de la Constitucion, where it was met by the civil governor and the mayor, who requested them to disperse; the other division was returning to the consulate. Scarcely had he uttered the last words when he heard a crash, caused by the breaking of glass. The consulate was demolished, the coat-of-arms removed, and in its place was hanging the Spanish colors. Meantime, the house occupied by the vice-consul and myself came in to a share of this patriotic (?) display. Thinking we were not at home, our visitors soon left us to visit the house of an American citizen, Mr. W. C. Bevan, who, fortunately, had left the city several days before. Before reaching his residence, however, they were met and turned back by the civil guard, now arriving on the scene of action, and finding it impossible to again attack the consulate, they proceeded toward the opera house, stopping the performance. The rioting continued until 1 or 1:30 a. m.

Early the following morning I requested my colleagues of Great Britain and Colombia, the latter residing with me, to do me the favor of calling upon his excellency the civil governor, as I had no desire to see him before receiving an apology for what had transpired; to protest against what had taken place, and to know if his excellency was able to give proper protection to the consulate, my residence and self; if not, I desired to be informed of the fact. On their return they stated what the governor had said—that the consulate, my house, and myself were now well protected, both by the civil guards and police; that he had received a telegram from Madrid directing him to restore the coat of arms in its place, using the military forces, if necessary, to accomplish this act, and wishing to know if I had another. I informed him that I had an old one. The chief of police, who accompanied my colleagues to take back my reply, then stated that as soon as the cavalry and infantry were in line and ready he would send for it. At 1 o'clock all was ready, the pieces were loaded before the crowd, and the arms of the United States was in view once more. This act

brought forth a storm of protests from the assembled multitude. Their fury knew no bounds, and they promised themselves that it would again be removed that evening.

At 4 p. m. the civil governor and his secretary called upon me at my house to express his regrets and those of his Government for the unfortunate event of the previous evening, and at the same time he requested me to inform you that the coat of arms had been restored in obedience to his instructions. He seemed very sad, and was profuse in his apologies. In reply, I thanked him, and stated that, so far as to my personal feeling, I was entirely satisfied, provided my Government was.

Throughout the day the demonstrations continued; windows and lamps were broken by hundreds; shopkeepers were obliged to close their places of business; the riot and confusion that took place is indescribable.

During the evening it finally became necessary for the cavalry to make several charges at a full gallop, using their sabers right and left, inflicting and receiving wounds and making many arrests.

All entrances to the streets near to the consulate were now closed and guarded by the cavalry. These precautions continued over Sunday, when more trouble was anticipated, but the wounds received by the people cooled their desires, and up to the hour of writing this dispatch (11 p. m.) nothing more has taken place, and I trust the city will soon regain its normal condition.

In speaking of the past event, I have the honor to state that the authorities here seem to have taken such precautions as they thought efficient for the protection of our interests. That they proved insufficient is to be lamented.

Our actual losses will be very small; a few glasses and a little paint and varnish will put all to rights again. The great loss will be for the Marquis of Lurios, owner of the property.

I have for days past been expecting this trouble and took the precaution to have the archives in a safe place. That I could not remove them elsewhere was owing to the exposed position of the building, which is located in front of the Military and Liceo Club from whence all my actions for days past have probably been observed. Knowing this, I have used the utmost caution in all my movements; I have avoided public places where an insult could possibly have been offered to me; moreover, my daily life for a long time past has been to go to my office and return home again at the end of the day.

I append herewith copies of all telegrams and correspondence in reference to the within-mentioned demonstration and trust that my conduct and actions have your approval.

I improve this occasion, etc.,

R. M. BARTLEMAN, *Consul.*

[Inclosure 1 in No. 4.]

Mr. Bartleman to Mr. Sherman.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Malaga, April 15, 1898.

Demonstration, 8 evening, Friday. Windows consulate broken, shield destroyed. Residence also stoned.

BARTLEMAN.

[Inclosure 2 in No. 4.]

Mr. Bartleman to Mr. Woodford.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Malaga, April 15, 1898.

Demonstration, 8 this evening, windows, shield completely destroyed. My residence stoned. Have wired Washington.

BARTLEMAN.

[Inclosure 3 in No. 4.]

Mr. Woodford to Mr. Bartleman.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, April 16, 1898.

Have asked Spanish Government to protect our consular officers and property throughout Spain.

WOODFORD.

[Inclosure 4 in No. 4.]

Mr. Bartleman to Mr. Sherman.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Malaga, April 16, 1898.

Civil governor called; express regrets name Government. Authorities placed new shield consulate.

BARTLEMAN.

[Inclosure 5 in No. 4.]

Mr. Bartleman to Mr. Woodford.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Malaga, April 16, 1898.

Civil governor called express regrets. Consulate a wreck. Archives, records safe. Thanks for telegram.

BARTLEMAN.

[Inclosure 6 in No. 4.]

Mr. Bartleman to Mr. Woodford.

[Telegram.]

CONSULATE OF THE UNITED STATES.
Malaga, April 16, 1898.

Authorities have placed new coat-of-arms consulate.

BARTLEMAN.

[Inclosure 7 in No. 4.]

Mr. Adee to Mr. Bartleman.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 17, 1898.

Prompt action Malaga authorities is highly appreciated.

ADEE.

[Inclosure 8 in No. 4.]

Mr. Bartleman to Mr. Woodford.

[Telegram.]

CONSULATE OF THE UNITED STATES,
Malaga, April 17, 1898.

Just received following: "Prompt action Malaga authorities is highly appreciated. (Signed) Adee." Demonstration continued in city last night. More expected to-day. Many wounded. Our interests apparently well protected. Governor doing everything possible and I anticipate no trouble at consulate or house. Papers sent to give idea of situation. Full report conclusion affair, not wishing to molest you at this time. Trust my actions have your approval. Doing my best for our interests.

BARTLEMAN.

[Inclosure 9 in No. 4.]

Mr. Woodford to Mr. Bartleman.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, April 17, 1898.

Two telegrams dated April 16 received. I commend your courage and discretion. I authorize you to leave Malaga whenever your safety requires and to turn American consulate over to British consul.

WOODFORD.

[Inclosure 10 in No. 4.]

Mr. Bartleman to ———

CONSULATE OF THE UNITED STATES OF AMERICA,
Malaga, April 17, 1898.

YOUR EXCELLENCY: In view of our conversation of yesterday evening, I now have the honor to send your excellency a copy of a telegram just received from the Department of State at Washington:

"Prompt action Malaga authorities is highly appreciated. Adee."

I likewise informed our minister at Madrid that your excellency had caused a new coat-of-arms to be placed on the consulate.

Knowing that your excellency has done and continues to do all in your excellency's power for the protection of our interests, I take this occasion to express my thanks and to offer, etc.,

R. M. BARTLEMAN.

NOTE.—As his excellency does not read English, I inclosed a translation of the above in order to save time.

R. M. B.

Mr. Woodford to Mr. Day.

No. 245.] PARIS, FRANCE, *April 28, 1898.*

SIR: I have the honor to inclose copy of the last report which I received from Mr. Bartleman, our consul at Malaga. It was written on the train as he was leaving Malaga for Gibraltar at 9.30 a. m. of April 21, instant. It is interesting as showing the disposition of the Spanish Government on the night of April 20 and confirms the judgment which I formed at about midnight of that day when I learned that a telegraphic dispatch from the State Department addressed to me had been already received at Madrid at 11 o'clock that night, but was being held without delivery to me.

Mr. Bartleman shows in this report the same careful consideration and brave performance of duty which marked all his conduct during the last few trying weeks of his service at Malaga.

I have, etc.,

STEWART L. WOODFORD.

[Inclosure in No. 245.]

Mr. Bartleman to Mr. Woodford.

ON TRAIN, 9.30 a. m., *April 21, 1898.*

DEAR GENERAL: Last evening I received from Mr. Bowen the following: "Prepare to leave Spain. You may do so at once if in immediate danger. Bowen."

I decided not to go, but when the civil governor sent his secretary to my house at 6 a. m. to-day to read to me a telegram his excellency had just received from Madrid stating that at any moment relations might be severed, that all hope for peace had gone, they—his excellency and secretary—thought it advisable that I depart immediately; that the records of the office I might send to him (this was being done when I left) for protection; wished me to have the shield removed, which I said would not be done until relations had been severed, and so left instructions with the clerk, they to notify him in time and before the news was made public.

What I am now doing is with deep regret, but no other way seems possible. My absence from Malaga may be the means of saving the destruction of much property. My losses will be heavy; my furniture, which I can not take with me and which I did not sell, not wishing any of my movements known, will all be destroyed, I believe, for from my conversation of this morning I am of the opinion that the governor will be unable to control the mobs which are sure to form at any moment.

I go to the Hotel Royal, Gibraltar. If I can serve you, wire; my services are now for my country.

May you have a happy journey to God's country, and may we both meet there.

With best wishes and many apologies for this letter, believe me, sincerely,

R. M. BARTLEMAN.

TURKEY.

PROHIBITION OF ADMISSION OF PROPRIETARY MEDICINES.

Mr. Angell to Mr. Sherman.

No. 54.] LEGATION OF THE UNITED STATES,
Constantinople, December 4, 1897.

SIR: Referring to your No. 45 of November 15, I have the honor to inform you that no law exists "to prohibit the importation of all proprietary medicines into Turkey." Before these can be admitted, however, a copy of the prescription showing the composition of the medicine must be delivered to and approved by the Imperial School of Medicine in Constantinople.

I have, etc.,

JAMES B. ANGELL.

SOJOURN OF FOREIGN ISRAELITES IN PALESTINE.

Mr. Riddle to Mr. Day.

No. 179.] LEGATION OF THE UNITED STATES,
Constantinople, September 3, 1898.

SIR: I have the honor to inclose herewith translation of a note verbale from the Sublime Porte of August 27 last, on the subject of the Ottoman regulations which prohibit the entrance of Jews into Turkey.

I also inclose a copy of my reply of the 2d instant.

I have, etc.,

J. W. RIDDLE.

[Inclosure 1 to No. 179.—Translation.]

The Minister for Foreign Affairs to Mr. Riddle.

AUGUST 27, 1898.

NOTE VERBALE.

According to information received by the Sublime Porte 45 Israelites have recently left the United States for Jerusalem.

As entrance to this Empire is strictly forbidden to Jewish immigrants (as the United States legation is not unaware), the imperial authorities have received orders to prevent these individuals from landing on the Ottoman coast.

The ministry of foreign affairs has the honor to request the United States legation to be kind enough to notify the proper authorities, and at the same time to make such communications to its home Government as will induce the latter to no longer permit the departure of groups of Israelites for Turkey.

The UNITED STATES LEGATION.

[Inclosure 2 in No. 179.]

LEGATION OF THE UNITED STATES,
Constantinople, September 2, 1898.

NOTE VERBALE.

The United States legation has the honor to acknowledge the note verbale of the ministry of foreign affairs, No. 29562/22, of August 27 last.

This legation has received no information in regard to an alleged emigration of Israelites from the United States to Jerusalem.

This legation can not view with approval measures of exclusion which affect a class of American citizens solely on account of their religious belief, and protests against the execution of any orders which will have the effect of preventing the landing upon Ottoman shores of law-abiding American citizens who may be desirous of visiting the Holy Land.

The IMPERIAL MINISTRY OF FOREIGN AFFAIRS.

Ferrouh Bey to Mr. Day.

[Translation.]

IMPERIAL LEGATION OF TURKEY IN WASHINGTON,
September 9, 1898.

Mr. SECRETARY OF STATE: By order of my Government I have the honor to inform your excellency that the entry of foreign Israelites into Palestine is prohibited, and that the imperial authorities have received orders to prevent the landing of Jewish emigrants.

I consequently came to beg you, Mr. Secretary of State, to be pleased to take the necessary energetic measures to the end of preventing the departure of groups of Israelites for that province and thus avoid the misunderstanding which might result therefrom.

Be pleased to accept, Mr. Secretary of State, the assurance of my highest consideration.

ALI FERROUH.

Mr. Day to Ali Ferrouh Bey.

No. 9.] DEPARTMENT OF STATE,
Washington, September 13, 1898.

SIR: I have the honor to acknowledge the receipt of your note dated the 9th instant, in which, by order of your Government, you inform me that the entry of foreign Israelites into Palestine is prohibited and that the imperial authorities have received orders to prevent the landing of Jewish emigrants. In view of this you add you have to request that I be pleased to take the "necessary energetic measures" to the end of preventing the departure of groups of Israelites for Palestine, thus avoiding the misunderstanding that might result therefrom.

In reply I have the honor to state that neither the Constitution nor the laws of the United States permit the executive authorities of this country to restrict the departure of any persons from this territory on

the grounds mentioned by you, but to the end that the parties in question, should there be any such, may have knowledge of the difficulty they encounter on their entrance into Palestine, I will cause the announcement of your note to be made public.

In this connection I refer you to the correspondence between the Department and your predecessor, Mavroyeni Bey, in March, October, and November, 1888.

Accept, etc., WILLIAM R. DAY.

Mr. Day to Mr. Riddle.

No. 208.] DEPARTMENT OF STATE,
Washington, September 13, 1898.

SIR: I inclose herewith for your information translation of a note from the Turkish minister at Washington, advising the Department, by order of his Government, that the entry of foreign Israelites into Palestine is prohibited, and that the imperial authorities have received orders to prevent the landing of Jewish emigrants.

I inclose copy of the Department's reply.

Respectfully, yours, WILLIAM R. DAY.

Mr. Adee to Mr. Straus.

No. 5.] DEPARTMENT OF STATE,
Washington, September 20, 1898.

SIR: I have to acknowledge the receipt of Mr. Riddle's No. 179, of the 3d instant, transmitting translation of a note verbale from the Sublime Porte on the subject of the regulations prohibiting the entrance of Jews into Turkey.

The dispatch has been anticipated by the Department sending the legation copies of the correspondence on the subject with the Turkish minister here.

Respectfully, yours, ALVEY A. ADEE,
Acting Secretary.

Mr. Hay to Mr. Straus.

No. 13.] DEPARTMENT OF STATE,
Washington, October 14, 1898.

SIR: To enable the Department to answer the inquiries which it is receiving on the subject, you are requested to unofficially and discreetly ascertain whether the Ottoman regulations prohibiting the entrance of Jews into Palestine, referred to in Mr. Riddle's No. 179, of the 5th ultimo, discontinue the permission heretofore granted to individual Jews to visit and sojourn in Palestine for a period not exceeding ninety days.

In this relation I invite your attention to the correspondence transmitted to you with the Department's No. 10, of the 11th instant, in relation to the visé of the passport of the Rev. S. L. Beiler, an American citizen about to visit Palestine for the purpose of travel. You will observe that in my note to the Turkish minister I construed the recent regulations as applying only to immigrants resorting to Palestine in

bodies for the purpose of settlement there, and by exclusive inference as not applying to individual resort to that colony for travel or temporary sojourn. The minister in his reply makes no reference to my comment, and I might reasonably assume that it has passed uncontroverted and has thereby been tacitly accepted.

I am, sir, etc.,

JOHN HAY.

Mr. Hay to Mr. Straus.

No. 21.] DEPARTMENT OF STATE,
Washington, November 21, 1898.

SIR: I inclose for your information a copy of correspondence between the Department and Mr. Ravndal, our consul at Beirut, in relation to the refusal of the Turkish authorities at Beirut to allow Mr. Balzer and his wife, American citizens, to land at that place, because of their Jewish faith.

I am, etc., JOHN HAY.

[Inclosure 1 in No. 15.)

Mr. Ravndal to Mr. Moore.

No. 13.] CONSULATE OF THE UNITED STATES,
Beirut, September 28, 1898.

SIR: In confirmation of my dispatch No. 11, I have the honor to inclose herewith a copy of my dispatch No. 24 to the consulate-general in regard to Mr. Balzer and his wife, Americans of Jewish origin, who, on account of their creed, have been subject to various hardships by the local Turkish authorities and are now threatened with banishment.

I am, etc., G. BIE RAVNDAL,
United States Consul.

[Subinclosure to inclosure 1.]

Mr. Ravndal to Mr. Dickinson.

No. 24.] CONSULATE OF THE UNITED STATES,
Beirut, September 24, 1898.

SIR: I have the honor to inform you that on September 19 I sent you a telegram as follows:

Two more Americans of Jewish extraction landed to-day after much difficulty. Unless you intervene, all nine will be expelled. A stay of twenty days granted by vilayet.

On Saturday, September 17, at about 10 a. m., I learned that an American citizen and his wife were detained on board a French steamer in port on account of their being Jews. They had been refused admittance at the landing place in Beirut, as well as previously in Jaffa.

At my request they sent me their passport, which proved to be dated August 9, 1898, but lacking the required Turkish visa. I beg to remark at once, however, that no mention of this defect has been made by any of the Turkish officials to whom the passport has been submitted; their

only objection being the Jewish origin of its bearers, Mr. and Mrs. Balzer.

A dragoman was immediately dispatched to the landing place, but, as usual, the landing-place officials wanted an order from the governor-general. As his excellency had not as yet arrived from his summer residence in Lebanon, his office hours being from 12 to 4 p. m., and as the steamer was about to leave for Haifa, the dragoman hastened to the office of the chief of police, to whom he submitted the case, asking that this man and his wife be treated like the seven Americans who were now under the protection of the consulate pending a final adjustment of their grievances in Constantinople. The chief of police conducted himself in a manner very courteous and obliging, and consented to issue the desired order, only stipulating that the passport in question be left with him until he had reported to the vilayet. This was agreed to by the dragoman, and a United States kavass, who was present in the Serail, soon found himself on the way to the landing place fortified with an order for the release of our clients. The order was duly respected by the landing-place officials, who told the kavass that he could now bring Mr. Balzer and his wife ashore. But unfortunately, before our kavass could reach the steamer, she started for Haifa. This was about 11 o'clock a. m., or an hour after our being notified of the incident. The chief of police, on being informed by the kavass of what had happened, expressed his deep regret, but pointed out that as the steamer was coming back to Beirut on the following day (Sunday) before returning on Monday for Alexandria, no great hardship to our clients would result from this delay.

In the afternoon of the same day matters, however, took a different turn. Word came from the political director that he desired an interview with our dragoman, and we soon learned that the governor-general had heard of the morning episode and had decided not to permit Mr. Balzer and his wife to land under any circumstances. When on former occasions, in violation of high orders, he had admitted Americans temporarily pending telegraphic instructions from Constantinople, this had been done as a courtesy to the American consul. He could not grant such favors indefinitely without incurring the displeasure of the Sublime Porte. His excellency would hail with delight an agreement between the two Governments. As it was, his instructions and ours seemed wide apart. In the absence of a definite understanding, he was in duty bound not to admit these "Jews."

This looked rather gloomy; but being reluctant and averse to giving in, I, on Monday, again addressed the governor-general, particularly emphasizing the fact that the very question at issue was now before the proper authorities at Constantinople, and finally asking that Mr. and Mrs. Balzer be accorded the same limited privileges as the party of seven. His excellency feared it might take long before an agreement would be reached in Constantinople, but at last offered to grant my request, provided I promised to send all nine away in fifteen days, if no higher orders from Constantinople in the meantime should arrive. I insisted on thirty days, in view of the recent change of ministers of the United States at Constantinople, but this the governor-general did not dare to concede. We finally agreed on twenty days as a compromise, and so, after releasing Mr. and Mrs. Balzer, I sent you the telegram above referred to and quoted.

* * * * * * *

I am, etc.,

G. BIE RAVNDAL,
United States Consul.

[Inclosure 2 in No. 15.]

Mr. Adee to Mr. Randal.

No. 15.] DEPARTMENT OF STATE,
Washington, October 28, 1898.

SIR: Your dispatch No. 13, of the 28th ultimo, reporting the refusal of the Turkish authorities to permit the landing of two American citizens on account of their Jewish birth, is received.

In reply I have to inform you that the Turkish minister at this capital informed the Department in a note of the 9th ultimo that the entry of foreign Israelites into Palestine is prohibited and that orders have been issued to prevent the landing of Jewish immigrants.

On the 11th instant, however, the Turkish minister, in response to a request from this Department, directed the consul-general at New York to visé the passport of Rev. S. L. Beiler, a Methodist Episcopal minister of Jewish birth. It would thus appear that the restriction is against Jewish immigrants in bodies and does not apply to travelers or transient sojourners.

The legation at Constantinople has been advised of this correspondence and directed to ascertain the precise status of the matter.

You will keep the legation fully advised on the subject.

I am, sir, etc.,

ALVEY A. ADEE,
Second Assistant Secretary.

Mr. Hay to Ali Ferrouh Bey.

No. 10.] DEPARTMENT OF STATE,
Washington, October 11, 1898.

SIR: I am informed by the Rev. S. L. Beiler, pastor of the Cavalry Methodist Episcopal Church of New York City, that on yesterday he presented to the Turkish consul in the city of New York the passport issued to him by this Department on the 8th instant, and requested its visé for use in visiting Palestine, and that the consul refused to visé it, saying that "admission to Palestine is prohibited."

This Department is without any advice either from your legation or from the United States representative in Constantinople that there is any prohibition of any kind against the resort of American citizens to Palestine, except in the case of Hebrew emigrants going thither in bodies for the purpose of settlement there.

The Rev. Mr. Beiler is not resorting to Palestine as an emigrant; he is proceeding thither, as thousands of Americans go every year, to visit that historical land. It seems incredible that the consul can have acted under any instructions of his Government in refusing a visé to Mr. Beiler; and even had he refused the visé under some instruction of which this Government is ignorant, it would become my duty to remonstrate against such an uncalled for attempt to restrict the liberty of travel of American citizens in any part of the Ottoman dominions.

As Mr. Beiler sails on the steamer *St. Louis* to-morrow (Wednesday), I have the honor to ask that you kindly telegraph the consul, stating that Mr. Beiler is the pastor of one of the best known Christian churches in the city of New York; that he is going to Palestine for legitimate purposes of travel, and that he is entitled to have his passport viséed accordingly.

I shall be glad if you will advise me of your action at as early an hour as possible to-day, in order that I may telegraph to Mr. Beiler.

Accept, etc.,

JOHN HAY.

Ali Ferrouh Bey to Mr. Hay.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, October 11, 1898.

Mr. SECRETARY OF STATE:

In reply to your excellency's note of the 11th of October, instant, I have the honor to inform you that our consul at New York has received telegraphic orders to visé the passport of Reverend S. L. Beiler, who is about to go to Palestine.

I would be obliged to your excellency if you would be pleased to cause these gentlemen to comprehend that they should not take any part in politics in Turkey, thereby creating difficulties between the two Governments.

Be pleased, etc., ALI FERROUH.

Mr. Hay to Ali Ferrouh Bey.

No. 11.] DEPARTMENT OF STATE,
Washington, October 11, 1898.

SIR: Acknowledging your note of the 11th instant, in which you reply to mine of this date, relative to the refusal of the Turkish consul at New York to visé the passport of the Rev. S. L. Beiler, for use in traveling through Palestine, and inform me that the consul has been directed by wire to visé the passport, I have the honor to thank you for your very prompt and courteous attention to the matter.

Be pleased to accept, etc.,

JOHN HAY.

Mr. Straus to Mr. Hay.

No. 25.] LEGATION OF THE UNITED STATES,
Constantinople, November 22, 1898.

SIR: In reply to your instruction No. 13, of October 14, wherein you request me to unofficially ascertain whether the Ottoman regulations prohibiting the entrance of Jews into Palestine discontinue the permission heretofore granted to individual Jews to visit and sojourn in Palestine for a period not exceeding 90 days, I have the honor to report:

This same subject had my attention in 1888, during my former mission here, under very detailed and explicit instructions of the then Secretary of State, the late Mr. Thomas F. Bayard (F. R., 1888, part 2, pp. 1566–1568). I beg also to refer to my report in the matter, together with the action taken by the British and French embassies (Id. pp. 1588–1591).

I called on the minister for foreign affairs a few days ago, and in accordance with your instructions presented the matter unofficially in

connection with the general subject of the rights of American citizens, native born and naturalized, in the Ottoman Empire. He agreed with me, and said Turkey had no intention to discriminate among American citizens upon the basis of race, nationality, or religion.

In justice and fairness to the Turkish Government, I must say it has never shown a disposition to make any discrimination against foreign subjects on the basis of race or religion, and as for the Jews, when they were driven out of Spain by the inquisition in the latter part of the fifteenth century, the only two countries wherein they found a hospitable refuge were Holland and the Ottoman Empire. Many of the descendants of these Spanish Jews yet live in this Empire as loyal subjects, as their forefathers did, in the full enjoyment of their religion and their rights as Ottoman subjects. Their home language is still Spanish, and much of their literature is in that language.

With a view of having instructions sent to the valis or governors-general of Syria and Palestine, in accordance with the principles consistently maintained by our Government regarding its citizens, and upon the suggestion of the minister of foreign affairs, I handed to him yesterday the attached note. He read it in my presence, and said:

> You can report to your Government; there is no intent to prevent American citizens, be they Jews or Christians, individually, as distinguished from en masse, to visit Syria or Palestine as travelers, or who come as visitors; the only object is to prevent the further colonization of Palestine by Jews, as the settlement there of religious bodies in preponderating numbers may lead to political complications, which it is the purpose of the Ottoman Government to avoid.

I do not think there would be any objection on the part of the Turkish Government if Jews desired to settle in other parts of Turkey, provided it is made clear that such settlements are not effected as an excuse, or with a view of crowding into Palestine.

The more stringent enforcement of the regulations respecting Palestine has been occasioned by the Zionistic movement among a section of Jews in Russia and in some European countries, by reason of persecution and anti-Semitic agitations.

It is, perhaps, not pertinent to the present question to say that in my judgment it would be more practicable if the movement referred to made its goal Mesopotamia, the once rich and populous country between the Tigris and Euphrates, the original habitation of the Hebrews, Abraham and his progenitors; for here was the biblical Ur of the Chaldees. This country, in the circle of time, is again to all intents and purposes practically a new land; it is sparsely settled, and by opening up the ancient channels of irrigation could again be made to support a population of several million souls. Such a proposition, practically presented, might, perhaps, be entertained by the Ottoman Government as advantageous to the Empire.

I have, etc., OSCAR S. STRAUS.

[Inclosure in No. 25.]

LEGATION OF THE UNITED STATES,
Constantinople, November 19, 1898.

His Excellency TEWFIK PASHA,
Minister for Foreign Affairs.

SIR: A number of cases of denial of the rights of American citizens, native and naturalized, are reported by our consuls at Beirut and Jerusalem, which have been referred to me by my Government.

It is my constant desire to avoid unpleasant issues between the United States and Turkey, and especially now, pending the consideration of important negotiations between your excellency and myself upon the general subject of nationality.

I have instructed our said consuls to the effect that the United States do not make any discrimination between its citizens based upon religion or race, nor will it concede to any other Government the right or power to make any such discrimination in respect to American citizens.

Though Turkey in 1869 passed its law of nationality to the effect of not recognizing the foreign naturalization of subjects of Ottoman origin, yet we have not and will not consent to the application of that law to American naturalized citizens, be they of Ottoman origin or of any other origin.

I recognize that the position we have consistently taken since the foundation of our Government raises in such instances, perhaps, a question of conflict of sovereignty, yet to avoid which we have concluded with European States treaties of naturalization, such as your excellency and I now have under consideration.

Regarding the other question—the exclusion of American citizens of Jewish race from Palestine—the same considerations apply. I understand that the Ottoman Government opposes the further colonization of Palestine by Jews, not because of any prejudice against such persons because they are Jews, but because the Ottoman Government does not regard it to its interest to have too large a number of any race or nationality established there, and therefore objects to persons of the Jewish race coming en masse; but that individual citizens of the United States, be they native born or naturalized, who came to Palestine on a visit as distinguished from colonization, are not to be hindered in their coming or remaining there.

I have instructed our consuls in accordance with the above, and would ask your excellency, in your high sense of equity and reciprocal rights, to instruct the valis of Syria and of Palestine not to obstruct American citizens who come to visit these vilayets.

My Government does not limit the right of Ottoman subjects to travel in any part of the United States, be they native or naturalized, be they Mohammedans, Jews, or Christians, and will not submit to a curtailment of the rights of its citizens when coming to the Ottoman Empire.

Your excellency, I trust, will agree with me that, pending my negotiations with you, it would be unfortunate if disagreeable issues should result, which might obstruct our mutual efforts to arrive at a satisfactory solution.

Receive, excellency, the assurance of, etc.,

OSCAR S. STRAUS.

Mr. Hay to Mr. Straus.

No. 47.] DEPARTMENT OF STATE,
Washington, December 19, 1898.

SIR: I have to acknowledge the receipt of your dispatch No. 25, of the 22d ultimo, reporting that the restrictions against the presence of Jews in Palestine apply only to Jews going there in bodies as colonists, and do not affect American travelers and visitors.

This agrees with the Department's understanding of the present activity in enforcing the rules against Semitic colonization of Palestine.

The inquiry did not suggest any doubt in our minds as to the tenor and purpose of the Ottoman regulations, and would not have been made had it not been for the recent action of the Turkish consul at New York in refusing visas to Americans of Jewish race, even though in one case the person was the pastor of a Christian church.

You have been informed of the correspondence exchanged with Ferrouh Pasha on this subject.

I am, etc., JOHN HAY.

PERMITS FOR INTERIOR TRAVEL.

Mr. Angell to Mr. Day.

No. 147.] LEGATION OF THE UNITED STATES,
Constantinople, June 11, 1898.

SIR: The American journals which have just arrived here contain an Associated Press dispatch stating that I had protested against a prohibition to American citizens to travel in the interior, and a subsequent dispatch stating that the Turkish minister at Washington denied that there was any foundation for the assertion that Americans and Englishmen had been prevented from going into the interior.

The particular hindrance to Americans was, on my complaint, so promptly removed that I have not reported it to you. In truth, I have delayed doing so to see if a much more serious hindrance to all travelers, which has been authorized, was really to be experienced by them. But if the Associated Press correctly reports the language of the Turkish minister, his statement is inexact and misleading. I can not help doubting whether it is authorized by the Porte. It seems to be advisable, therefore, that I should state what has occurred.

The month of May is the best time for making an excursion to one of the most delightful cities in Turkey, namely, Broussa, the original Ottoman capital. In fact, I was spending a day there myself when the incident I am to describe occurred.

On May 16 three American citizens applied in the usual form through our consulate for teskeres, or traveling permits, to go to Broussa on the following day. To their surprise and that of the consulate their application was refused. On my return on the evening of the 17th I heard of this. I resolved at once to see the grand vizier. Wednesday being the regular day of the meeting of the ministers of state, I could not see him until the next day, the 19th.

When I told him what had happened he surprised me by saying that an irade had been issued, forbidding foreigners to travel into the interior without permission from the palace. The teskere office which had heretofore granted permits no longer had authority. He said the irade was intended to prevent unworthy and mischievous persons from traveling through the Empire and causing trouble. The officers of the palace would, therefore, scrutinize each application.

When I told him that, having just come from Broussa, I could assure him that the hotels were then crowded with foreigners, and that I could not consent to a discrimination against Americans, he said, good naturedly, that in his opinion the irade was not intended to apply to visitors to Broussa; that the teskere officers had misunderstood their instructions, and he added that if I would send over the applications to him the next day he would make it the occasion for correcting the misapprehension of the teskere officials. Accordingly, the next day I sent a

canvass to his office and procured the permits for the American travelers. Since then I have heard of no obstruction to travel to Broussa.

But on the next day, May 21, I learned that on the 16th, the date of the refusal of teskeres to the three Americans, a party of French travelers received teskeres and went to Broussa on the 17th. I confess to a feeling of righteous indignation, and I at once wrote a communication to the secretary for foreign affairs, saying that such a discrimination against Americans was insulting and intolerable. The dragoman delivered it to him.

The secretary said there was no intention of making any discrimination against Americans. The Frenchmen received teskeres because they applied through their embassy directly to him. The Government had endeavored to lay on him the execution of the new irade. He had declined the duty. But, so long as he was executing it, he was giving permits to all who were recommended by their ambassadors or ministers. He would cheerfully give them to those I should recommend. This seemed satisfactory, and I have not pursued the matter further. All our travelers to Broussa have received their teskeres, as formerly, from the regular office.

But I would call attention to facts, which show that a restriction on traveling in the interior exists.

1. The grand vizier informed me that an irade has been issued, requiring travelers to apply to the palace for permits, where their record and character will be scrutinized. Heretofore teskeres were granted at the teskere office, if the passports were duly viséed.

2. On the same day that teskeres were refused to three Americans, one was refused to a British subject who wished to go to Broussa.

3. A few weeks before that two of the secretaries of the British embassy were refused teskeres for a trip into the interior. The British ambassador notified the authorities that they would go without teskeres. They did so, and were nowhere annoyed.

These refusals to British subjects led the British ambassador to write a sharp note to the secretary for foreign affairs, to which no answer was ever vouchsafed.

It is plain, therefore, that the statement credited to the Turkish minister in Washington is not well founded.

No case has, however, yet arisen in which an American has been refused permission to travel inland. The secretary of this legation started yesterday on a journey of a few days into the interior, and his teskere was granted in the usual way. It is therefore not improbable that the authorities intend in ordinary cases to refrain from applying the irade, but to hold it in reserve as a weapon to be used in preventing the journeys of travelers to whom for some reason they take exception.

I have, etc.,

JAMES B. ANGELL.

[Inclosure to No. 147.]

Mr. Angell to the minister for foreign affairs.

LEGATION OF THE UNITED STATES,
Constantinople, May 21, 1898.

His Excellency TEWFIK PASHA,
Minister for Foreign Affairs, Sublime Porte.

SIR: I beg leave respectfully to call your attention to the fact that Monday last three American citizens applied for a teskere to visit Broussa for a day or two and were refused.

I am assured that on the same day French citizens received teskeres, and am informed that citizens of other nations receive them.

Such a discrimination against American citizens is insulting and intolerable. I must ask your excellency to see to it that officials guilty of such treatment of Americans be properly rebuked, and that henceforth American citizens have the liberty of travel to which they are entitled under treaties.

Receive, etc., JAMES B. ANGELL.

Mr. Straus to Mr. Hay.

No. 11.] LEGATION OF THE UNITED STATES,
Constantinople, October 26, 1898.

SIR: Referring to my dispatch No. 6, of October 22, respecting the delays in granting teskeres and irades to foreigners who wish to travel to the interior of Asia Minor, I have the honor to report:

Pending the visit of the German Emperor all business with the Porte was at a standstill. He left on Saturday last, the 22d instant, and I took up the matter the following day and sent the attached note to Tahsin Bey, the first secretary of the Sultan. I received a verbal reply through our dragoman that His Majesty had decided, for the purpose of simplifying matters, to refer the entire subject of teskeres to the council of ministers, and that the persons referred to would receive their teskeres on Monday next, the 31st instant.

In the meantime I was informed by the British embassy that its custom has been to ask for teskeres, and if not granted within a day or two—and, as a rule, they are not granted—to let the persons go forward without them, and so advise the Porte and at the same time advise their British consular agents en route. The ambassador informed me he had made application for a teskere the same time we did for Miss Ida E. Hall, who wishes to accompany our American party, and up to this writing the teskere has not been obtained. I refer to this so that you may know these obstacles are not exceptional toward our citizens. The consul general informs me he has received information from the teskere bureau that all applications for teskeres are referred to the Palace, and that the Italian consul has recently met with the same disposition as to his requests.

The missionaries referred to have decided to leave for their destination without teskeres, as I am advised by the copy letter of October 25 from Rev. C. F. Gates; our cavass will put them on board. As a precautionary measure, I have sent a note to the minister for foreign affairs, of which a copy is attached, which gives the names of the persons referred to and their destination. This note follows my conference with the minister of foreign affairs, held yesterday, when I informed him the Americans had decided they would delay no longer. I shall also telegraph our consular agents at Samsoun and Trebizond to give every assistance, and in case of obstacles being interposed to advise the legation.

I am in hopes my action in this matter will bring about a solution by the council of ministers, so these petty annoyances under this head will be removed.

I trust the action I have taken will meet your approval.

I have, etc.,

OSCAR S. STRAUS.

[Inclosure to No. 1 in No. 11.]

No. 9.] UNITED STATES LEGATION,
Constantinople, October 25, 1898.

His Excellency TAHSIN BEY,
First Secretary of O. I. M. The Sultan.

SIR: Twenty-four days ago eight American-born citizens, returning from their vacation to their homes at Harpoot and Erzerum, have been delayed here all this time because their teskeres have been withheld.

I have come here to smooth the relations of our countries. These obstructions, which are contrary to our treaties, cause irritation in America, where these persons have many influential friends.

After sending the dragoman of this legation repeatedly to the Porte and the Palace, he is now informed that His Majesty further postponed this request. I have refrained from telegraphing to my Government to avoid raising a disagreeable issue, especially as the people in my country are very much excited on account of the denial of their rights in Turkey.

Unless these teskeres are issued to-day, it will become my duty to ask telegraphic instructions from my Government.

Your excellency will oblige me by bringing this to His Imperial Majesty's attention at once, so that Mr. Garliulo can bring back the teskeres.

Receive, Excellency, etc., etc.,

OSCAR S. STRAUS.

[Inclosure to No. 2 in No. 11.]

Dr. C. F. Gates to Mr. Straus.

BIBLE HOUSE, *October 25, 1898.*

Hon. O. S. STRAUS.

DEAR SIR: I find our steamer leaves at 4 p. m. to-morrow, the steamer *Circassie* of the Paquet Line. Will you kindly see that a cavass is on hand by 3 o'clock to see that we are put on board, and send necessary instructions to Samsoun.

May I also suggest that when we are fairly started you should inform the Porte to that effect and demand that instructions be sent all along our route that we be not molested.

Thanking you for all your kindness and regretting the trouble I have unwillingly caused you,

I remain, yours, truly, C. F. GATES.

[Inclosure 3 in No. 11.]

Mr. Straus to Tewfik Pasha.

No. 5.] UNITED STATES LEGATION, *October 26, 1898.*

His Excellency TEWFIK PASHA,
Minister for Foreign Affairs.

SIR: Following my conference with your excellency yesterday, I beg to inform you that under the rights guaranteed by treaties the Americans, who have been delayed for more than three weeks waiting in vain for their teskeres to return to their homes and families at Erzerum and Harpoot, leave to-day for their destination. In the interest of good relations, your excellency is requested to send telegraphic instructions

to the authorities at Samsoun and Trebizond and all along the route to their destination to facilitate the journey of the persons named below.

I beg to advise your excellency in advance it will cause serious issue between our two Governments and that my Government will hold your Government to the fullest responsibility should any obstacles be placed in their way.

The names and destinations of the persons referred to are: Miss Laura Ellsworth, Miss Theresa Huntington, Mrs. Brown and her son Harold Brown, and Mrs. Barnum with her son, who go to Harpoot, accompanied by Mr. Gates and his family, who reside in Harpoot, and that the ladies, Miss Ruth Bushnell, Miss Agnes Lord, and Mrs. Stapleton go to Erzerum.

Hoping this will have your excellency's prompt attention, receive, excellency, the assurance of my high consideration.

OSCAR S. STRAUS.

Mr. Straus to Mr. Hay.

No. 21.] LEGATION OF THE UNITED STATES,
Constantinople, November 16, 1898.

SIR: Yesterday I cabled you as follows:

Have much pleasure to report the Sultan upon my argument removed the obstructions for the future to travel Asia Minor.

Referring to my dispatch No. 11, of October 26, subject, obstacles to foreigners wishing to go to Asia Minor: So far as I am advised, instead of meeting with any hindrances, have been afforded by special orders of the Porte, every facility. I received a letter on the 7th instant from Rev. M. P. Parmelee, a missionary at Trebizond, the seaport on the Black Sea, which states the party of missionaries arrived there and proceeded on their way to Erzerum with every facility. Copy of letter attached.

The day following the departure from here of the persons named, the Porte informed me the Porte had given orders as I had requested and that I need not feel any anxiety about the matter; that the entire matter had, upon my argument, been submitted by the Sultan to the council of ministers.

Yesterday the minister of foreign affairs informed me the council of ministers, at their last session, had taken the matter up and decided that hereafter no irade for the purpose should be required, only a traveling teskere issued on consular application by the Bureau, as was formerly the case before the Armenian troubles.

Of course the subjects of all the powers get the same advantage as we do from this decision, and it will shortly be communicated to each of them. * * * * *

I have, etc.,

OSCAR S. STRAUS.

Mr. Straus to Mr. Hay.

No. 23.] LEGATION OF THE UNITED STATES,
Constantinople, November 19, 1898.

SIR: Regarding the question of local passports (teskeres), the denial of which has for the past year or more been a matter of frequent hin-

drance and inconvenience to Americans and foreigners of all nations, I have the honor to report:

Supplementary to my report on this matter contained in my dispatch No. 21, of November 16, I have received from the Porte the note verbale, of which a translation is attached. I also attach a copy of my reply to the minister of foreign affairs.

I regard this as a satisfactory solution of the matter, brought about by my negotiations. The other powers whose subjects suffered from some denial of teskeres receive equal benefit from this decision of the council of ministers.

The American missionaries are very much gratified with this result, and have expressed to me their high appreciation for the success achieved. They value this even more than the exequatur for our consulship at Erzeroum, as the denial and delay in granting teskeres, by the ministry referring requests to the palace for the Sultan's irade, was a constant source of hindrance to them in going to and returning from their stations in the interior.

I have, etc.,

OSCAR S. STRAUS.

[Inclosure 1 in No. 23.—Translation.]

SUBLIME PORTE, *November 16, 1898.*

CIRCULAR NOTE VERBALE.

The LEGATION OF THE UNITED STATES OF AMERICA:

By virtue of a decision of the council of ministers sanctioned by imperial irade, foreigners desiring to travel in the Empire can in future obtain local passports on producing an ilmu-haber (application) from the consulate of their country setting forth their identity, the object of their journey, the places to which they wish to go, as well as the approximate duration of the stay they intend making.

As persons desiring to travel in the Empire should have nothing to do with politics, and as the departure for the interior of anarchists and other disturbers of the peace should be rigorously forbidden, the imperial ministry hopes that the foreign missions will kindly facilitate the task of the Imperial Government in the application of measures which will be adopted when necessary with a view to public order against individuals of that category who may succeed in surreptitiously procuring these local passports, and persons who, during their journey, may conduct themselves in a reprehensible manner.

In having the honor to bring this decision to the knowledge of the legation of the United States of America the ministry for foreign affairs requests it to notify those whom it may concern.

[Inclosure 2 in No. 23.]

LEGATION OF THE UNITED STATES,
Constantinople, November 18, 1898.

NOTE VERBALE.

The legation of the United States of America has received the note verbale of the Imperial Ministry of Foreign Affairs of the 16th of November, 1898, No. 30,625/232, in regard to the local passports hereafter to

be issued on the production of an ilmu-haber (application) of the consulate of the country of which the foreigners wishing to travel through the Empire are citizens or subjects.

The legation of the United States of America hastens to express its satisfaction for the disposition of this matter of teskeres or local passports. It will do all in its power to facilitate the Government in this matter, with a view of preserving public order, in accordance with the rights, privileges, and obligations of its citizens in this Empire.

The legation of the United States avails itself of this opportunity to express to the Imperial Ministry of Foreign Affairs its appreciation for its prompt decision of this question which it recently had the honor to submit for its consideration.

The MINISTRY OF FOREIGN AFFAIRS SUBLIME PORTE.

REGULATIONS GOVERNING THE PRACTICE OF MEDICINE IN TURKEY.

Mr. Straus to Mr. Hay.

No. 17.] LEGATION OF THE UNITED STATES,
Constantinople, November 7, 1898.

SIR: As frequently young men who have graduated at some medical college in America come to Turkey to practice medicine, I have the honor to report:

Shortly after my arrival here last month Dr. Jesse K. Marden, a young man who had recently graduated at the medical department of the University of Michigan, and who is in the employ of the American Board of Commissioners for Foreign Missions, reported that the authorities had declined to admit him to the colloquium, which the regulations provide one must pass before being admitted to practice medicine in this Empire. I learned the reason for the refusal was because Dr. Marden could not produce a certificate showing he had a right to practice in his country. He only had a diploma of his graduation from the medical department of the university and a certificate from the dean of the studies he pursued.

In order to facilitate Dr. Marden and to prevent delay, as he was waiting to go to the interior, I gave him a certificate that the University of Michigan is a State university and that its diploma admitted the bearer to practice medicine, as these facts were in my personal knowledge. The authorities accepted this certificate in this special case out of respect for me, but make the very reasonable and proper request that applicants should produce a certificate from competent authorities, as from the board of regents of the State, that they are entitled to practice their profession.

I inclose herein a translation of regulations governing the practice of medicine in Turkey. These regulations were adopted in 1863, and have been supplemented by a practice which requires in addition such a certificate as above stated, in order to protect the authorities, who in the past have been imposed upon by fraudulent diplomas and by diplomas issued by alleged medical schools whose curriculum was a myth and consisted in the purchase and sale of elegantly engraved diplomas.

I have the honor to be, etc.,

OSCAR S. STRAUS.

[Translation.]

REGULATIONS GOVERNING THE PRACTICE OF MEDICINE IN TURKEY, SANCTIONED BY IMPERIAL DECREE.

SECTION I.

ART. 1. No one can practice medicine or one of the branches of medicine in the Ottoman Empire unless he is provided with a diploma delivered by the imperial faculty of medicine of Constantinople or by one of the foreign faculties.

ART. 2. No one can take the title of doctor of medicine or of surgery unless he is provided with a diploma, as stated in the preceding article.

ART. 3. Doctors of medicine or of surgery from foreign faculties who arrive in the country after the publication of the present regulation are required: First, to register their diploma at the Imperial School of Medicine. This registration will be made only upon the production of a passport duly visèed by the Constantinople authorities of the country of which they are citizens; second, to undergo a colloquium.

These formalities having been complied with, a permit to practice will be delivered to them at a charge of 500 piasters, which should be paid on its delivery.

ART. 4. All doctors of medicine or of surgery practicing in Constantinople before the publication of the present regulation should present themselves at the Imperial School of Medicine for the registration of their diplomas.

ART. 5. Every doctor of medicine or of surgery practicing in the provinces should send to the Imperial School of Medicine, through the agency of the governor-general of the province, a legalized copy of his diploma. This legalization will be made, for Ottoman subjects, by the great council of the province, and for foreign subjects by their consulates.

ART. 6. No doctor of medicine or surgery can furnish medicines, except in those places where there is no pharmacy legally established.

ART. 7. Midwives from foreign faculties, in order to practice the art of midwifery in the Ottoman Empire, should conform to article 3 and pay a fee of 100 piasters. Midwives practicing in the provinces should conform to article 5.

ART. 8. Midwives can not, in any case, use forceps or any other obstetrical instrument, or perform the operation of version (pratiquer la version). The administration of ergot (*seigle ergoté*) and of all other active drugs is absolutely prohibited.

SECTION II.

Provisional disposition.

ART. 9. Are allowed to practice:

First. Health officers received at the imperial faculty of medicine at Constantinople.

Second. Persons who practice by virtue of a permit delivered by one of the former chief physicians or by a director of the Imperial School of Medicine.

ART. 10. Physicians and surgeons of these three categories can not perform important operations (ne pourront pas pratiquer des grandes opérations).

ART. 11. Every person practicing one of the minor branches of surgery by virtue of a permit delivered by the competent authority, or who has been employed as a surgeon in the Ottoman army, will be authorized to practice the minor branches of surgery. He should present himself at the Imperial School of Medicine to be registered anew.

SECTION III.

Penal disposition.

ART. 12. Every person disobeying the provisions of articles 1 and 2, whether a foreign or an Ottoman subject, will be punished by a fine of from 2 to 7 medjidiehs in gold. In case of a second offense the fine will be doubled and the guilty parties will, in addition, be subject to imprisonment for a period of from two to six months.

ART. 13. All persons guilty of disobeying any of the provisions of articles 4, 5, 6, will be subject to a fine of from 1 to 5 medjidiehs in gold.

ART. 14. Persons disobeying the provisions of articles 8, 10, 11, will be subject to a fine of from 3 to 7 medjidiehs in gold.

SECTION IV.

Supplementary dispositions.

ART. 15. The present regulation goes into force three months after publication in Constantinople, and one year after publication in those places where there are authorized physicians.

ART. 16. A list of all physicians registered at the Imperial School of Medicine will be prepared by the school, published in all the newspapers of the capital, and sent to all pharmacies.

ART. 17. The Imperial School of Medicine will add, at the end of each year, the names of those doctors of medicine or of surgery registered during the year. As soon as a new doctor is enrolled the Imperial School of Medicine will make it known to all pharmacies.

The direction of the Imperial School of Medicine is charged with the duty of furnishing physicians to those provinces which have none, in order that the present regulation may receive, as soon as possible, general application.

Constantinople, 7 Rebi-ul-Ewel 1278 (1863).

PURCHASE OF REAL ESTATE IN PALESTINE BY FOREIGN JEWS.

Mr. Angell to Mr. Sherman.

No. 59.] LEGATION OF THE UNITED STATES,
Constantinople, December 8, 1897.

SIR: On September 10 last I received, through the consul-general, a complaint from Consul Wallace, at Jerusalem, that the local authorities had refused the request of an American citizen, Simon Ben Nachman Lowenstein, for permission to buy a house and lot in that city. The reason given for the refusal was that the applicant was a Jew, and that an order of the Sublime Porte forbade Jews to become landholders until they had been long resident in Turkey, and that Mr. Lowenstein had not been long in the country.

I at once called on the secretary for foreign affairs and informed him that our Government could not recognize discrimination in the treatment of American citizens on the ground of religious belief or connection. I reminded him that a regulation could not override a treaty, as this order did violate the protocol of 1874. He said the order had been framed in consequence of the supposed danger of an inundation of Jews, who might cause serious political difficulties at Jerusalem. But he promised to give early attention to my request in behalf of Mr. Lowenstein, and asked me to furnish a memorandum for him. I inclose a copy of my memorandum.

Though the dragoman has under my instructions repeatedly called up the case, it is only now that the grand vizier has taken action. Yesterday he promised to send an order at once to the vali at Jerusalem to permit Mr. Lowenstein to make his purchase. He said that the order was aimed at Russian Jews, who, it was feared, might come in great numbers, and was not intended to apply to Americans.

I have, etc.,

JAMES B. ANGELL.

[Inclosure to No. 59.—Memorandum.]

Mr. Angell to the Ministry of Foreign Affairs.

LEGATION OF THE UNITED STATES,
Constantinople, September 23, 1897.

The MINISTRY OF FOREIGN AFFAIRS.

SIR: Agreeably to the request of his excellency the secretary for foreign affairs, the minister of the United States begs leave to present the following memorandum:

About three months ago an application was regularly made through the American consul to the Turkish officials in Jerusalem in charge of

the land department for permission for one of our citizens, named Simon Ben Nachman Lowenstein, to purchase a small property, consisting of a lot and a house. The application was refused, on the ground that the applicant is said to be a Jew, and that an order from the Sublime Porte, dated April 19, 1309, requires that a Jew be an old resident in Turkey before he can become a landholder, and that Mr. Lowenstein has been in Jerusalem only a short time.

The minister begs leave to express the hope that the order of the Sublime Porte does not properly bear the interpretation and application given to it above. If an American citizen be denied the right to acquire real estate in this Empire on the ground that he is alleged to be of a certain religious faith, the duty of the minister to his Government would require him to protest against such a discrimination as inadmissible. Equal rights under treaties are claimed for all American citizens regardless of the faith they profess.

The minister trusts, therefore, that his excellency will see that orders are speedily given to the authorities at Jerusalem to allow Mr. Lowenstein to complete his purchase.

Mr. Sherman to Mr. Angell.

No. 76.] DEPARTMENT OF STATE,
Washington, December 28, 1897.

SIR: I have to acknowledge the receipt of your dispatch, No. 59, of the 8th instant, reporting your successful efforts to secure for Mr. Simon Ben Nachman Lowenstein, an American citizen of the Hebrew faith, the right to buy and hold a house and lot of ground in Jerusalem.

The Department approves your action in the matter, and is gratified at the result of your remonstrance to the Turkish minister for foreign affairs.

Respectfully, yours, JOHN SHERMAN.

Mr. Angell to Mr. Sherman.

No. 78.] LEGATION OF THE UNITED STATES,
Constantinople, January 5, 1898.

SIR: In my No. 59 of December 8 I reported to the Department what I supposed was the happy termination of efforts I had been making for more than two months to secure permission for Mr. Simon Ben Nachman Lowenstein to purchase a house and lot in Jerusalem. In the absence of the grand vizier from his office a responsible subordinate, member of his staff, assured my dragoman that the prohibition to Hebrews to purchase real estate did not apply to such a person as Mr. Lowenstein, and that it had been decided to send orders to that effect to Jerusalem. Accordingly, I so informed you and our consul at Jerusalem.

But now I am surprised to receive a note verbale from the secretary for foreign affairs reporting the decision to refuse my request and referring me for the reasons to a note communicated to this legation on March 27, 1894. As it does not appear from our records that the note was ever sent to the Department and as the subject it discusses is one of no little importance, I inclose it to you for consideration.

It will be observed that under certain conditions permission will be accorded to American citizens who are Jews to purchase real estate. But they are conditions which are not imposed on other American citizens. I do not feel at liberty to ask any American Hebrew to comply with them, since by so doing I should make a discrimination against Hebrews, which is wholly foreign to the spirit of our institutions.

But I beg to call the attention of the Department to the argument which seems to underlie the Turkish regulation.

The Ottoman law of 1867, which concedes to foreigners the right of holding real estate in the Ottoman Empire, and which is formally accepted by the protocol of 1874, declares in Article II:

> Foreigners, proprietors of real estate in town or in country, are in consequence placed upon terms of equality with Ottoman subjects in all things that concern their landed property.

And, after specifying on certain particulars the legal effect of this equality, it says:

> In short, they are in all things to hold real estate by the same title, on the same condition, and under the same forms as Ottoman owners, and without being able to avail themselves of their personal nationality, except under the reserve of the immunities attached to their persons and their movable goods, according to the treaties.

Now, Ottoman subjects of the Jewish faith not being allowed to purchase real estate in Jerusalem except under certain limitations, Jews of foreign nationality, it is claimed, may be forbidden to purchase under the same limitations.

The prohibition under consideration applies only to Palestine, and we are assured owes its existence solely to the fear that an inundation of Jews may overflow Palestine and greatly embarrass the Government.

The above argument is not particularly dwelt upon in the note of 1894, but it has been adduced by the secretary for foreign affairs in conversations with me, though, I am bound to say, not with great emphasis. Still, sooner or later, we may expect to see it pressed, and therefore I have deemed it well to call the attention of the Department to it, so that, if thought expedient, proper instructions may be given in regard to it.

In answering the last note verbale I have purposely avoided all reference to this point, and have attempted to show that, as the main reason given in 1894 for the prohibitory regulation was the desire to prevent an inundation of Russian Jews, the case of Mr. Lowenstein does not fairly come within the scope of the prohibition. I had in my first note verbale (September, 1897) on this subject protested against any discriminations against American citizens of the Hebrew faith.

I have, etc.,

JAMES B. ANGELL.

[Inclosure 1 in No. 78.—Translation.]

The Minister for Foreign Affairs to Mr. Angell.

MINISTRY OF FOREIGN AFFAIRS,
December 22, 1897.

NOTE VERBALE.

The ministry of foreign affairs has received the memorandum No. 1 which the legation of the United States of America was pleased to

address to it on the 23d of September last, relative to a house which an American citizen, Simon Ben Nachman Lowenstein, wishes to purchase at Jerusalem.

The acquisition of real estate in Palestine by Jewish emigrants being prohibited on the grounds set forth in the note verbale of March 17, 1894, the imperial ministry regrets that it is not able to grant the request which forms the subject of the above-named memorandum.

[Inclosure 2 in No. 78.—Translation.]

The Minister for Foreign Affairs to Mr. Angell.

SUBLIME PORTE, *March 27, 1894.*

NOTE VERBALE.

It appears from a report made by the governor of Jerusalem that Jewish emigrants from Russia, after going to the United States and becoming naturalized in that country, enter Palestine and seek to acquire property there.

The acquisition of real property in Palestine by Jewish immigrants is, however, forbidden. This measure, which is dictated by considerations of a political nature, has for its sole object the prevention of the permanent establishment in Palestine of Jewish immigrants, who, in spite of the existing prohibition, have succeeded or may succeed in entering the country.

The Imperial Government having prohibited entry into Palestine to foreign Jews emigrating in a body, as was communicated to the foreign missions by the circular notes verbales of October 4 and 8, 1888, no objection can reasonably be raised at the present day to a measure which is solely designed to safeguard and render more efficacious this prohibition.

Besides, as the interdiction against acquiring real property in Palestine applies to native Jews as well as foreign ones, the latter can not complain of unequal treatment.

In order, however, to avoid any prejudice being caused to the interests of foreign Jews duly settled in Palestine by the measure in question, the Defterhane (real-estate bureau) records the acquisition of real property if the purchaser, even though a Jew, presents a certificate from his consulate, attested by the governor of Jerusalem, showing that he does not belong to the class of Jews whose immigration into Palestine is forbidden, and if in addition he delivers a declaration by which he undertakes, in the case of urban property, not to allow the house he is buying to be inhabited by Jews of this category, and, in the case of rural property, not to found Jewish colonies on it. It is well understood that measures will be taken against persons who may act in a manner contrary to their declaration.

The ministry of foreign affairs requests the United States legation to furnish their consul at Jerusalem with the necessary instructions.

The UNITED STATES LEGATION, *Constantinople.*

[Inclosure 3 in No. 78.]

Mr. Angell to the Minister for Foreign Affairs.

LEGATION OF THE UNITED STATES,
January 5, 1898.

NOTE VERBALE.

The minister of the United States has the honor to acknowledge the receipt of the note verbale of December 22, 1897, declining to accede to his request that Mr. Lowenstein, an American citizen of the Jewish faith, should be permitted to purchase a house and lot in Jerusalem. Reference is made in the note to a note verbale of March 27, 1894, as giving the reasons for the refusal of the request. In that note verbale reference is made to another of October 8, 1888, as prohibiting "the coming to Palestine of Jewish immigrants in a body" (l'accés de la Palestine aux Israelites étrangers émigrant en masse). In the note of October 8, 1888, it is said that the prohibition is limited to those who emigrate in a considerable number (à ceux qui émigrent en nombre).

The minister of the United States understands from these notes, as well as from conversations with his excellency, the minister of foreign affairs, that the regulations of the Ottoman Government were made when it was believed that great numbers of Jews were to be expelled from Russia, and, therefore, that there was danger of an inundation of them in Palestine.

But he begs leave to say that the case which he presents is entirely different from that against which the Ottoman regulations are directed. It is that of a solitary individual from America. It is not to be supposed that Russian Jews will go to the United States and spend the five years required for naturalization in order to come to Palestine as American citizens.

The minister of the United States trusts, therefore, that his excellency will conclude that there is no good reason for applying the regulation aimed at Russian Jews coming in great numbers to the case of Mr. Lowenstein.

Mr. Sherman to Mr. Angell.

No. 109.] DEPARTMENT OF STATE,
Washington, February 7, 1898.

SIR: In your dispatch, No. 78, of January 5, ultimo, you report the adverse decision of the Turkish Government with respect to the application of Mr. Simon Ben Nachman Lowenstein for permission to purchase a house and lot in Jerusalem.

You examine and discuss in this relation the privilege of American citizens, and especially those of Hebrew faith, under the Ottoman law of 1867, which concedes to foreigners the right of holding real estate in the Ottoman Empire, which law is formally accepted by the protocol of 1874, which has, as between the United States and Turkey the force of convention. By the eleventh article of that law, foreigners being proprietors of real estate in town or in country are placed upon terms of equality with Ottoman subjects in all things that concern their landed property, from which it would seem that the Turkish Government deduces the inhibition of alien Jews to purchase real estate in Jerusalem, inasmuch as Ottoman subjects of the Jewish faith are not allowed to hold real estate there. Although this phase of the argument has not

heretofore been dwelt upon in correspondence, nor been pressed with much emphasis by the secretary for foreign affairs in conversation with you, you expect sooner or later to see it pressed, in view of which you desire to receive such instructions as the Department may think proper to give on the subject.

The reservations or inhibitions derivable from article 11 of the Ottoman law of 1867, as annexed to the protocol of 1874, have heretofore attracted the attention of this Department, and, without having an express case before it for decision, it has nevertheless been inclined to think that a specific disability imposed upon Ottoman subjects for any cause as regards their tenure of real estate would in like manner be deemed to apply to aliens, provided no discriminations among the several classes of foreigners were thereby made. As to the reason and equity of the inhibition in question, that is another matter, and in view of the fact that the inhibition is not aimed at American Jews, the conditions of whose residence do not fall within those of Russian and other Hebrews, which is supposed to have led to the adoption of the Turkish rule, it would seem proper for you to endeavor to obtain some modification of the restrictions whereby, under such limitations and regulations as may be practical and just, American citizens of the Jewish faith may be allowed to purchase real estate in Jerusalem.

Respectfully, yours,

JOHN SHERMAN.

NATURALIZATION OF TURKISH SUBJECTS.

Ferrouh Bey to Mr. Hay.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, October 20, 1898.

Mr. SECRETARY OF STATE: I have the honor to inform your excellency that, in conformity with a determination reached six years ago by my Government, Ottoman subjects who desire to become naturalized as foreigners are not authorized to change their nationality of origin except upon engaging not to return to the Empire.

Now, it sometimes occurs that persons of this class, notwithstanding this engagement, return, it would appear, to Turkey, and as they are provided with foreign passports they seek to take advantage of their alien quality, which gives rise to all sorts of difficulties between the Sublime Porte and the foreign missions, inasmuch as, according to a decision of a council of state, Ottoman subjects naturalized as foreigners must be considered and treated upon their return as Ottoman subjects, and as our consular agents have received orders not to visé their passports in the case of their wishing to return to Turkey, I beg your excellency to be pleased to take the necessary steps in this regard, with a view to avoiding the difficulties which may result therefrom.

I moreover take the liberty of inviting your excellency's attention to the action of certain persons who clandestinely endeavor to persuade Ottoman subjects to obtain American nationality without asking the previous authorization of the Imperial Government.

Be pleased, etc.,

ALI FERROUH.

Mr. Hay to Ali Ferrouh Bey.

No. 12.] DEPARTMENT OF STATE,
Washington, October 24, 1898.

SIR: I have had the honor to receive your note of the 20th instant. You inform me of a Turkish regulation which has been in force for six years, which permits Turkish subjects to take another nationality only upon their engaging not to return to their native country, and you state that, notwithstanding this engagement, certain persons of this class, providing themselves with a passport from the country under which they are naturalized, return to Turkey, which causes difficulties between the Ottoman and foreign governments, inasmuch as the Turkish law forbids the recognition of these persons as other than Ottoman subjects. You therefore request me to take the necessary steps to avoid on the part of this Government the difficulties mentioned, stating that your Government has instructed its consular agents not to visé passports in the cases of persons of Turkish origin and foreign naturalization who may wish to return to their native land. You also invite my attention to a class of persons who leave Turkey and become American citizens without first obtaining authorization from the Ottoman Government.

The naturalization laws of the United States, which by the Constitution are required to follow a uniform rule, do not make special provision for the case of persons applying to become citizens, being subjects of a country which forbids their naturalization without previous consent of their sovereign. Consequently, the courts of the United States, or of the several States of the Union, to which the sole power of admitting aliens to citizenship is confided by the laws, are without authority to prescribe any other tests than those fixed by law, and can not require an applicant for naturalization to produce evidence that he has been granted by his Government permission to change his allegiance.

I do not, therefore, see any clear way to take the steps which you invite to the end of avoiding possible controversy with respect to the application of the Imperial rule, of the existence of which your note informs me.

As I have explained, the judicial act of alien naturalization is entirely beyond the control of the Executive; and, on the other hand, I could not apply to the granting of a passport to a citizen of the United States a condition not under the law requisite for his acquisition of citizenship.

Be pleased to accept, etc., JOHN HAY.

JUDGMENT OF A COURT AGAINST A DRAGOMAN OF A CONSULAR AGENCY.

Mr. Angell to Mr. Day.

No. 141.] LEGATION OF THE UNITED STATES,
Constantinople, May 31, 1898.

SIR: A rather interesting case of law and usage concerning the privileges of the dragoman of a consular officer has occurred at Salonica, and I desire to make report to the Department of the position which, after careful consideration, I deemed it proper to take upon the issue raised.

The facts as given me by our consular agent at Salonica are, briefly stated, as follows:

An action was brought against G. Costa, dragoman of our agency, for payment of 11,000 piasters alleged to be due in consequence of his having indorsed a promissory note. The tidjaret (court) very properly summoned Mr. Costa through the consular agency, thus recognizing his official relation.

In accordance with custom and with law, the consular agent sent a second dragoman and two assessors to the tidjaret to attend the trial, but the president of the tidjaret refused to permit them to be present. Thereupon Mr. Costa withdrew by way of protest. The tidjaret then proceeded with the case, and condemned Mr. Costa in his absence. The consular agent refused to accept the judgment, and returned it to the court with the statement that he should refer the case to the legation.

On December 8, 1897, I sent a statement substantially like the above to the secretary for foreign affairs, and asked that the proper orders be given to correct the mistake of the tidjaret and to secure to Mr. Costa the kind of trial to which he was entitled.

It was not until April 14 that I received an answer. It was brief. It affirmed the regularity of the judicial action, and added:

> Mr. Costa being of Ottoman origin and according to article 9 of the regulations for foreign consulates falling under Ottoman jurisdiction in respect to his private affairs, the suit which was instituted against him concerning a business matter must be judged without consular intervention. Accordingly the refusal of the consular agent to accept the judgment could not by any means be justified.

On April 23 I made reply denying the soundness of the conclusions reached by the Porte. I inclose a copy. When I presented it in person and pointed out what I regarded as the misinterpretation of article 9 of the regulations for foreign consulates, the secretary intimated that he had not personally given attention to the matter and that perhaps a mistake had been made.

I have received no rejoinder nor have I heard that any further proceedings have been instituted against Mr. Costa.

I have the honor to be, sir, etc.,

JAMES R. ANGELL.

[Inclosure to No. 141.]

Mr. Angell to Tewfik Pasha.

No. 29.] LEGATION OF THE UNITED STATES,
Constantinople, April 23, 1898.

SIR: I beg to acknowledge the receipt of the note which your excellency has addressed to me on the case of Mr. Costa, dragoman of the consular agency in Salonica. It is No. Gle. 27753/5, and of the date April 14, 1898, and is in reply to my note of December 8, 1897.

It is to the effect that in the opinion of the Department of Justice article 9 of the Ottoman "règlement relatif aux consulats étrangers" is to be interpreted as sustaining the tribunal at Salonica in refusing to Mr. Costa the presence and assistance of the consular representatives and the assessors at the trial of a commercial case.

May I venture to call the attention of your excellency to certain considerations, which indicate that this opinion is not justified by a careful study of the reglement.

Article 1 reads:

Les consulats peuvent employer des indigènes comme employés privilégiés au nombre fixé comme ci-après.

Clearly the dragoman officer is one of the "employés privilégiés."

The whole tenor of the réglement shows that the "privilège" thus granted is the immunity belonging to the suite of the consuls.

Article 5, in assuring to persons temporarily in the service of the consulate the same privileges as to permanent employees assures to them "toutes les immunités que les capitulations leur accordent."

The "circulaire aux gouverneurs-généraux," which is appended to the règlement as an exposition of it, says in paragraph 3, speaking of article 5:

Il a pour objet de ne plus laisser place à aucun malentendu à ce sujet, en fixant, par exemple, de quelle manière les premiers (les protégés temporaires) seront poursuivis en cas de crime ou autres.

It then goes on to assure them the aid of the consul or his representatives. For instance, it says:

L'instruction, les débats, l'audition des témoins à charge et à décharge, et la réduction des mazbatas auront lieu, conformément aux anciens traités, en présence du consul ou de son délégué.

Such, it is clear, is the right of the "employé privilégié", and the dragoman is such.

Article 9 does, indeed, provide that Ottoman subjects in the service of foreign subjects shall be subject to Ottoman jurisdiction exclusively, in respect to their private affairs.

But can the department of justice contend that the dragoman of a consulate is in the service of a "foreign subject?" He is in the service of a foreign government. The distinction is very clear. It is made doubly clear and is emphasized by the last paragraph in article 9, which discriminates between the employee of a foreign subject and the employee of a foreign government, when it says:

Toutefois, en ce qui regarde les missions ecclésiatiques et les monastères étrangers, il sera accordé à chacun de ces établissements d'avoir un procureur et un dragoman qui jouiront au meme titre que les employés du consulat, des priviléges de la protection temporaire.

And the reason for this distinction is not far to seek. If the dragoman of a consulate did not have the privilege of invoking consular assistance at a trial, the consul might be robbed of his services at any time by men who should bring false charges against him. It is proper enough that an Ottoman subject, who is a clerk of a foreign subject, should be treated like any other Ottoman subject in respect to his private affairs. But the dragoman of a consul can not be interrupted in his official duties by vexatious suits in which he may not invoke the presence of a consular representative to see that the interests of the consulate are properly protected.

The principle is one of so much importance that I have ventured to dwell on it at some length. But I trust that your excellency on reconsideration of the subject will agree with me in the interpretation of the law, and will so instruct the authorities at Salonica.

Receive, excellency, etc.,

JAMES B. ANGELL.

His Excellency TEWFIK PASHA,
Minister for Foreign Affairs, Sublime Porte.

Mr. Day to Mr. Angell.

No. 168.] DEPARTMENT OF STATE,
Washington, June 24, 1898.

SIR: I have to acknowledge dispatch No. 141 of May 31, relative to the proceedings instituted against Mr. G. Costa, dragoman of the United States consular agency at Salonica, for payment of a debt, and to the refusal of the consular agent to accept the judgment of the court. You state at some length the steps you have taken to bring the matter to the attention of the proper authorities.

Upon careful examination of the Ottoman "règlement" of 1863 and of the "circulaire aux gouverneurs généraux" referred to by you, the Department concurs in the view taken and most ably presented by you, and approves your action in the case.

As you state that you have heard of no further proceedings being instituted against the dragoman it may be inferred that your interpretation of the law is accepted by the Ottoman Government. At any rate no further action seems called for until a reply is received to your note of April 23, unless an attempt should be made to enforce the judgment against the dragoman.

Respectfully, yours, WILLIAM R. DAY.

PROTECTION TO MORMON AGENTS.

Mr. Sherman to Mr. Angell.

No. 89.] DEPARTMENT OF STATE,
Washington, January 11, 1898.

SIR: At the instance of Hon. Frank J. Cannon, a Senator of the United States from Utah, I have this day issued circular letters to the diplomatic and consular officers of the United States in Turkey, introducing Apostle Anthon H. Lund and Elder F. F. Hintze, of the Church of Jesus Christ of Latter-Day Saints, who are about to visit Turkey for the stated purpose of looking after the welfare of members of that church residing in or upon the borders of that country.

As indicating the present attitude of this Government toward Mormon missionaries, I inclose a copy of the Department's instruction No. 46, of June 25, 1895, to Mr. J. Lamb Doty, United States consul at Tahiti, and a copy of a letter of June 24, 1895, from Messrs. Woodruff, Cannon, and Smith, "First Presidency of the Mormon Church." This letter sets forth the assurances on which this Department based its views that the Mormon agents, as the church is now constituted, have the same rights of governmental protection as any other law-abiding sect of American citizens. If they preach immoral doctrines contrary to the law of the foreign country, intervention in their behalf can not be made. If their teachings and practices contravene the laws of the United States, the support of our public agencies can not be lent to their foreign propaganda.

You will, through the consul-general at Constantinople, make known our attitude to the consuls in Turkey.

Respectfully, yours, JOHN SHERMAN.

EXEQUATUR FOR CONSUL AT ERZERUM.

Mr. Straus to Mr. Hay.

[Telegram.][1]

LEGATION OF THE UNITED STATES,
Constantinople, November 7, 1898.

* * * Obtained Sultan's irade granting exequatur for consul Erzerum.

STRAUS.

THE FIRING UPON U. S. S. BANCROFT, AT SMYRNA.

[Telegram.]

Mr. Angell to Mr. Sherman.

PERA, *December 21, 1897.* (Received 9.10 a. m.)

Bancroft entering Smyrna midnight fired on with musket balls from fort. On my demand Government apologized, arrests and replaces two officers responsible. Admiral satisfied. Incident closed unless President orders otherwise.

ANGELL.

Mr. Angell to Mr. Sherman.

No. 66.] LEGATION OF THE UNITED STATES,
Constantinople, December 20, 1897.

SIR: I have the honor to inform you of an event of some importance, which occurred in the harbor of Smyrna.

On Thursday evening, 9th instant, I received a communication from Rear-Admiral Selfridge (which I inclose) informing me of the following facts: During the night of December 4-5, at about 12.15 a. m., the *Bancroft*, coming from the Piræus, entered the harbor of Smyrna. The lights at the entrance of the harbor were burning, and nothing indicated that the vessel was not at liberty to enter the port, nor did the commander of the vessel know that the port was closed at night. But as the *Bancroft* approached the fort of Yeni Kale, a blank shot was fired across her bows and some distance ahead of her. Her engines were immediately reversed, but before her headway could be checked, one or two volleys from muskets loaded with balls were fired at her. A boat in charge of an officer was then ordered to land in order to communicate with the officer in command of the fort. Muskets loaded with balls were fired at the boat, which was therefore ordered back. One bullet was picked up on the deck of the *Bancroft*. The vessel lay at anchor till morning and then entered the port.

Admiral Selfridge, on learning these facts, waited on the governor-general, and very properly complained of these lawless and dangerous acts of the officer in command of the fort.

The governor-general investigated the case, expressed his regrets, and reported the very lame defense of the officer, which was in effect that he had orders to allow no vessel to enter the harbor in the night; that he

[1] See Foreign Relations, 1895, Part 2, pp. 1470-1471.

had not fired bullets at the *Bancroft*, but he fired over the boat to warn her against torpedoes, and that the bullet which fell on the deck of the *Bancroft* was a stray ball fired into the air. The governor-general said he had no authority over the military commandant, but would report his action to the proper authorities. He stated, however, that last April the consul had been notified that the entrance of vessels after nightfall was prohibited.

The admiral did not think that the answer of the governor-general could be accepted as affording us sufficient satisfaction, and informed him that the military officer ought to be removed and punished, and that the Government ought to express its regret for the occurrence.

As the correspondence of the admiral and the governor-general and the full statements of the officers of the *Bancroft* will doubtless be sent to the Navy Department, I deem it unnecessary to inclose them.

As the 10th instant was Friday, I was unable to see the secretary for foreign affairs. Early on Saturday morning I called at his house, but he had been summoned to the palace to a council of ministers. I went to his office in the afternoon, but as the council remained in session all day, I was still unable to see him. But I left a dispatch for him (which I inclose) in which I set forth the lawlessness and recklessness of the commandant of the fort, and demanded his dismissal and punishment and a proper expression of regret from the Government, and asked for an immediate answer. I left word that I should call on Monday morning on the secretary. Accordingly, on Monday morning I called at the minister's house. He informed me that the council of ministers had decided that the commandant of the fort at Smyrna was wholly in the wrong, and that they had ordered his removal and trial, and that he would send me a formal communication on the subject. I have now received it, and inclose a copy. It is noteworthy that the account of the affair given by the military authorities at Smyrna through the secretary differs materially from that given in their behalf by the governer-general. The latter affirmed that the muskets were fired to warn our boat of danger from torpedoes. The former says nothing of the boat, but avers that the muskets were fired to stop a sailing boat or sailing vessel, which sought to enter the port simultaneously with the *Bancroft*. But the Government expresses regret and announces that the sublieutenant and the sergeant who were responsible are put under arrest for eight days and replaced by other officers.

On receiving this communication I at once telegraphed the substance of it to Admiral Selfridge at Smyrna, asking his opinion upon it. It proved that he had left for Naples four days before. I telegraphed to Naples asking the Admiral if the settlement was satisfactory. Yesterday I received a reply from him, "Yes; perfectly."

As my opinion coincides with his, I have now written to the secretary for foreign affairs saying that I shall regard the incident as closed unless instructed otherwise by my Government. But I called his attention to the discrepancy in the two explanations furnished by the military authorities at Smyrna.

Trusting that my action may meet with the approval of the Department,

I have, etc.. JAMES B. ANGELL.

[Inclosure 1 in No. 66.]

Admiral Selfridge to Mr. Angell.

LEGATION OF THE UNITED STATES,
Constantinople, December 20, 1897.

Hon. JAMES B. ANGELL, *Envoy, etc.*

SIR: At about 12.15 a. m. December 4 the U. S. S. *Bancroft*, ignorant of the interdiction of men-of-war after dark entering the Bay of Smyrna, said interdiction, if communicated to the United States consul, J. H. Madden, having never been made known to me for the guidance of ships of my squadron, was fired upon with blank cartridge from cannon, and with ball cartridge from muskets.

One bullet was found upon the deck of the *Bancroft*, which bullet is inclosed and which I would request should be carefully preserved.

The particulars of this affair you will find in the accompanying statements of the commanding and other officers, marked A, B, C, D.

I wrote immediately an official notification and complaint to His Highness Kiamil Pasha, the governor-general, requiring that he should express his regret at the occurrence, and that the officer should be punished, calling upon him in person.

My letter to the governor and his reply are marked E, F. My second letter to the governor is marked G.

You will notice that the governor regrets frankly this unfortunate incident, and it is true, as he states, that the character of the vessel being unknown, there could have been no intent to insult the flag of the United States, and had the warning been confined to the firing of a blank cartridge, I should consider with regrets of the governor that a sufficient apology had been made.

But notwithstanding the statement, the fact remains that the *Bancroft* was fired upon with ball cartridge whilst in the act of stopping her headway in accordance with the signal of interdiction, the "blank discharge."

This firing might have led to loss of life and grave complications, and is not only unjustifiable by the law of nations, but in view of the fact that the vessel in question must have been known to belong to a friendly nation, as no Greek vessels would enter said port at night, becomes an outrage which can not be tolerated.

If you agree with me, I would request that you will demand the removal and punishment of the officer commanding the fort who authorized such firing, and a regret from the Porte for this unfortunate occurrence.

Very respectfully,

THOS. O. SELFRIDGE.

[Inclosure 2 in No. 66.]

Mr. Angell to the Minister for Foreign Affairs.

No. 13.] LEGATION OF THE UNITED STATES,
Constantinople, December 11, 1897.

His Excellency TEWFIK PASHA,
Minister for Foreign Affairs, etc.

SIR: I regret to say that I have received from Rear-Admiral Selfridge, commanding the United States naval force on the European Station, and now at Smyrna, the report of a most unwarranted act on the part of the officer commanding the fort of Yeni Kale in the harbor of Smyrna.

At a little after midnight December 4–5, the U. S. S. *Bancroft* was entering the harbor. Her commandant was unaware that vessels were not permitted to enter the harbor in the night. The light-house at the mouth of the harbor was lighted as usual. As the *Bancroft* approached the fort a blank shot from a cannon was fired in front of her. The officer in charge immediately ordered her engines reversed. But before her headway could be fully checked, fire with small arms loaded with bullets was opened on her. I have one of the flattened bullets, which was picked up on the deck of the *Bancroft*.

A small boat with lights and the national colors was then ordered to land and communicate with the officer commanding the fort. But after proceeding a short distance, suddenly, without any warning, fire with small arms loaded with bullets was opened on her. She therefore returned to the vessel, which anchored for the night.

Admiral Selfridge has waited on the governor-general, who expresses his regret for the occurrence, but says the officer commanding the fort is not under his control. Therefore I am under the necessity of reporting the officer's unjustifiable procedure to your excellency. Certain facts are obvious:

1. Although owing to the darkness the officer might not have known that the vessel belonged to the United States, he could have no reason to suppose that it was the vessel of any but a friendly power, and the lights showed that it was a vessel of war.

2. The officer, even if one admit that he was justified in firing the blank shot across the bows of the *Bancroft*, was absolutely unjustifiable and thoroughly reckless in firing musket balls at the *Bancroft* when she was doing her best to stop.

3. He was equally unjustifiable and reckless in firing musket balls at the small boat.

By these acts, which are absolutely unwarranted by military usage, and are in flagrant violation of international courtesy, he endangered the lives of our officers and seamen, and took the risk of provoking a collision which might have led to serious consequences. I do not doubt that your excellency will see the necessity of removing from his position an officer who has no better understanding of the duties of such a post, and of inflicting some suitable penalty on him. And I am certain that you will authorize me to express to my Government the regret of your Government at this unfortunate occurrence.

I am confident that my Government could not be satisfied with any less marked disapproval of the unwarranted attack on one of our ships of war.

I need hardly add that in the interest of serving the cordial relations of the two Governments I must urge on you an immediate answer to this communication.

Receive, your excellency, etc.,

JAMES B. ANGELL.

[Inclosure 3 in No. 66.]

The Minister for Foreign Affairs to Mr. Angell.

SUBLIME PORTE, *December 16, 1897.*

SIR: On receiving your excellency's note No. 14, of the 11th instant, I hastened to ask information from the parties concerned in regard to the incident which arose in consequence of the arrival at Smyrna during the night of the war vessel *Bancroft*.

It appears from the explanation furnished me on this subject that on the entrance of this vessel into the harbor toward 8 o'clock, Turkish time, in the night [12.30 a. m.], the Hamidie Fort having in fact fired a few blank shots from a cannon as a warning signal, in accordance with the rules, the *Bancroft* stopped and cast her anchor, but immediately afterwards a sailboat having also tried to enter the habor, passing quite close to the aforementioned vessel, five shots were fired from a gun in accordance with the usage adopted in warning small vessels and sailboats.

The ball which was picked up on the *Bancroft* came from one of these shots, which were in no way aimed at the vessel on whose deck it happened accidentally to fall.

The foregoing details show that the attitude observed in this affair by the men on duty at the Hamidie Fort was according to the regulations. But as the fact that one of the balls fired at the sailboat fell on the *Bancroft* denoted a lack of attention, the commandant of the forts has been ordered to inflict eight days' arrest on Sublieutenant Ali Agha and Sergeant Hussein, who were on duty that night, and provide for their being replaced.

In expressing to your excellency our sincere regrets for this unfortunate incident, I indulge the hope that you will be pleased to regard the incident as closed.

Receive, etc., TEWFIK.

[Inclosure 4 in No. 66.]

Mr. Angell to Minister for Foreign Affairs.

DECEMBER 20, 1897.

SIR: I beg to acknowledge the receipt of your excellency's note of December 16, announcing that orders have been issued that Sublieutenant Ali Agha and Sergeant Hussein be put under arrest for eight days and replaced by other officers for their conduct in respect to the U. S. S. *Bancroft* at Smyrna on the night of December 4–5, and also expressing the sincere regret of the Government for the unfortunate incident.

But your excellency will permit me to call your attention to the fact that the account which the military authorities at Smyrna have given you differs materially from that which they furnished to the governor-general. According to the report made to you the rifles were fired to stop a sailing vessel arriving at the same time as the *Bancroft*. According to the governor-general's information, furnished to the admiral, the shots were fired over the small boat from the *Bancroft* to warn her against torpedoes. You will judge whether both accounts are true. I desire to express my appreciation of the justice and promptness of the action of the Government. I shall report your action at once to my Government, and, unless otherwise instructed by the President, shall treat the incident as closed.

Receive, your excellency, the assurances of my high consideration.

JAMES B. ANGELL.

TREATY OF PEACE BETWEEN TURKEY AND GREECE.

Mr. Angell to Mr. Sherman.

No. 64.] LEGATION OF THE UNITED STATES,
Constantinople, December 17, 1897.

SIR: I inclose herewith a copy in English of the treaty of peace recently negotiated by Turkey and Greece. It will be observed that it attempts to adjust the relations of the two nations in accordance with the preliminaries of peace adopted by Turkey and the six powers.

It is possible that more difficulty will be encountered in agreeing on the conventions still to be drawn than in framing this treaty.

I have, etc.,

JAMES B. ANGELL.

[Inclosure in No. 64—Text of treaty as published in the London Times.]

THE PEACE TREATY.

CONSTANTINOPLE, *December 6.*

The following is the text of the definitive treaty of peace and the appended protocols signed between the Ottoman and Hellenic plenipotentiaries on the 4th instant:

ARTICLE I. The Turco-Greek frontier will be rectified in accordance with the line traced on the accompanying map and in the detailed description. It is understood that slight modifications from a strategic point of view may be inserted to the advantage of the Ottoman Empire by agreement between the delegates of the powers and the Sublime Porte when the frontier line comes to be delimited on the spot. The details of this delimitation will be fixed by a commission composed of delegates of the two parties interested and military delegates of the ambassadors of the mediating powers. The delimitation commission shall meet within 15 days, or sooner if possible, from the date of this present act, and will adopt its resolutions by a majority of votes of the three intervening parties.

ART. II. Greece will pay Turkey a war indemnity of LT4,000,000, conformably with the conditions laid down in Article II of the peace preliminaries.

ART. III. The evacuation of Thessaly will be effected in accordance with the conditions made in Article VI of the peace preliminaries. It will take place within a month from the moment when the powers shall have recognized as fulfilled the conditions set down in the last two paragraphs of Article II of the peace preliminaries, and when the time of the announcement of the loan for the war indemnity shall have been fixed by the international commission in conformity with the provisions of the financial arrangement mentioned in this article. The mode of evacuation and the surrender to the Hellenic authorities of the evacuated places will be determined by the delegates of the two parties interested, with the cooperation of the delegates of the great powers.

ART. IV. The prisoners of war will be exchanged immediately after the ratification of the present treaty.

ART. V. A full and complete amnesty is granted by both sides to all persons who have been compromised in events which preceded and followed the declaration of war.

ART. VI. The subjects of each of the two States whose position is a regular one in the eyes of the law may reside and move freely, as in the past, in the territory of the other, each of the high contracting parties reserving to itself the right of refusing admission into its territory to any subjects of the other party who may have been sentenced for a criminal offence or who may have been the object of a decree of expulsion owing to their antecedents or to breaches of the common law. Previous notice of refusal will be given to the respective legations.

ART. VII. Mahommedans who are inhabitants or natives of Thessaly, and who, in virtue of Article XIII of the convention of May 24, 1881, had assumed or not assumed Greek nationality, are free to emigrate or become domiciled in Turkey. Those who have become Greek naturalized subjects will have the right of adopting Ottoman nationality by making a declaration to that effect to the competent authorities within the space of three years after the exchange of the ratifications of the present

act. All these emigrants will, conformably with the said convention, remain in full and unrestricted enjoyment of their possessions situated in Greece, and will continue to administer them. The same advantages will be reciprocally granted to the inhabitants and natives of the territories retroceded to Turkey as a result of the rectification of the frontier and to all persons at present domiciled in those localities. These same inhabitants or natives of the territories ceded to Turkey, as well as the representatives of the institutions or communes situated in those localities who may possess land in Thessaly, will be free to cross the frontier in order to cultivate it, as in the past, without let or hindrance. Identical advantages will be accorded to the inhabitants of Thessaly and to the representatives of institutions and communes there who may possess landed property in the territories retroceded to the Ottoman Empire.

ART. VIII. In execution of Article IV of the peace preliminaries, Greece will pay Turkey for the indemnification of private persons for losses caused by the Greek forces the sum of LT100,000. The payment of this sum will be made simultaneously with the payment of the war indemnity.

ART. IX. Without affecting the principle of the immunities and privileges enjoyed by the Greeks before the war on the same footing as the subjects of the other States, special arrangements will be concluded between Greece and Turkey in order to avoid the abuse of consular immunities, to prevent interference with the regular course of justice, to assure the execution of sentences passed, and to safeguard the interests of Ottoman subjects and foreigners in their differences with Greek subjects, these differences including cases of bankruptcy.

Pending the conclusion and the execution of the convention provided for in Article V (Paragraph B) of the peace preliminaries the Hellenic consuls in Turkey and the Ottoman consuls in Greece will exercise their administrative functions on the same bases as before the war.

As regards judicial affairs between Hellenic subjects and Ottoman subjects, such matters as came before the tribunals at a date anterior to the declaration of war will continue to be dealt with in Turkey conformably to the régime in force before the war. Matters which shall have arisen after the declaration of war will be treated in conformity with the principles of European law, on the basis of the Turco-Servian convention of March 9, 1896.

ART. X. The stipulations of the convention of May 24, 1881, for the cession of Thessaly are maintained, with the exception of those modified by the present act. The Sublime Porte reserves to itself the right of submitting its proposals for the settlement of the questions arising from the said convention to the powers who are the signatories to it, and whose decisions must be accepted by Greece.

ART. XI. The two high contracting parties agree to conclude, within three months of the ratification of the present treaty, the following arrangements:

A. A convention regulating the questions of contested nationalities on the basis of the scheme negotiated in 1876 between Greece and Turkey.

B. A consular convention on the conditions set forth in the first paragraph of Article IX (Article III of the peace preliminaries).

C. An extradition treaty for the reciprocal return of offenders against the common law.

D. A convention for the repression of brigandage on the common frontiers.

The two parties reserve to themselves the right of concluding subsequently a treaty of commerce and navigation. Pending the conclusion of this last-named treaty, freedom of commerce and navigation is reestablished on a reciprocal footing.

ART. XII. The postal relations between Greece and the Ottoman Empire, which have been interrupted for some years, will be reestablished in conformity with the general agreements regulating the matter as soon as the postal administrations of the two countries shall have concluded a special convention on the subject. Meanwhile the two administrations may exchange directly, in places which they will select for the purpose, their mail bags and post parcels duly sealed and transmitted by land or sea to destinations in the two countries or for transit.

ART. XIII. The telegraph administrations of the two countries shall take the necessary measures for the restoration of communication between their respective systems in such a manner as to insure a rapid and uninterrupted exchange of telegrams.

ART. XIV. With a view to assuring the maintenance of good neighborly relations between the two States, the Governments of Greece and Turkey undertake not to tolerate in their territory any proceedings of a nature to disturb security or order in the neighboring State.

In the event of divergencies in the course of the negotiations between Greece and Turkey, the disputed points may be submitted by one or the other of the interested parties to the arbitration of the representatives of the great powers in Constantinople, whose decisions will be binding upon the two Governments. This arbitration may be exercised collectively or by special designation on the part of the interested

parties, who may approach the ambassadors directly or through the medium of special delegates. In the event of an equal division of votes, the arbitrators will choose an additional arbitrator.

ART. XVI. The ratifications of the present definitive treaty of peace by His Majesty the King of the Hellenes and by His Imperial Majesty the Sultan will be exchanged in Constantinople within 15 days from to-day, or sooner if possible.

In faith thereof the respective plenipotentiaries have signed the present treaty and have affixed thereto the seal of their arms.

Done in duplicate in Constantinople December 4 (November 22), 1897.

MAVROCORDATO. TEWFIK.
STEFANO. HASSAM FEHMI.

PROTOCOL A.

Complying with the demand of their excellencies the Hellenic plenipotentiaries to be acquainted with the principal basis of the Imperial Government's proposals relating to the arrangements provided under Article III of the peace preliminaries, their excellencies the Ottoman plenipotentaries agree to communicate to them at once, as information and without the possibility of any discussion arising thereon before the ratification of the definitive peace treaty, the principal bases of the said arrangements as they have been decided upon by the Imperial Government, which will comprise the following points: (1) To determine the limits of the customs-tariff privileges of the consuls; (2) to assure the execution of judgments pronounced by Ottoman tribunals upon Greek consuls in civil and commercial matters; (3) to define the domicile of Greek subjects and to lay down the conditions to be observed on the occasion of domiciliary visits by the police, especially in cases where the dragoman may not respond to the invitation of the Ottoman authorities to be present; (4) to define the conditions to be observed when consular delegates may not appear before tribunals dealing with mixed cases; (5) to recognize the jurisdiction of the Ottoman court of cassation in accordance with the laws in force; (6) to declare the Ottoman courts competent in the case of commercial failures of Greek subjects and also in criminal matters in which Greeks are concerned with each other or with the subjects of other States; (7) to regularize the signification of judicial documents concerning Greek subjects and to assure the execution by the Ottoman authorities of the judgments of Ottoman tribunals in mixed cases.

Their excellencies, the Hellenic plenipotentiaries, in acknowledging this communication make the most formal reservations, both as to its contents, regarding which ulterior discussions and negotiations will take place immediately after the ratification of the definitive treaty of peace, and as to the recourse, should any differences arise, to the arbitration of the representatives of the great powers at Constantinople, as provided under Article IX of the peace preliminaries.

Constantinople, November 19, 1897.

MAVROCORDATO. TEWFIK.
STEFANO. HASSAM FEHMI.

PROTOCOL B.

The treaty of commerce and navigation under Article XI of the definitive peace treaty (Article III in the preliminaries), will have to be concluded within a period of two years, dating from the commencement of the exchange of the ratifications of the said peace treaty.

During this period the régime in force before the war, relating to the customs tariff, the coasting trade, and sponge fisheries, shall be maintained on the basis of reciprocity. Should, however, the treaty of commerce and navigation not be concluded and ratified within the aforesaid period of two years, the two parties shall revert to the régime established under Article XI of the peace treaty (Article VII of the peace preliminaries).

It is understood that should it be impossible, owing to motives other than the wishes of the two high contracting parties, for the new treaty of commerce and navigation, although concluded and ratified within the time aforesaid, to be put into operation, the régime in force before the war shall be always maintained on the basis of reciprocity until the new treaty shall come into force.

Constantinople, December 4, 1897.

MAVROCORDATO. TEWFIK.
STEFANO. HASSAM FEHMI.

URUGUAY.

POLITICAL SITUATION.

Mr. Finch to Mr. Sherman.

LEGATION OF THE UNITED STATES,
Montevideo, February 10, 1898.

SIR: The following is a correct copy of a cablegram sent you this afternoon:

SHERMAN, *Washington:*

Chambers dissolved. Provisional government proclaimed. Cuestas President. Quiet. FINCH.

The following circular[1] was distributed in all parts of the city during the afternoon, but the people remained unexpectedly quiet and only a few stores closed their doors.

Your obedient servant,

W. R. FINCH.

MILITARY SERVICE OF JOHN BAKER DICK.

Mr. Finch to Mr. Day.

No. 82.] LEGATION OF THE UNITED STATES,
Montevideo, October 7, 1898.

SIR: The within correspondence refers to the case of John Baker, colored, who claimed to be a citizen of the United States, and to have been pressed into the Uruguayan army.

Having no evidence to support Baker's claim to United States citizenship, other than his verbal affirmation, I was not able to make a very impressive showing to the foreign minister of this Republic.

Respectfully,

WILLIAM R. FINCH.

[Inclosure 1 in No. 82.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Montevideo, October 7, 1898.

Hon. WILLIAM R. FINCH,
Minister Plenipotentiary and Envoy Extraordinary of the United States to Uruguay and Paraguay.

SIR: I have to report the following case to your attention:

Last evening a negro who gave his name as John Baker met me at my door and claimed that he was an American citizen, having come from the South with a circus some three years ago.

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[1] Not printed.

That about two years ago was picked up on the streets and impressed into the army, and was in the corps whose officers were in the July revolt.

That he now belongs to the Fifth Cavalry, but has been absent from the command for several days. If he returns he will be severely and, perhaps, brutally flogged.

He claims that he had his birth papers when he came to this country, but that they were stolen from him by a deserting comrade.

He speaks English in a broken way and is apparently about 20 years of age.

The case presents features that at least call for an inquiry at the War Department. If the man is, as he claims, an American born citizen, this country has no claim on his services as a soldier.

The matter is referred to the legation for such action as may be deemed by you proper.

I am, with great respect, your obedient servant,

ALBERT W. SWALM,
United States Consul.

[Inclosure 2 in No. 82.]

MONTEVIDEO, *October 7, 1898.*

His Excellency JACOBO A. VARELA,
Minister pro tempore for Foreign Affairs,
the Republic of Uruguay, Montevideo.

SIR: John Baker, a colored man, states that he is an American citizen and resided in the United States until about three years ago, when he left there and came to South America with a traveling circus. Baker further states that about two years ago he was picked up on the street in Montevideo and pressed into the military service of Uruguay, and was in the corps whose officers revolted on July 4 last, but that he now belongs to the Fifth Cavalry, and has been absent from his command for several days. He asks to be relieved from further service in your army.

Please look into the case, and if Baker is, as he claims, a citizen of the United States, please discharge him from further service.

Pending this investigation kindly have instructions given that Baker be not punished for being absent from his command without leave.

You will greatly oblige, your obedient servant,

WILLIAM R. FINCH.

[Inclosure 3 in No. 82.]

MONTEVIDEO, *October 6, 1898.*

Col. ALBERT W. SWALM,
United States Consul, Montevideo, Uruguay.

DEAR SIR: Received your communication, dated the 7th instant, just a few minutes ago and have written Minister Varela asking for an investigation of the case of the colored man John Baker.

Having remained in the Uruguayan army for about two years, without protest, as you state, and having no passport and no way of establishing his claim to the protection of the United States except his verbal statement that he came from the South with a traveling circus

about three years ago (I am quoting from your letter), it will be difficult for me to set up a very strong presumption in his favor, particularly now since he is a deserter and makes the claim to United States citizenship apparently to avoid punishment.

However, I will do the best I can, and if I can not get him discharged I may possibly save him the pain of a flogging.

Truly, yours, W. R. FINCH.

Mr. Finch to Mr. Day.

No. 85.] LEGATION OF THE UNITED STATES,
Montevideo, October 13, 1898.

SIR: On the 13th instant I received the inclosed communications from the acting minister for foreign affairs, the Hon. Jacobo A. Varela.

No. 1 * * *

No. 2 refers to my representations in behalf of the colored soldier, John Baker Dick, a member of the Fifth Cavalry, Uruguay army, who claims to be a citizen of the United States, and to have been pressed into the military service of this Republic.

Respectfully, WILLIAM R. FINCH.

Inclosure in No. 85.—Translation.]

MONTEVIDEO, *October 10, 1898.*

Mr. WILLIAM R. FINCH,
Envoy Extraordinary and Minister Plenipotentiary of the United States of America.

Mr. MINISTER: I have the honor to acknowledge the receipt of your excellency's note, dated the 7th instant, soliciting release of the soldier, John Baker Dick, from the Fifth Cavalry Regiment, if on investigation it shall be found that he is a citizen of the United States.

In answer to your note I have to say that your excellency's communication has been referred to the war office, and that I will take pleasure in informing you of the decision of that department at the earliest moment after its receipt.

I salute your excellency with my distinguished consideration.

JACOBO A. VARELA.

Mr. Finch to Mr. Day.

No. 84.] LEGATION OF THE UNITED STATES,
Montevideo, October 14, 1898.

SIR: I inclose herewith copy of a letter from Albert W. Swalm, United States consul at Montevideo, addressed to me; also copy of a statement from and by him, and one from his consular clerk, in support of the claim of the colored soldier, John Baker Dick, who asks to be discharged from the Uruguay military service on the ground that he is a bona fide citizen of the United States.

I inclose herewith my communication to the Hon. Jacobo A. Varela, acting minister for foreign affairs of Uruguay, dated the 13th of October, inviting his attention to these supporting affirmations of Messrs.

Swalm and Garcia. I have taken the ground that the Government of Uruguay is bound to accept as true the claim of Dick that he is a bona fide citizen of the United States, supported as he is by reputable persons in his contention, unless that Government is able to show that Dick's claim is false.

Respectfully, WILLIAM R. FINCH.

[Inclosure 1 in No. 84.]

CONSULATE OF THE UNITED STATES OF AMERICA,
Montevideo, October 9, 1898.

Hon. WILLIAM R. FINCH,
Envoy Extraordinary and Minister Plenipotentiary of the United States to Uruguay and Paraguay, Montevideo.

SIR: In an interview with the colored American citizen had yesterday, I found that his name was John B. Dick, the "B" being for Baker. I made notes of his statement and they are herewith submitted to you. He is a typical Alabama negro—no doubt about that whatever—and his story seems to hang together from top to bottom.

Submitting these notes, I am, with great respect, your obedient servant,

ALBERT W. SWALM,
United States Consul.

[Subinclosure.]

In the matter of the claim of one John B. Dick for American citizenship.

Comes now John B. Dick, a private soldier in the Fifth Regiment of Cavalry of the Uruguay army, and says and declares under examination as follows:

1. That he is an American citizen, and was born at or near the town of Citrus, in the State of Alabama, in the United States, on or about October 25, 1875.

2. That he came to South America in this way: First he joined with others by railway to the Pacific coast, and there joined Worth's American circus, which sailed from there to Australia, and from thence to South America. That he continued in the employ of said circus at Montevideo until the circus was destroyed by fire, when he lost his employment, but remained in the city, and soon went to work in a livery stable on Calle San Jose.

3. That while so engaged in said work at Montevideo, about two years ago, that is to say, in the month of September or October, 1896, he was arrested in the streets of said city, at night, he being regularly at work in the daytime, and was taken and impressed into the military service of the Republic of Uruguay, contrary to his will and desire, and for which service he had not at any time entered into any contract, nor had he committed any offense against the laws of the said Republic of Uruguay, whereby and by reason of such offense he could be sentenced to imprisonment, and thence into the army.

4. That he has been compelled to render military service, as aforesaid, always contrary to his will and desire; that he has had no opportunity to present to the American representatives here his claim as an American citizen heretofore, as a private soldier, he having but few liberties, and those of a very confined character. That as a soldier he was made to serve in the artillery, and was present at the engagement between the army and the Nationalists at Cerros Blancos, being one of the men mounted with a gun squad.

5. That when he left his home in the State of Alabama he had with him his papers showing his birthright, parentage, and baptism, and such other facts to such form belonging, the said papers being signed by a minister of the gospel by the name of Clark, of the Methodist Church (colored). That he had preserved and had with him when arrested and pressed into the army these papers, but that the same were taken and carried away by another soldier, and the whereabouts of the said papers or soldier are not now known to him.

6. That the members of the circus company with whom he came from the United States to Australia, and thence to Montevideo, are widely scattered and gone, and he has seen none of them since his impressment into service. That during his service with the circus at Montevideo he had charge of a herd of zebras, which attracted much attention, and wherein he met many people of the city, some of whom would recognize him by reason of his color and his inability then to speak the language of the country—Spanish. That his service in the livery stable on San Jose street may also be established by proper examination by the representatives of the United States.

7. That his sister, Annie Dick, and his brother, Thomas Dick, are now and were then residents of Citrus, Ala. and that one Andrew Knight there resident, a a painter, is also named as being acquainted with, and many others could be named by the petitioner.

Wherefore the said John B. Dick prays that his rights as an American citizen be established, that he be discharged from the military service of the Republic of Uruguay; so held in contravention of the rights and privileges of an American citizen, humble though he may be, and that he may be permitted to go his way in peace, and earn his livelihood where it may honestly come to his hand.

Respectfully submitted on behalf of petitioner Dick.

[SEAL.] ALBERT W. SWALM, *United States Consul.*

Mr. Roroteo Garcia Lagos, clerk in the consulate of the United States, says that he recognizes the colored man who gives his name as John B. Dick as being the same man who was in charge of a herd of zebras, shown in connection with the circus, some three years ago in this city. He was looking at the herd, and spoke English, in a beginner's way, to the man now before him. His personal characteristics—being very black, round headed, and decidedly African in face, form, and features, makes his recognition easy as being the same man in charge of the herd, as stated. To which fact other young man who was with him would cheerfully attest.

[Inclosure 2 in No. 84.]

MONTEVIDEO, *October 13, 1898.*

His Excellency JACOBO A. VARELA,
Minister pro tempore for Foreign Affairs,
The Republic of Uruguay, Montevideo.

SIR: Herewith please find a declaration of the colored soldier, John B. Dick, now belonging to the Fifth Cavalry of the Uruguay army, setting forth a series of facts in support of his claim that he is a bona fide citizen of the United States and entitled to recognition as such. His declaration was made before United States Consul Swalm in this city, and is in part corroborated by the clerk at the consulate.

Dick makes out a plausible case, and I trust you will give his representations due weight, recognizing the principle which obtains in matters of this character that what is alleged as true is to be taken and accepted as truth unless it can be shown to be false.

I have the honor to be, your excellency's obedient servant,

WILLIAM R. FINCH.

[Inclosure 3 in No. 84.]

MONTEVIDEO, *October 13, 1898.*

Col. ALBERT W. SWALM,
United States Consul, Montevideo.

DEAR SIR: I have translated into Spanish your communication dated the 9th of October, setting forth the facts in which the colored soldier, John Baker Dick, relies to establish his assertion that he is a bona fide citizen of the United States, and forwarded the same to the

Hon. Jacobo A. Varely, minister pro tempore for foreign affairs of the Republic of Uruguay. With your communication I also forward to Minister Varela the statement of the consular clerk, Garcia Lagos, who certifies that he recognizes Dick as the man who was in charge of a herd of zebras that were exhibited in Worth's American circus.

Very truly, yours,

WILLIAM R. FINCH.

Mr. Finch to Mr. Day.

LEGATION OF THE UNITED STATES,
Montevideo, October 22, 1898.

SIR: The within correspondence refers to the case of the colored soldier John B. Dick, a member of the Fifth Regiment, Uruguay Cavalry, who recently deserted. Later he solicited the assistance of the United States consul here, claiming exemption from military duty on the ground that he is an American citizen and had been "pressed" or conscripted into the Uruguayan army and there held against his will.

The consul referred the case to me, and I presented it to the minister for foreign affairs. The result was an honorable discharge for Dick and full pay.

Respectfully, WILLIAM R. FINCH.

[Inclosure 1.]

[Translation.]

MINISTRY OF FOREIGN AFFAIRS,
Montevideo, October 17, 1898.

Mr. WILLIAM R. FINCH,
Envoy Extraordinary and Minister Plenipotentiary of the United States.

MR. MINISTER: I have the honor to inform your excellency, in response to your notes dated the 7th and 13th instant, that the minister of war and marine has given the necessary orders for the dismissal of the man John B. Dick from the Fifth Regiment of Cavalry, Uruguayan army, together with full pay and proper discharge papers.

I avail myself of this opportunity,

JACOBO A. VARELA.

[Inclosure 2.]

LEGATION OF THE UNITED STATES,
Montevideo, October 19, 1898.

Señor JACOBO A. VARELA,
Minister pro tempore for Foreign Affairs, The Republic of Uruguay.

SIR: I have much pleasure in acknowledging the receipt of your communication dated the 17th instant, in which you state that the honorable minister of war and marine has ordered the dismissal of the colored soldier John B. Dick from the military service of Uruguay with full pay and proper discharge papers. Your excellency's note advising me of the action of the honorable minister came to hand this forenoon, and I hasten to thank you for so promptly responding to my representation in Dick's behalf, and through you, if you will allow

me, permit me to thank the honorable minister of war and marine for so cheerfully and promptly releasing the soldier the moment he was convinced that his claim to United States citizenship was fairly well founded. Dick's discharge by the Uruguayan Government, under circumstances not calculated to inspire a sentiment of generosity, is additional evidence that it never hesitated to act the part of honor and magnanimity toward the deserving individual, no matter how humble or insignificant he may be.

Allow me also, your excellency, to assure you that I attribute to your high sense of honor, fairness, and justice the happy termination of this case, which has resulted satisfactorily to all concerned.

Your obedient servant,

WILLIAM R. FINCH.

[Inclosure 3.]

UNITED STATES LEGATION,
Montevideo, October 19, 1898.

Col. A. W. SWALM,
United States Consul, Montevideo, Uruguay.

DEAR SIR: Monday, the 17th instant, you were at the legation, and in speaking of the colored soldier John B. Dick, who deserted from the Uruguayan army, I understood you to say you had supplied him with an "underground railroad" ticket or pass to Buenos Ayres, Argentina, for which you paid $300, and $10 for pocket money. This is the man who claimed exemption from service in the Uruguayan army on the ground that he is an American citizen. His claim was duly presented to Hon. Jacobo A. Varela, minister pro tempore for foreign affairs, and on the 19th instant I had the honor to receive a note from Mr. Varela, stating that Dick had been honorably discharged from the service, given his proper papers, and pay in full. This was an example of generosity not to have been expected, the man having deserted before presenting his claim to United States citizenship, after a service of two years in the army without, so far as I could learn, making so much as a simple protest.

I have thanked the Uruguayan Government through Mr. Varela for its liberality and forbearance, and write you as I do now since you were, apparently, at the time you fitted Dick out with the "underground railroad" ticket to Buenos Ayres, and the loan or present of $10 pocket money, not aware that he had been duly discharged from the Uruguayan army and given his pay in full.

Very truly,

WILLIAM R. FINCH.

Mr. Finch to Mr. Day.

LEGATION OF THE UNITED STATES,
Montevideo, October 24, 1898.

Hon. WILLIAM R. DAY,
Secretary of State, Washington.

SIR: On the 22d instant Colonel Swalm called at the legation and said, substantially, in response to mine of the 19th instant, that when the colored soldier John B. Dick applied to him (Swalm) for protection,

he (Swalm) took the man under his care and placed him in a boarding house, becoming security for his board.

After getting the colored man safely settled he (Swalm) called upon Vice-Consul Howard and directed him to go to the Uruguayan secretary of war and say to him that Dick was undoubtedly an American citizen and unless he was released the United States Government would file a reclamation and demand damages for unlawful detention. The consul further stated that he had previously satisfied himself that Dick was an Alabama negro and that he should be immediately released.

Colonel Swalm then placed the facts and the case in my hands, with the result heretofore stated.

Colonel Swalm also further stated that he paid the colored soldier the amount due him from the Uruguayan Government, taking his receipt therefor and turning it over to the Uruguayan minister of war, at whose instance and request he acted.

Possibly I have embodied in my report of this case to the Department more phases and detail than is usually customary or necessary, but the circumstances and incidentals seem to warrant placing all the facts and phases before you for convenient reference, in the event that the matter should at any future time be the subject of further correspondence.

Respectfully,

WILLIAM R. FINCH.

VENEZUELA.

WAR WITH SPAIN.

Mr. Sherman to Mr. Loomis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 21, 1898.

Ultimatum served yesterday through Spanish minister here and by instruction to United States minister, Madrid. Spanish Government broke off diplomatic relations before latter could communicate. This Government is now free to act as though refused. War appears inevitable. You will be at once advised.

SHERMAN.

Mr. Andrade to Mr. Sherman.

LEGATION OF THE UNITED STATES OF VENEZUELA,
Washington, April 23, 1898.

SIR: I have the honor to acknowledge the receipt of the communication of the 22d instant, in which your excellency inserts the rules which the Government of the United States proposes to observe in the case, now imminent, of hostilities with Spain, and to inform you that I have, by to-day's mail, communicated its contents to my Government.

I avail myself, etc.,

JOSÉ ANDRADE.

Mr. Andrade to Mr. Sherman.

LEGATION OF THE UNITED STATES OF VENEZUELA,
Washington, April 25, 1898.

SIR: I have the honor to acknowledge the receipt of the communication of your excellency of the 23d instant, together with the three printed copies inclosed therein and which you mention, of the proclamation of His Excellency the President of the United States, declaring the institution of a blockade of the northern coast of Cuba, between Cardenas and Bay Honad, and of the port of Cienfuegos to the south of that island.

I have the honor to thank your excellency for your attention, and to renew the assurances of my perfect consideration.

JOSÉ ANDRADE.

Mr. Andrade to Mr. Adee.

LEGATION OF THE UNITED STATES OF VENEZUELA,
Washington, April 28, 1898.

SIR: I have the honor to acknowledge the receipt of your communication of yesterday, together with the three copies which accompanied it, of the proclamation of the President of the United States in regard to the existence of war between the United States and Spain.

Accept, etc.,

JOSÉ ANDRADE.

Mr. Loomis to Mr. Sherman.

No. 125.] LEGATION OF THE UNITED STATES,
Caracas, April 28, 1898.

SIR: I have the honor to report that the feeling here on the part of the large Spanish population is very intense, but that while there are threats of violent and hostile demonstrations against this legation there has been no trouble of any sort as yet.

A week ago it was arranged by a number of Spaniards here to come to this legation at night for the purpose of manifesting their dislike for the United States in some unmistakable way. I heard of the proposed attack and informed the Government. The news had already reached it, and the President told the Spanish minister that he proposed to have no outbreak and that he would deal harshly with anyone who showed a disposition to annoy the legation of the United States.

The Spanish minister took the hint and informed the President that he would see that no demonstration took place.

The Government has, of its own accord, stationed policemen at the legation. Two are on duty day and night.

I have, etc., FRANCIS B. LOOMIS.

Mr. Loomis to Mr. Sherman.

No. 126.] LEGATION OF THE UNITED STATES,
Caracas, April 28, 1898.

SIR: I have the honor to report that I have asked the consuls of the United States in Venezuela and at Curaçao to watch in a vigilant manner for the appearance of Spanish men-of-war or privateers and to make a point of asking all ship captains who may come into their ports for information that may be of use to the Government of the United States.

There are two steam vessels under the American flag still plying between Venezuelan ports and Curaçao. These boats belong to the Red "D" line, of New York.

I have, etc., FRANCIS D. LOOMIS.

Mr. Loomis to Mr. Sherman.

[Telegram.]

CARACAS, *April 29, 1898.* (Received 2.16 p. m.)

Small Spanish war vessel cruising lower Caribbean Sea stopping ships off Little Curaçao.

LOOMIS.

Mr. Loomis to Mr. Sherman.

No. 128.] LEGATION OF THE UNITED STATES,
Caracas, May 2, 1898.

SIR: I have the honor to inclose herewith the answer of the Venezuelan Government to my note transmitting a copy of your cablegram of April 26 in reference to the existence of a state of war between the United States and Spain.

* * * * * * *

I have, etc., FRANCIS B. LOOMIS.

[Inclosure.]

Neutrality.—Notification by Venezuela.

The following note addressed by the Government of Venezuela to the United States minister at Caracas proclaims and defines the attitude of neutrality adopted by that country in the present conflict between the United States and Spain:

UNITED STATES OF VENEZUELA,
MINISTRY OF FOREIGN AFFAIRS,
Caracas, April 29, 1898.

YOUR EXCELLENCY: With your courteous communication of the 26th instant, your excellency inclosed a copy of a telegram received the same day from His Excellency the Secretary of State, in regard to the state of war existing since the 21st of the present month between the North American Republic and the Kingdom of Spain.

Inasmuch as His Excellency the Secretary of State, in communicating the fact of the existence of war, asked you to inform this Government, to the end that its neutrality might be assured, I have the honor to inform you that this expectation on the part of the Government of the United States is in perfect accord with the intentions of the executive, to wit, that the Republic will preserve the strictest neutrality during the contest. The Government of Venezuela, through its regular channel, will to-day, likewise, inform the Spanish nation.

I renew, etc.,

J. CALCANO MATHIEU.

His Excellency FRANCIS B. LOOMIS,
Envoy Extraordinary and Minister Plenipotentiary of the United States.

[Telegram received in cipher.]

CARACAS, *May 5, 1898.* (Received 12.46 p. m.)

SHERMAN,
Secretary, Washington, D. C.:

Venezuela proclaimed neutrality; is very satisfactory. Legation of the United States guarded. * * * Would be of great service to telegraph victories here. General news is very hostile and worthless.

LOOMIS.

[Telegram.]

CARACAS, *May 14, 1898.* (Received 1.25 p. m.)

SHERMAN,
Secretary, Washington:

Consul cables me four Spanish cruisers and two torpedo boats sighted off Curacao to-day.

LOOMIS.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 14, 1898.

LOOMIS,
Minister, Caracas:

Ascertain immediately from consul, Curacao, number of Spanish ships, how much coal they took, and any other information.

MOORE, *Assistant.*

[Telegram received in cipher.]

CARACAS, *May 15, 1898.* (Received 12.13 a. m., May 16.)

SHERMAN,
Secretary, Washington:

Spanish war vessels will leave Curacao about 6 to-night; destination unknown.

LOOMIS.

[Telegram, cipher.]

UNITED STATES LEGATION IN VENEZUELA,
Caracas, via Haiti. May 15, 1898. (Received 15, 5.45 p. m.)

SHERMAN,
Secretary, Washington:

The consul at Curacao telegraphs *Vizcaya* and *María Teresa* are coaling. * * * Nothing known yet of movements. Cable later.

LOOMIS.

[Press telegram.]

CARACAS, *via Haiti (May 16, 1898).*

SHERMAN,
Secretary, Washington:

Fleet left Curacao Sunday evening 6, steering west.

LOOMIS.

Mr. Loomis to Mr. Sherman.

No. 134.] LEGATION OF THE UNITED STATES,
Caracas, May 18, 1898.

SIR: I have the honor to inform you that the inclosed decree relating to the publication of false news was agreed upon and officially published at my request by direction of the President of Venezuela.

Ever since the beginning of the war between the United States and Spain certain irresponsible small papers here, controlled by the Span-

iards, have made a business of printing in each issue a series of uncomplimentary, sensational, and always untrue rumors about the United States. One of the offending papers is a small daily, and its editors gave currency to a rumor that President McKinley had been assassinated by a Spaniard. This alleged dispatch, which was manufactured here, produced a profound sensation and I could not but regard the circulation of false news of this character as most dangerous and reprehensible and indeed likely to incite violent and excitable persons to the commission of crime.

Another day these papers printed fictitious cablegrams in which the bombardment of Philadelphia by the Spanish fleet was graphically described. The alleged approaching disruption of the United States and the separation of the South from the North is a favorite theme. These papers are a fraud upon the community, and I ascertained from the cable office that not one of them had ever received a cablegram at any time.

I called the attention of the President and of the minister of foreign affairs to these publications several times and finally insisted that they should no longer be permitted to invent and print so-called news of the character I have described. * * * The first paper that oversteps the limits set forth in the decree will be summarily suppressed.

I have, etc.,

FRANCIS B. LOOMIS.

[Translation.]

UNITED STATES OF VENEZUELA,
GOVERNMENT OF THE FEDERAL DISTRICT,
Caracas, May 14, 1898.

For the purpose of preventing the manifest damage to business transactions, and also that alarm often caused to foreign subjects and citizens in the capital by publications of notices as to disturbances and disorders in other countries, by order of the President of the Republic,

It is resolved, That in the publication by the press of foreign notices there must be placed at the foot of the article the name of the paper that said notice was taken from, or the name of the cable agency or person furnishing it.

Those who violate this resolution will incur a fine of 500 bolivars, or arrest in default.

Let it be announced and published.

A. LUTOWSKY.

Mr. Day to Mr. Loomis.

No. 133.] DEPARTMENT OF STATE,
Washington, June 3, 1898.

SIR: I have received your dispatch No. 134, of the 18th ultimo, reporting the representations made by you to the President of Venezuela, concerning publications in the Spanish press of that country alike mendacious and unfriendly.

Having in view the constitutional freedom of the press in this country, it is a matter of some delicacy to invoke repressive action in favor of this Government on the part of the authorities of other countries, whose laws may give the local governments greater powers to regulate the press. You appear to have recognized this by mainly directing your remonstrances to the mendacious and dangerous character of the publications to which you refer, and the action taken by

the administration of the federal district, under direction of the President of the Republic, appears to be confined to this particular feature of the situation, in that it prescribes the authentication of published news by giving its responsible source. The action so taken was considerate and timely, as well as eminently just to the Venezuelan community itself, and so far as it indicates a friendly disposition of the Venezuelan Government it is cordially appreciated.

Respectfully, yours,

WILLIAM R. DAY.

Mr. Loomis to Mr. Day.

LEGATION OF THE UNITED STATES,
Caracas, June 7, 1898.

SIR: I have the honor to inform you that I received from the consular agent of the United States at Ciudad Bolivar a few days since a daily newspaper published in that city containing an official printed announcement to the effect that the Spanish vice-consul in that city had opened books for the enrollment of volunteers and the reception of subscriptions to be made use of by Spain in warfare against the United States. The Spanish vice-consul also announces that he makes this call for men and money by authority of the Spanish legation in this city. I inclose the official announcement of the vice-consul, with a translation.

It seemed to me that this public solicitation of recruits and funds was not admissible in a friendly neutral State, and I straightway called at the foreign office and said to the minister that this open call for men and money clearly evinced a disposition on the part of the representatives of Spain here to take advantage of Venezuela's neutral position, and that it was an open assault upon her dignity and sovereignty. Recalling the fact that the United States Government had permitted German consuls during the Franco-Prussian war to send home their countrymen upon whom the Government had a claim for military service, I observed that under some circumstances it might be proper for the Spanish consuls to quietly send back from Venezuela citizens who were temporarily residing here and who owed military service to Spain, but that a public call for men and money was apparently a violation, in spirit at least, of both international and the municipal law. I also showed the paper to the President. It was agreed upon by both the minister of foreign affairs and the President that the Spanish legation had gone too far, and that a stop should immediately be put to its efforts to raise men and money on Venezuelan soil with which to oppose the United States.

The inclosed decree was then drawn up and published in the Official Gazette. You will see by it that a person who opens an office for the enlistment of troops without proper authority violates the penal code of Venezuela. It seems to me that an example should be made of the offenders in this case, not only because they have overstepped the bounds of good tase and disregarded the laws, but for the value of the example at this time. Taking advantage of race affiliations, the Spaniards are trying to carry things with a high hand in South America, and are here making a violent and persistent attack upon everything that appertains to the United States. They have conducted a well-organized warfare in the public press against us and have lost no opportunity to slander and abuse the President and Government of the United States. This has been done by writers in the pay of the repre-

sentatives of Spain, and this call for volunteers and money is the logical result of the public assaults upon the good name of the United States. It is assumed that public opinion is so unfriendly to us that no objection will be made to this or even more flagrant violations of the neutrality of Venezuela on the part of the Spanish minister. The truth is, the people here, to a great extent, have been imposed upon by the Spanish campaign of boasting and bluster. The whole conservative faction is violently pro-Spanish. The Government is very friendly to the United States, the President particularly so, but the Government has to recognize, to a certain extent, the conservative element. * * *

I have asked the minister of foreign affairs to withdraw the exequatur of the Spanish vice-consul at Ciudad Bolivar, and to have criminal proceedings instituted against him. If he acted under the directions of the minister at Caracas, as he states he did, * * * then it seems to me the dismissal of the minister himself might be asked. I cabled you for instructions on this point, but the answer has not yet arrived, and doubtless will not before the mail closes. * * *

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure—Translation.]

Thomas Machado, in his character as vice-consul of Spain in this city and by order of the Spanish legation in Caracas, hereby makes known to all Spanish subjects to whom these presents shall come, greeting, that:

From this date there is open in his office a register wherein will be entered the names of all Spanish subjects who may voluntarily wish to aid, either with their persons or their finances, the Government of His Majesty the King in the war to be waged in consequence of the revolution decreed against Spain by the Congress of the United States.

CIUDAD BOLIVAR, *May 20, 1898.*

[Translation.]

MINISTRY OF FOREIGN AFFAIRS,
UNITED STATES OF VENEZUELA,
Department of Foreign Public Law, Caracas, June 1, 1898.

Resolved, The neutrality of Venezuela in the present war between the United States of America and the Kingdom of Spain having been communicated officially to the two belligerent nations through their diplomatic representatives in Caracas since the 29th of April, the President of the Republic deems it imperative, in view of the fact that there is no special neutrality law in existence, to call attention to the laws of the country in regard to this subject in order that the authorities may see to the strict observance of those rules which are to guide the Republic in this international conflict.

Article 121 of the penal code now in force forbids "anyone, without authority from the national government, from making levies or arming and equipping Venezuelans or foreigners on Venezuelan soil destined for the service of another nation."

Article 461 of said code likewise prohibits "any individual from arrogating to himself illegal functions and without authority, opening offices for making subscriptions or enlistments."

Furthermore, article 151 of the Federal constitution provides that "the prescription of the rights of the people from part of the national legislation," and as the former impose upon a neutral State the obligation to refrain completely from anything that concerns directly or indirectly military operations, the President of the Republic enjoins upon the authorities the strictest vigilance to prevent any operation or public act on Venezuelan soil, in regard to expeditions or enlistments of any kind whatsoever, and for either of the two belligerent nations.

Let this be communicated to the presidents of the states, governors of the district and federal territories through the medium of the ministry of interior.

For the National Executive.

CALCAÑO MATHIEU.

Mr. Loomis to Mr. Day.

No. 150.] LEGATION OF THE UNITED STATES,
Caracas, June 11, 1898.

SIR: I have the honor to transmit, with translation, another decree of the Venezuelan Government upon the subject of its neutrality during the war now being waged by the United States and Spain. The decree is as it appears in the Official Gazette.

This decree[1] was issued as a result of my protests against the apparent activity of the Spaniards here in the way of raising money and is designed to prevent any public meetings being held for that purpose, I having been informed that it was the purpose of the Spanish colony to rent a public hall for the purpose of having a meeting of Spanish subjects to stimulate subscriptions and enlistments.

I have, etc.,

FRANCIS B. LOOMIS.

Mr. Day to Mr. Loomis.

No. 140.] DEPARTMENT OF STATE,
Washington, June 20, 1898.

SIR: I have to acknowledge the receipt of your No. 145 of the 7th instant, in which you report your action in relation to a public announcement in a newspaper of Ciudad Bolivar that the Spanish vice-consul in that city had, by the authority of the Spanish legation at Caracas, opened books "for the enrollment of volunteers and the reception of subscriptions" in aid of Spain in her war with the United States. You state that both the President and the minister of foreign affairs of Venezuela agreed "that the Spanish legation had gone too far, and that a stop should immediately be put to its efforts to raise men and money on Venezuelan soil with which to oppose the United States," and it appears that as a result of your representations the ministry of foreign affairs issued on the 1st of June a decree in which attention is called to various provisions of the penal code of Venezuela by which it is forbidden to anyone, without authority of the national government, to make levies or to arm and equip "Venezuelans or foreigners on Venezuelan soil destined for the service of another nation, or to arrogate to himself illegal functions, and, without authority, to open an office for making subscriptions or enlistments.

Upon your report of the matter by cable, with the inquiry whether you should demand the dismissal of the Spanish minister at Caracas, the Department, in its telegraphic reply, instructed you to lay such evidences as you possessed of the minister's offenses before the Venezuelan Government, with an expression of confidence that it would take appropriate measures for the vindication of its sovereignty. The Department deemed it proper, after the proofs should be presented to the minister of foreign affairs, to afford the Venezuelan Government an opportunity to investigate the matter, and of its own motion to take such further action as the facts should require. It is assumed that the Venezuelan Government, especially in view of what you say of its friendly disposition toward the United States, will not be disinclined to signify in a substantial way its displeasure at what seems to have been a flagrant attempt to disregard its laws and its neutrality.

[1] Not printed.

The Department will await with interest your report of the action of the Venezuelan Government in regard to the minister and the vice-consul.

Respectfully, yours,

WILLIAM R. DAY.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 5, 1898.

LOOMIS, *Minister, Caracas:*

Spanish Santiago fleet utterly destroyed. Cervera taken prisoner. Town summoned to surrender.

DAY.

Mr. Day to Mr. Loomis.

No. 153.] DEPARTMENT OF STATE,
Washington, July 7, 1898.

SIR: I have to acknowledge the receipt of your No. 157, of the 19th ultimo, stating that you have been furnishing the Venezuelan newspapers with matter showing the true attitude of the United States in its relations with Spain, and that there has been a distinct improvement in the views expressed by the press toward this country.

The Department cordially approves your action and is much gratified at the improved tone of sentiment resulting from it.

Respectfully, yours,

WILLIAM R. DAY.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 15, 1898.

LOOMIS, *Minister, Caracas:*

Santiago de Cuba, with eastern half province of Santiago, surrendered yesterday. Surrendered Spanish troops to be sent to Spain.

CASE OF FELIPE SCANDELLA.

Mr. Loomis to Mr. Day.

No. 146.] LEGATION OF THE UNITED STATES,
Caracas, June 7, 1898.

SIR: I have the honor to invite your attention to the inclosed copy of a note which I recently addressed to the Venezuelan Government on account of the treatment to which a reputable American citizen was subjected by Venezuelan officials, at Ciudad Bolivar, on the 10th of May last.

F. Scandella, the victim of this outrageous treatment, is a well meaning, sober, and industrious man. He is engaged in the cattle and transportation business at Ciudad Bolivar, and I have excellent written

evidence as to his character, standing, and financial status. Among those who testified to his good character and to the fact that he has never taken part in politics, directly or indirectly, are the recent President of the State in which Scandella lives, a senator from that State, and two of the most responsible bankers and merchants there.

In arresting Mr. Scandella and expelling him as they did the officers violated both the laws and the constitution, but I have held this and other points in reserve in order to make use of them when the Government makes a formal answer to my note. * * *

I hope full instructions will be sent me. In the meantime, Scandella is in Caracas without funds, and has left his wife with five young children unprovided for at Ciudad Bolivar. After his arrest all his cattle and mules were stolen, and he is without money or the means of getting it until he can go back and look after his business. His direct loss of property by reason of his arrest is, so far as I can ascertain, about $2,000.

His wife also writes that his house, about three miles from the city, has been sacked. Some immediate relief ought to be given him, and I think of asking the Government informally to let him have $1,000 pending the adjustment of the claim.

Please cable me on this point, stating what indemnity to ask.

I have, etc.,

FRANCIS B. LOOMIS.

[Inclosure 1 in No. 146.]

LEGATION OF THE UNITED STATES,
Caracas, May 31, 1898.

His Excellency JUAN CALCANO MATHIEU,
Minister of Foreign Affairs.

SIR: The consular agent of the United States at Ciudad Bolivar, who is, as you know, a man of excellent character and high business and financial standing, reports a matter to me of so much gravity that I am constrained to ask your excellency to give your immediate attention to the statement which I have the honor to submit.

The consular agent says that on the 10th of May F. Scandella, an American citizen, was forcibly seized on the streets of Ciudad Bolivar by Government officials and taken to the common prison, where, after being searched in an offensive manner, he was confined in a small, foul, ill-ventilated room in which twenty-nine other persons were already imprisoned. At the time of his arrest Mr. Scandella was proceeding quietly about his business. He demanded the reason for his illegal seizure, and was simply told that it was in obedience to "superior orders." Mr. Scandella asked that if there were charges against him he be informed as to the nature of those charges, but all information as to the cause of his arrest was rigidly withheld. He asked to be allowed to communicate with his wife and friends; this was refused. The consul wrote a letter of protest to the President of the State and asked what crime Mr. Scandella was charged with. This letter was not answered until after Mr. Scandella had been expelled from the soil of Venezuela. Mr. Scandella was allowed to communicate with none of his friends, family, or advisers; in fact, with no one save his jailors and fellow-prisoners. The afternoon following his arrest he was taken from the prison under a strong guard of policemen and soldiers and marched through the streets of the city like a felon. He was forcibly placed on board a steamer, and accompanied by two guards was taken to the island of Trinidad, which is British

territory. Mr. Scandella was given no opportunity to arrange his business affairs, nor was he permitted to make provision for the support and comfort of his family. His treatment is wholly opposed to the practices and repugnant to the feelings of just and humane people. It is little short of barbarous, and can not be justified.

In addition to the cruelty and indignities to which this law-abiding American citizen has been subjected, he has been forced to abandon his business and surrender the fruits of months of industry and the earnings of a considerable amount of borrowed capital, which he had invested in the cattle and transportation business.

The settlement of this matter is not one that can, from the nature of the case, admit of much delay. I am sure your excellency will appreciate the gravity of the outrage that has been committed and feel inclined to make adequate reparation.

Permit me, etc., FRANCIS B. LOOMIS.

Mr. Loomis to Mr. Day.

No. 156.] LEGATION OF THE UNITED STATES,
Caracas, June 19, 1898.

SIR: I have the honor to inclose a certified copy, with translation, of the record of the case against Felipe Scandella, the American citizen who was expelled from Venezuela by the authorities at Ciudad Bolivar on the 11th of May last, in a summary and irregular manner.

The inclosed record, furnished by the President of the State of Bolivar and officially transmitted to me by the minister of foreign affairs, constitutes the sole case against Mr. Scandella. The evidence adduced is clearly of the flimsiest character and of the hearsay variety.

The proceedings were irregular throughout, and the manner of Mr. Scandella's arrest unjustifiable. By the code of the State he was entitled to a judicial hearing within three days after his arrest.

Mr. Scandella's arrest, imprisonment, and expulsion contravenes several articles of section fourth of the constitution of Venezuela, as will be seen from the notes on the constitution which I inclose.

I have called the attention of the Venezuelan Government to these facts, and both the minister of foreign affairs and, later, the President, have freely admitted that the treatment of Scandella, upon the showing made by the President of the State of Bolivar in his record of the case, was harsh and unjustifiable. The President sent for me a few days ago and said he desired to settle the case outside of diplomatic channels if possible, and would like to come to some friendly agreement respecting it. I said I fancied there would be no serious objection to this, provided he was willing to indemnify Scandella for all his losses resulting from the arrest and expulsion. The losses of which Scandella furnishes proof amount to $4,000, not including his expenses since the time of his arrest. In order to avoid the delay of a diplomatic settlement of the affair he is willing to accept $4,000, $1,000 to be paid at once and the balance in three months.

I told the President what Scandella proposed, and he then said he had sent two personal representatives to Ciudad Bolivar to investigate and report upon the extent of Scandella's losses, and that he would pay him whatever the report of his agent indicated ought to be paid him.

So the matter rests. My own belief is that Scandella has really suffered losses to the extent he claims. He has the evidence of a well-known man from whom he borrowed $4,000 to put into his business to show what a portion of his investment was, and he has letters to show

that nothing of consequence remains at his ranch. I have telegraphed the consul at Ciudad Bolivar to forward proofs of losses and a statement of the property remaining.

I would be very glad to have telegraphic instructions in this matter.

I have, etc.,

FRANCIS B. LOOMIS.

UNITED STATES OF VENEZUELA,
EXECUTIVE DEPARTMENT, STATE OF BOLIVAR,
Ciudad Bolivar, May 9, 1898.

[Eighty-seventh and Fortieth.]

Resolved, On account of frequent denunciations made and the well-founded suspicions entertained in this department against Felipe Scandella, an American citizen, there can be no longer any doubt that in his country residence, and relying upon his character as a foreigner, he is plotting secretly against public order; it is also known that Gen. José Antonio Bequero, Leonardo Alchacoa, and Gen. Luis A. Moreno can testify as to the above.

Let them be summoned in order that they may appear within the required time before the secretary-general to be questioned, and that suitable action may be taken in the case.

B. CONTASTE LAVEAUX.
ERNESTO GARCIA,
Secretary-General.

To-day, May 9, 1898, appeared at this office in obedience to a summons, Mrs. Leonardo Alchacoa, of age, widow of Eduardo Sifontes, occupation suitable to her sex. Having been duly sworn, and informed of the foregoing resolution, saith: I don't have anything to do with politics, as that sort of business has never done me any good in my life, and I am persuaded that women ought only to work for peace and public order; however, I wish to make it known that Felipe Scandella, an American, surprised me by coming to my place, called "San Geronimo," some days ago, and made charges against me which I can not and ought not to stand. The fact is, this man said to me:

"All right, old woman; I know that you are betraying us and reporting us to the Government, and that you said that you saw the *Mocho Montilla* with fifteen men near the city; but look out that you won't have to pay for this later."

I answered that it was not true, and he said that he would prove it to me. I do not understand how a foreigner can threaten me in this way; and when I come to testify it is owing, in addition to the summons issued, to the fact that I wish to get rid of being molested by Mr. Felipe Scandella and his revolutionary friends.

This was read to her. She confirmed it and signed.

ERNESTO GARCIA,
President of the State.
LEONARDO ALCHACOA DE SIFONTES.
R. CONTASTI LAVEAUX,
Secretary-General.

Then appeared, in obedience to a previous summons, a person who said that his name was Luis A. Moreno, married, of age, of this city, and having been duly sworn and informed of the foregoing resolution, deposed and said:

About a month ago, more or less, I heard in this city and the suburbs that Felipe Scandella was an agent of the revolutionists in this section, and that he was persuading the disaffected to revolt against the Government; and although I doubted, for the reason that he was a foreigner, that he would meddle in political affairs, according to the rumors to which I refer, yet these things have now become of public notoriety. I am told that Gen. E. A. Santodomingo can testify as to the matter under investigation.

Nothing further had he to say. This was read to him. He confirmed it and signed.

ERNESTO GARCIA.
President of the State.
L. A. MORENO,
R. CONTASTI LAVEAUX.
Secretary-General.

According to the foregoing testimony it appears that Gen. E. A. Santodomingo knows something in regard to the case under investigation. Let him be summoned in order that in the required time he may appear at this office.

ERNESTO GARCIA.
R. CONTASTI LAVEAUX,
Secretary General.

Continuing the case, there appeared a citizen who, after being duly sworn, said that his name was Emilio Antonio Santodomingo, of this city, of age, widower, and having been informed of the foregoing resolution, deposed and said, in accordance with part of the testimony of Gen. L. A. Moreno, that it was a fact known to me on account of its being of public notoriety that the American, Felipe Scandella, in his summer place near this city, where he was living with his family, was in negotiation with the revolutionists who were maraunding near his property. This I did not doubt, for the reason that he continued to live near the place when depredations were being committed daily by those revolutionists, and there was even a murder committed by them in the meadows of his place.

I communicated these suspicious circumstances to the President of the State, and also informed him that Scandella was a brother-in-law of Gens. L. E. Aristequieta and Ricardo Aristequieta, both of them avowed enemies of the Government.

Having nothing further to say, this was read to him. He confirmed it and signed.

ERNESTO GARCIA,
President of the State.
E. A. SANTODOMINGO.
R. CONTASTI LEVEAUX,
Secretary-General.

The same day appeared the porter of the office, Felix Play, who deposed and said: I have looked for Gen. Jose A. Baquero and have been informed at his house that he is absent from the city.

(Signed) R. CONTASTI LEVEAUX,
Secretary-General.
FELIX PLAY.

PRESIDENT'S OFFICE, STATE OF BOLIVAR,
Ciudad Bolivar, May 10, 1898.

[Eighty-seventh and fortieth.]

Resolved, According to the testimony taken in the office of the secretary-general, it has been proved that the American, Felipe Scandella, is in complicity with the revolutionists of this section of the Republic; and considering that the presence of the above-mentioned foreigner is prejudicial to this territory, it is ordered that he shall leave until order is restored, and that he shall be kept in the public prison until this resolution is carried out.

Let the magistrate of the district Heres be notified to carry out these resolutions.

ERNESTO GARCIA.
R. CONTASTI LEVEAUX,
Secretary-General.

On the same day the foregoing resolution was carried out.

R. CONTASTI LEVEAUX,
Secretary-General.

No. 724.] UNITED STATES OF VENEZUELA,
OFFICE OF GENERAL SECRETARY,
Ciudad Bolivar, May 10.

[Eighty-seventh and fortieth.]

To the magistrate of the district Heres:

According to testimony taken in this office, the American, Felipe Scandella, has been proven to be in complicity with those parties who are in revolt against the Government, and the President of the State has instructed me to tell you to notify Felipe Scandella to leave the territory of this Federation until public order has been established. God and the Federation.

R. CONTASTI LAVEAUX.

True copy:

R. CONTASTI LAVEAUX.

CIUDAD BOLIVAR, *May 12, 1898.*

Gen. IGNACIO ANDRADE, etc.,
Caracas:

I am awaiting an opportune moment to send to the national government the result of the investigations as to the complicity of the American, Felipe Scandella, with the revolutionists of this section. From the testimony taken at the investiga-

tion his complicity has been proved, and I have therefore notified said Scandella, through the magistrate of this district, that he must leave the State until order is established.

Your friend,

ERNESTO GARCIA.

True copy.

R. CONTASTI LAVEAUX.

UNITED STATES CONSULAR AGENCY,
Ciudad Bolivar, Venezuela, May 10, 1898.

The PRESIDENT OF THE STATE BOLIVAR:

The undersigned has been informed by Mrs. Soledad Scandella that her husband, Felipe Scandella, an American citizen, has been taken to the public prison of this city by orders from your office; and as the above-mentioned Scandella is a native of New York, and it is my duty to lend him that protection accorded to him by the laws of the nation I have the honor to represent in this city, I beg you to please inform me the reason for the imprisonment or arrest of the above-mentioned Felipe Scandella, in order to see whether I can be of any assistance to him, that he may enjoy the liberty which he has enjoyed up to the present time.

With all consideration and respect I request an answer and subscribe myself,

Your very attentive servant,

ROBERT HENDERSON,
United States Consular Agent.

No. 723.] UNITED STATES OF VENEZUELA,
PRESIDENT'S OFFICE OF STATE OF BOLIVAR,
Ciudad Bolivar, May 11, 1898.

[Eighty-seventh year of the Independence and fortieth of the Federation.]

The CONSULAR AGENT OF THE UNITED STATES OF NORTH AMERICA:

I have received your courteous note of yesterday, in which you ask me for information as to the arrest of the American citizen, Felipe Scandella.

From the results of the investigation ordered for the purpose it having been proved that said Scandella is in complicity with the revolutionists who have so criminally stained with blood the soil of Venezuela, I have been compelled, in fulfillment of my duty, to order the arrest of said citizen, who in open abuse of his prerogatives as a foreigner has entered into negotiations with the disturbers of public order.

This meddling with our political affairs is a grave offense, expressly forbidden by our laws, and the offense is much graver when it consists in taking part against a lawfully constituted government such as exists at present in this country.

These things have been proved against Scandella, and it will not escape your intelligent mind that if it is your duty to lend protection to the citizens of the nation which you so worthily represent in this city, it is no less my duty to carry out the laws of the State over which I preside, and which are clearly pointed out to me in sections 1 and 17 of article 38 of the State Code.

Having thus answered your communication, I must say that in accordance with a resolution of to-day I have notified F. Scandella, through the magistrate of the District Heres, to leave the territory of the State until order is restored.

God and the Federation.

ERNESTO GARCIA.

True copy.

R. CONTASTI LAVEAUX,
The Secretary-General.

UNITED STATES OF VENEZUELA,
GENERAL SECRETARY'S OFFICE,
Ciudad Bolivar, May 9, 1898.

[Eighty-seventh and fortieth.]

Gen. Jose Antonio Baquero, Gen. Luis A. Moreno, and Mrs. Leonarda Alchacoa will appear at the Secretary-General's office to-day at 3 p. m. to testify in an affair of a political nature.

R. CONTASTI LAVEAUX,
The Secretary-General.

Returned summoned.

MORENO AND LEONARDA ALCHACOA.

UNITED STATES OF VENEZUELA,
GENERAL SECRETARY'S OFFICE,
Ciudad Bolivar, May 9, 1898.

[Eighty-seventh and fortieth.]

Gen. Emilio Antonio Santo-domingo will appear at the office of the Secretary-General to-day at 3 p. m. to testify in a case of a political nature.

R. CONTASTI LAVEAUX,
The Secretary-General.

Returned summoned.

CIUDAD BOLIVAR, *May 15, 1898.*

[Eighty-seventh and fortieth.]

True copy of the original.

R. CONTASTI LAVEAUX,
The Secretary-General.

MINISTRY OF FOREIGN AFFAIRS,
DEPARTMENT OF PUBLIC EXTERIOR LAW,
Caracas, June 6, 1898.

True copy of the original process forwarded by the ministry of interior.

MANUEL FOMBONA PALACIO,
The Director.

TITLE IV.

ART. 3. The inviolability of correspondence and all private papers. (When the officer of the jail brutally searched me, took my private papers from my coat pocket, and were not returned.)

ART. 4. The inviolability of the domestic hearth. (By the letter from my wife of May 27 ultimo, says that three days after my expulsion my house was searched by armed policemen with no further formality than the forse. Letter at disposal.)

ART. 5. No person can be kept incommunicated under no reason or pretext. (I was kept incommunicated until my arrival at Trinidad, as proven by my protest before the United States consul at said port and Mr. Henderson's communications.)

ART. 14, part 9. No one can be deprived of his liberty for political causes without previous information and judicial inquiry, from which should result compromised in perturbations of the public order and serving as obstacle to its reestablishment, in such case can not be confined in the same prison with the common offenders, nor continue in prison once the public order is established. (No information nor judicial inquiry was made previous to my arrest, as proved by Mr. Henderson's letter to the President, also my wife's letter to same, requesting that I should be tried by the courts of justice, so that I could defend myself and prove my innocence, but received no satisfaction. This letter was dictated to Mr. R. Henderson. I was locked in jail with criminals, to say assassins, thieves, and madmen (lunatics). The second officer of the jail, who helped to search me and hampered my food, has three criminal cases against him.)

Mr. Day to Mr. Loomis.

No. 143] DEPARTMENT OF STATE,
Washington, June 24, 1898.

SIR: I confirm my telegram of the 23d instant, reading as follows:

No. 146 received. Suggestion informal request immediate relief approved. Venezuela should revoke unjust expulsion. Department can not authorize demand indemnity without proofs.

Respectfully, yours,

WILLIAM R. DAY.

Mr. Loomis to Mr. Day.

[Telegram.]

CARACAS, *June 30, 1898.* (Received 11.06 a. m.)

DAY, *Secretary, Washington:*

President of Venezuela informally offers Scandella $1,600 cash, with full reimbursement of property taken or destroyed by Government and liberty to return. May I settle?

LOOMIS.

Mr. Moore to Mr. Loomis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 30, 1898.

LOOMIS, *Minister, Caracas:*

Accept offer $1,600 cash and full reimbursement property taken or destroyed by Government, with liberty Scandella's formal concurrence in settlement.

MOORE, *Acting.*

Mr. Day to Mr. Loomis.

No. 156.] DEPARTMENT OF STATE,
Washington, July 8, 1898.

SIR: I have to acknowledge the receipt of your No. 156, of the 19th ultimo, inclosing the records in the case of Felipe Scandella, an American citizen, expelled from Venezuela by the authorities of Ciudad Bolivar.

The Department appreciates the successful manner in which you conducted the case, which you were instructed to settle in accordance with the Department's telegram of the 30th ultimo.

Respectfully, yours,

WILLIAM R. DAY.

Mr. Loomis to Mr. Day.

No. 169.] LEGATION OF THE UNITED STATES,
Caracas, July 22, 1898.

SIR: I have the honor to report that in accordance with your cabled instructions I have settled the Scandella claim in the manner suggested in my cable of July 1.

Mr. Scandella has received $1,600 American gold and is to be fully reimbursed by the Venezuelan Government for all of his property which it took or destroyed.

Scandella has left for Cuidad Bolivar carrying with him a personal letter from President Andrade to the authorities there, which ought to guarantee him ample protection. He expects to return to Caracas as soon as he has established those of his losses which are to be made good by the Venezuelan Government.

Mr. Scandella is thoroughly satisfied with this adjustment of the case and I have a formal written statement from him to this effect on file in the legation.

The President personally conducted all the adjustment of this matter with me.

I have, etc.,

JAMES B. LOOMIS.

Mr. Russell to Mr. Hay.

No. 207.] LEGATION OF THE UNITED STATES,
Caracas, November 7, 1898.

SIR: I have the honor to state that the American citizen, Felipe Scandella, whose case was reported to the Department in No. 156, of June 19, has returned to Caracas with another claim against the Government of Venezuela for mules and oxen taken from him during the last revolution.

All the negotiations for the settlement of this case were carried on between this legation and the President, who expressed a desire to arrange the matter without the official intervention of our Government. It was agreed to give Scandella 2,000 pesos in cash, and reimburse him for all property the Government had taken or destroyed. I inclose copies of four documents bearing on the settlement of this case. Mr. Loomis sent the communication of July 11 (inclosure No. 1), which was not answered; on July 12 another communication was sent (inclosure No. 2), and this was answered from the foreign office (inclosure No. 3). I also inclose a copy of the communication of Scandella to Mr. Loomis, wherein the proposition of the President is accepted.

I have had an unofficial interview with the minister of foreign affairs, and he says the Government was under the impression that the incident was closed after Mr. Loomis's letter of July 12 (copy inclosed).

Scandella brought with him from Ciudad Bolivar a number of documents to prove his losses, but they were not in proper shape, and the foreign minister, after inspecting the papers, told Scandella to return to Ciudad Bolivar and get the names of all persons who had entered his premises and taken his property, and by whose orders. Scandella has been very persistent and will press this claim. The Government claims to have abundant proof of Scandella's interference in politics and his complicity in the last revolution, but has not produced anything save the first report in the case, a copy of which was forwarded to the Department.

I shall wait until the alleged proofs arrive from Ciudad Bolivar, and forward all the papers for your inspection, and await instructions in the case.

I have, etc., WILLIAM W. RUSSELL.

[Inclosure 1 in No. 207.]

LEGATION OF THE UNITED STATES,
Caracas, July 11, 1898.

His Excellency JUAN CALCANO MATHIEU,
Minister of Foreign Affairs.

SIR: I have received a letter from F. Scandella, the American citizen who was expelled from Ciudad Bolivar on the 11th of May, 1898, in

which he informed me that the Venezuelan Government proposes to pay him the sum of 2,000 pesos in cash, and reimburse him in ful for all of his property at Ciudad Bolivar which it has taken or destroyed. Mr. Scandella is also to be given a safe conduct to Ciudad Bolivar, or some document assuring him considerate treatment on his arrival there. Mr. Scandella writes me that he agrees, in consideration of the fulfillment of the terms of this proposition, to ask me to withdraw his claim against the Venezuelan Government and to consider the matter settled and the claim quieted.

Will your excellency kindly inform me at your earliest convenience if the proposition of the Venezuelan Government has been correctly stated by Mr. Scandella. If it has been plainly and correctly set forth the matter may be closed immediately.

I take, etc.,

FRANCIS B. LOOMIS.

[Inclosure 2 in No. 207.]

LEGATION OF THE UNITED STATES,
Caracas, July 12, 1898.

His Excellency Señor JUAN CALCANO MATHIEU,
Minister of Foreign Affairs.

SIR: Mr. F. Scandella, the American citizen who was summarily arrested at Ciudad Bolivar about the 11th of last May, writes me that he has entered into an agreement with President Andrade, of a friendly character, by the terms of which he receives satisfaction for the treatment to which he was subjected. Mr. Scandella asks me to withdraw any claim he may have filed in this legation against the Venezuelan Government by reason of his arrest and expulsion from the country.

Will you kindly inform me if this matter has been adjusted privately, in order that I may comply with Mr. Scandella's request.

I take this opportunity to renew to your excellency, etc.

FRANCIS B. LOOMIS.

[Inclosure 3 in No. 207.—Translation.]

MINISTRY OF FOREIGN AFFAIRS,
UNITED STATES OF VENEZUELA,
Caracas, July 13, 1898.

His Excellency FRANCIS B. LOOMIS,
Envoy Extraordinary and Minister Plenipotentiary of the United States.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your communication of yesterday.

This ministry has already been informed that the President of the Republic, as a special act of kindness to Mr. Scandella, has made a private arrangement with him for terminating the incident which caused his absence from Ciudad Bolivar and his coming to this city. I have waited until now to answer your communication in regard to this matter, and it gives me great pleasure to inform you of the satisfactory solution of the Scandella affair, the private arrangement of which puts an end to the discussion which this ministry has been having with your legation.

Mr. Scandella has been here to ask me to express his thanks to the President of the Republic.

I renew, etc., J. CALCANO MATHIEU.

[Inclosure 4 in No. 207.]

Mr. Scandella to Mr. Loomis.

CARACAS, *July 9, 1898.*

SIR: I have been informed by Señor J. C. Mathieu, the minister of foreign affairs, that the Venzuelan Government, in consideration of the treatment to which I was subjected at Ciudad Bolivar on the 10th and 11th of May last, when I was arrested and expelled from the country without due process of law, and for no just or adequate reason, is disposed to pay me the sum of $1,600 and reimburse me for all the property of mine which it took or destroyed.

I am willing to accept these terms, and, if they are at once fulfilled, will ask you, if they meet your approval, to withdraw my claim from the files of the legation.

Truly, yours, F. SCANDELLA.

Hon. FRANCIS B. LOOMIS,
United States Minister.

MISCELLANEOUS.

RED CROSS.

CIRCULAR AND PAPERS RELATING TO THE ADOPTION BY THE UNITED STATES OF THE ADDITIONAL ARTICLES OF THE GENEVA CONVENTION AS A MODUS VIVENDI DURING PRESENT HOSTILITIES WITH SPAIN.

[Circular.]

Geneva Convention (Red Cross)—additional articles thereof as applied to naval warfare, adopted by the United States as a modus vivendi during present hostilities between the United States and Spain.

It is the desire and purpose of the United States in its conduct of war to observe the most humane and enlightened principles in the treatment of the sick, wounded, and dying. It recognizes the very great service rendered to that end by the conference of Geneva, held in the year 1864, which framed certain humane and expedient regulations for the care of the wounded and sick in the field. These were embodied in the convention of August 22, 1864, which has been ratified or adhered to by most of the civilized powers.

In 1868 a second international conference was held at Geneva, when it was proposed that the regulations contained in the original articles concerning military warfare be extended and adapted so far as practicable to war at sea. Fifteen articles, known as the "additional articles of 1868," were proposed, Articles VI to XV of which relate exclusively to marine warfare. In the subsequent discussion of them an amendment to Article IX was proposed by France, and in correspondence between England and France Article X was interpreted and elucidated. These "additional articles," although acceded to by the United States March 1, 1882, subject to promulgation after general exchange of ratifications, have never been formally adopted or ratified by the powers. During the Franco-Prussian war, however, they were adopted as a modus vivendi between the belligerents.

Upon the breaking out of the present hostilities between the United States and Spain, the United States at once commissioned the ambulance ship *Solace* to accompany the Atlantic fleet as a noncombatant hospital ship, to be employed solely to render aid to the sick, wounded, and dying, and to observe in spirit the additional articles of the Geneva Conference.

On the 23d day of April, 1898, this Government was addressed by the Swiss minister at this capital proposing the formal adoption by this Government and by the Government of Spain of the additional articles, as a modus vivendi, during the present hostilities with Spain. The United States Government was readily disposed thereto, and on the 9th day of May sent to the Swiss minister notice of its adoption of the same as a modus vivendi. It has this day been informed by the Swiss minister of a like adoption thereof by the Government of Spain.

For the more complete understanding of the position of the United States with respect to such modus vivendi, the correspondence between the United States and the Swiss Government and between the Departments of State and Navy of this Government are printed hereinafter, and marked Exhibit A.

The additional articles, as amended in Article IX, and with memorandum as to the interpretation given to Article X, together with a translation of the full text of the French letter of interpretation of the 26th of February, 1869, are printed as Exhibit B.

WILLIAM R. DAY.

DEPARTMENT OF STATE, *May 13, 1898.*

EXHIBIT A.

[No. 1.]

The Swiss minister to the Secretary of State.

[Translation.]

SWISS LEGATION,
Washington, April 23, 1898.

MR. SECRETARY OF STATE: War having been now unhappily declared between the United States and Spain, my Government, in its capacity as the intermediary organ between the signatory States of the convention of Geneva, has decided to propose to the cabinets of Washington and Madrid to recognize and carry into execution, as a modus vivendi, during the whole duration of hostilities, the additional articles proposed by the international conference which met at Geneva on October 20, 1868, to the convention of Geneva of August 22, 1864, which (additional articles) extend the effects of that convention to naval wars. Although it has as yet been impossible to convert the said draft of additional articles into a treaty, still, in 1870, Germany and France, at the suggestion of the Swiss Federal Council, consented to apply the additional articles, as a modus vivendi, during the whole duration of hostilities. The Federal Council proposes the additional articles as they have been amended at the request of France and construed by that power and Great Britain.

My Government, while instructing me to make this proposition to your excellency, recall the fact that, on March 1, 1882, the President of the United States declared that he acceded, not only to the Geneva Convention of August 22, 1864, but also to the additional articles of October 20, 1868.

The Spanish Government, likewise, in 1872, declared itself ready to adhere to these articles. The Federal Council, therefore, hopes that the two Governments will agree to adopt the measure, the object of which is to secure the application on the seas of the humane principles laid down in the Geneva Convention.

With the confident expectation of a favorable reply from the United States Government to this proposal, I avail myself, etc.,

J. B. PIODA.

[No. 2.]

The Secretary of State to the Swiss minister.

No. 157.] DEPARTMENT OF STATE,
Washington, April 25, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant, whereby, in view of the condition of war existing between the United States and Spain, you communicate the purpose of your Government to propose to the cabinets of Washington and Madrid that they recognize and carry into execution, as a modus vivendi, during the whole duration of hostilities, the additional articles proposed by the International Conference of Geneva, under date of October 20, 1868, for the purpose of extending to naval wars the effects of the convention of Geneva of August 22, 1864, for the succor of the wounded in armies in the field.

As you note in the communication to which I have the honor to reply, the United States, through the act of the President, did, on the 1st day of March, 1882, accede to the said additional articles of October 20, 1868, at the same time that it acceded to the original convention of Geneva of August 22, 1864; but, as is recited in the President's proclamation of July 26, 1882, a copy of which I inclose herewith, the exchange of the ratifications of the aforesaid additional articles of October 20, 1868, had not then (nor has since) taken place between the contracting parties, so that the promulgation of the accession of the United States to the said additional articles was (and still remains) reserved until the exchange of the ratifications thereof between the several contracting States shall have been effected and the said additional articles shall have acquired full force and effectas an international treaty.

I find, upon examination of the published correspondence which took place in 1870, at the time of the war between France and North Germany (British and Foreign State Papers, vol. 60, pp. 945–946), that upon the initiative of the Prussian minister at Berne, followed by the proposal made by the Government of the Swiss Confederation to the French and North German Governments, the then belligerents severally notified to the Government of Switzerland their willingness to accept provisionally and at once to establish as a modus vivendi applicable to the war then in progress, both by sea and land, all the additional articles to the convention of Geneva of October 20, 1868, together with the subsequent interpretations of the ninth and tenth articles thereof agreed upon and proposed by England and France. I understand from your note that, although those articles have not as yet become a matter of international convention, it is desired that the United States and Spain accede to the same, together with the same amendments and construction as above stated. I entertain no doubt that the United States will readily lend its support and approval to the general purpose of those articles, and be in favor of adopting them as a modus vivendi; it has ever been in favor of proper regulations for the mitigation of the hardships of war. But before it can accede to them as a matter of fact, in the present instance, it must first fully understand the nature and text of the amendments and construction placed upon the articles by France and England as stated by you.

I would respectfully suggest, therefore, that there be furnished to this Government either the text or a clear exposition of the articles, with the amendments and constructions referred to, in order that the understanding may be complete. A certain pamphlet, written by Lieutenant-Colonel Poland in 1886, is said to contain these amendments and constructions, but there is not now accessible to the Department of State a copy of such pamphlet or other reliable means of information on the subject. I shall await with pleasure fuller and exact information from you of the terms to which we are asked to accede.

Accept, etc.,

JOHN SHERMAN.

[No. 3.]

The Swiss Minister to the Secretary of State.

[Translation.]

LEGATION OF SWITZERLAND IN THE UNITED STATES,
Washington, D. C., May 4, 1898.

MR. SECRETARY OF STATE: I have had the honor to receive the note which your honorable predecessor did me the favor of addressing to me under the date of the 25th of April, in reply to mine of the 23d of the same month, upon the subject of the proposition of my Government to the cabinets of Washington and Madrid to adopt as a modus vivendi, pending the entire duration of the war, the articles of the 20th of October, 1868, additional to those of the convention of Geneva of the 22d of August, 1864.

The documents which, in the aforesaid note of your predecessor, were desired and which, as I have had the opportunity of telling you verbally, my Government had sent at the same time that it instructed me by cable to make the overtures on the subject, have just arrived, and I inclose them herein in duplicate copies. They confirm the text of the additional articles, the modification of Article IX proposed by France, and the notes exchanged between England and France concerning the import of Article X. The Spanish Government having, by note of its legation of the 7th of September, 1872, also declared that it was ready to adhere to the articles in question, the Federal Council hopes that the Governments of America and Spain, appreciating the sentiments which have guided it in its course, will be of accord in adopting as a modus vivendi a measure which has for its purpose the securing of the application upon the sea of the humanitarian principles consecrated by the Geneva Convention.

Awaiting your communication to me of the decision which the Government of the United States shall see fit to take in regard to this proposition, I offer you, Mr. Secretary of State, the expression of my very highest consideration.

J. B. PIODA.

[No. 4.]

The Acting Secretary of State to the Secretary of the Navy.

DEPARTMENT OF STATE,
Washington, May 4, 1898.

SIR: I have the honor to inclose herewith copy of the below-mentioned correspondence and papers touching the proposition of the Government of Switzerland, in its capacity as the intermediary organ between the signatory states to the convention of Geneva, that the cabinets of Washington and Madrid recognize and carry into execution, as a modus vivendi, during the duration of hostilities, the additional articles proposed by the International Conference of Geneva, under date of October 20, 1868, for the purpose of extending to naval warfare the effects of the convention of Geneva, of August 22, 1864, for the succor of the wounded in armies in the field.

While these additional articles have never been promulgated by the United States, the fitting out and equipping of the *Solace*, referred to in your Department's General Orders, No. 487, as an ambulance ship for naval service under the terms of the Geneva Convention, is in the direction of their observance, and I submit the proposition of the Swiss Government that they may be recognized and carried into execution as a modus vivendi as deserving of your early attention.

Repectfully, yours,

J. B. MOORE,
Acting Secretary.

[No. 5.]

The Secretary of the Navy to the Secretary of State.

NAVY DEPARTMENT,
Washington, May 7, 1898.

SIR: I have the honor to return herewith inclosures transmitted with your letter of May 4, 1898, referring to the additional articles proposed by the International Conference of Geneva.

Referring to the indorsement of the Surgeon-General of the Navy, a copy of which is herewith inclosed, I would recommend that steps be forthwith taken with the Government of the Swiss Confederation to make the proposed modus vivendi effective during the continuance of the present war between the United States and Spain. For its part, the Government of the United States will observe the conditions of the modus vivendi in the Department of the Navy.

I have, etc.,

JOHN D. LONG,
Secretary.

[Second indorsement.]

No. 40876.] BUREAU OF MEDICINE AND SURGERY,
DEPARTMENT OF THE NAVY,
May 6, 1898.

Subject: State Department, May 4, 1898, modus vivendi, ambulance ship *Solace*, General Orders, No. 487.

Noted, and respectfully returned to Department.

As the ambulance ship *Solace* has been fitted and equipped under the terms of the Geneva Convention, it is earnestly requested that the Department recommend the recognition and carrying into execution as a modus vivendi during the duration of hostilities the additional articles referred to.

The *Solace* is the first government vessel of any nation fitted and equipped under these terms, and it is due to the United States that her status should receive international recognition.

W. K. VAN REYPEN,
Surgeon-General, United States Navy.

[No. 6.]

GENERAL ORDERS, } NAVY DEPARTMENT,
No. 487. } *Washington, April 27, 1898.*

The *Solace* having been fitted and equipped by the Department as an ambulance ship for the naval service under the terms of the Geneva Convention is about to be assigned to service.

The Geneva Cross flag will be carried at the fore whenever the national flag is flown.

The neutrality of the vessel will, under no circumstances, be changed, nor will any changes be made in her equipment without the authority of the Secretary of the Navy.

No guns, ammunition, or articles contraband of war, except coal or stores necessary for the movement of the vessel, shall be placed on board; nor shall the vessel be used as a transport for the carrying of dispatches, or officers or men not sick or disabled, other than those belonging to the medical department.

Information as to the special work for which the *Solace* is intended will be communicated to the commander in chief of the squadron by the Department.

JOHN D. LONG, *Secretary.*

[No. 7.]

The Secretary of State to the Swiss Minister.

No. 159.] DEPARTMENT OF STATE,
Washington, May 9, 1898.

SIR: Upon receiving your note of the 4th instant, in reply to mine of the 25th of April, concerning the proposition of the Government of the Swiss Confederation that the United States and Spain adopt as a modus vivendi, pending the entire duration of the war, the articles of October 20, 1868, additional to those of the convention of Geneva of August 22, 1864, I communicated all the papers in the case to the Secretary of the Navy, calling his attention to the form of the modus vivendi adopted during the Franco-German war, which your Government was pleased to suggest as a precedent to be followed during the existing war. The printed paper you inclose, besides giving the text of the original additional articles of October 20, 1868, contains the correspondence had in 1868 and 1869 concerning the interpretation of Articles IX and X of the said additional convention, and thus establishes the precise nature of the understanding to which France and the North German States, respectively, acceded.

As so expressed, the Government of the United States finds no difficulty in acceding to the suggestion of the Government of Switzerland. It had, in fact, anticipated it, so far as concerns its own conduct of hostilities and its own purpose to observe the humane dictates of modern civilization in the prosecution of warfare upon the sea as well as upon land by fitting out and equipping a special ambulance ship, the *Solace*, in conformity with the terms of the additional convention aforesaid, thus confirming emphatically its adhesion to the principles of that beneficent arrangement without regard to the absence of its formal ratification by the various signatories.

I am happy, therefore, to advise you, and through you the Government of the Swiss Confederation, that the Government of the United States will for its part, and so long as the present war between this country and Spain shall last, treat as an effective modus vivendi the fourteen additional articles of October 20, 1868, with the interpretations of the ninth and tenth articles thereof appearing in the publication you communicate to me. While it is proper to adopt this course on its own account, and without reference to such action as Spain may take, this Government would nevertheless be glad to hear that the representations made by your Government to that of Spain had met with a favorable response, in order that the two parties to the present contest may stand pledged to the same humane and enlightened conduct of naval operations as respects the sick and wounded as was recognized and adopted by the respective parties to the Franco-Prussian war.

Should the Government of Spain likewise accede to the Swiss proposition, I should be much gratified to be apprised of the fact, and also that the Spanish accession contemplates acceptance of the interpretations of Articles IX and X, which were adopted by France and the North German States and which are embraced in the proposition of your Government.

Accept, etc., WILLIAM R. DAY.

[No. 8.]

The Swiss Minister to the Secretary of State.

[Translation.]

SWISS LEGATION IN THE UNITED STATES,
Washington, D. C., May 9, 1898.

MR. SECRETARY OF STATE: As I had the honor verbally to inform the Assistant Secretary of State this morning, my Government has charged me to bring to the knowledge of your excellency that the Spanish Government has accepted the proposition of the Federal Council concerning the additional articles of the Geneva Convention.

I doubt not that your excellency will be pleased very soon to enable me to announce to the Federal Council that the Government of the Union also adheres for its part to the proposed modus vivendi, and in this expectation I offer to your excellency the expression of my very high consideration.

J. B. PIODA.

[No. 9.]

The Secretary of State to the Swiss Minister.

DEPARTMENT OF STATE,
Washington, May 10, 1898.

SIR: I have the honor to acknowledge the receipt of your note of May 9, formally notifying me that the Spanish Government has accepted the proposition of the Federal Council concerning the additional articles of the Geneva Convention, and expressing the hope that you would soon be enabled to inform your Government that the United States Government adheres for its part to the proposed modus vivendi.

As you were advised in the verbal interview with the Second Assistant Secretary of State, to which you refer in your note of the 9th, I have already had the pleasure of informing you, by my official note of that date, that the United States Government would for its part treat as an effective modus vivendi the additional articles of 1868, with the amendments and interpretations of Articles IX and X thereof appearing in the publication communicated to me by you. I trust that that note, which apparently had not reached your hands at the time of your note to me of the same date, has now been received by you and its contents transmitted to the Federal Council.

Be pleased to accept, etc.,

WILLIAM R. DAY.

EXHIBIT B.

[No. 10.]

Additional articles of October 20, 1868, VI to XV.

ARTICLES CONCERNING THE MARINE.

ART. VI. The boats which, at their own risk and peril, during and after an engagement pick up the shipwrecked or wounded, or which having picked them up, convey them on board a neutral or hospital ship, shall enjoy, until the accomplishment of their mission, the character of neutrality, as far as the circumstances of the engagement and the position of the ships engaged will permit.

The appreciation of these circumstances is entrusted to the humanity of all the combatants. The wrecked and wounded thus picked up and saved must not serve again during the continuance of the war.

ART. VII. The religious, medical, and hospital staff of any captured vessel are declared neutral, and on leaving the ship, may remove the articles and surgical instruments which are their private property.

ART. VIII. The staff designated in the preceding article must continue to fulfill their functions in the captured ship, assisting in the removal of the wounded made by the victorious party; they will then be at liberty to return to their country in conformity with the second paragraph of the first additional article.[1]

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[1] ARTICLE I. The persons designated in Article II of the convention shall, after the occupation by the enemy, continue to fulfill their duties, according to their wants, to the sick and wounded in the ambulance or the hospital which they serve. When they request to withdraw, the commander of the occupying troops shall fix the time of departure, which he shall only be allowed to delay for a short time in case of military necessity.

The stipulations of the second additional article[1] are applicable to the pay and allowance of the staff.

ART. IX. The military hospital ships remain under martial law in all that concern their stores; they become the property of the captor, but the latter must not divert them from their special appropriation during the continuance of the war.

[The vessels not equipped for fighting, which, during peace, the Government shall have officially declared to be intended to serve as floating hospital ships, shall, however, enjoy during the war complete neutrality, both as regards stores, and also as regards their staff, provided their equipment is exclusively appropriated to the special service on which they are employed.]

ART. X. Any merchantman, to whatever nation she may belong, charged exclusively with removal of sick and wounded, is protected by neutrality, but the mere fact, noted on the ship's books, of the vessel having been visited by an enemy's cruiser, renders the sick and wounded incapable of serving during the continuance of the war. The cruiser shall even have the right of putting on board an officer in order to accompany the convoy, and thus verify the good faith of the operation.

If the merchant ship also carries a cargo, her neutrality will still protect it, provided that such cargo is not of a nature to be confiscated by the belligerent.

The belligerents retain the right to interdict neutralized vessels from all communication, and from any course which they may deem prejudicial to the secrecy of their operations. In urgent cases special conventions may be entered into between commanders in chief, in order to neutralize temporarily and in a special manner the vessels intended for the removal of the sick and wounded.

ART. XI. Wounded or sick sailors and soldiers, when embarked, to whatever nation they may belong, shall be protected and taken care of by their captors.

Their return to their own country is subject to the provisions of Article VI of the convention and of the additional Article V.[2]

ART. XII. The distinctive flag to be used with the national flag, in order to indicate any vessel or boat which may claim the benefits of neutrality, in virtue of the principles of this convention, is a white flag with a red cross. The belligerents may exercise in this respect any mode of verification which they may deem necessary.

Military hospital ships shall be distinguished by being painted white outside, with green strake.

ART. XIII. The hospital ships which are equipped at the expense of the aid societies, recognized by the governments signing this convention, and which are furnished with a commission emanating from the sovereign, who shall have given express authority for being fitted out, and with a certificate from the proper naval authority that they have been placed under his control during their fitting out and on their

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[1] ART. II. Arrangements will have to be made by the belligerent powers to ensure to the neturalized person, fallen into the hands of the army of the enemy, the entire enjoyment of his salary.

[2] ART. V. In addition to Article VI of the convention, it is stipulated that, with the reservation of officers whose detention might be important to the fate of arms and within the limits fixed by the second paragraph of that article, the wounded fallen into the hands of the enemy shall be sent back to their country after they are cured, or sooner, if possible, on condition, nevertheless, of not again bearing arms during the continuance of the war.

final departure, and that they were then appropriated solely to the purpose of their mission, shall be considered neutral, as well as the whole of their staff. They shall be récognized and protected by the belligerents.

They shall make themselves known by hoisting, together with their national flag, the white flag with a red cross. The distinctive mark of their staff, while performing their duties, shall be an armlet of the same colors. The outer painting of these hospital ships shall be white, with red strake.

These ships shall bear aid and assistance to the wounded and wrecked belligerents, without distinction of nationality.

They must take care not to interfere in any way with the movements of the combatants. During and after the battle they must do their duty at their own risk and peril.

The belligerents shall have the right of controlling and visiting them; they will be at liberty to refuse their assistance, to order them to depart, and to detain them if the exigencies of the case require such a step.

The wounded and wrecked picked up by these ships can not be reclaimed by either of the combatants, and they will be required not to serve during the continuance of the war.

ART. XIV. In naval wars any strong presumption that either belligerent takes advantage of the benefits of neutrality, with any other view than the interest of the sick and wounded, gives to the other belligerent, until proof to the contrary, the right of suspending the convention as regards such belligerent.

Should this presumption become a certainty, notice may be given to such belligerent that the convention is suspended with regard to him during the whole continuance of the war.

ART. XV. The present act shall be drawn up in a single original copy, which shall be deposited in the archives of the Swiss Confederation.

An authentic copy of this act shall be delivered, with an invitation to adhere to it, to each of the signatory powers of the convention of the 22d of August, 1864, as well as to those that have successively acceded to it.

In faith whereof, the undersigned commissaries have drawn up the present project of additional articles and have apposed thereunto the seals of their arms.

[Done at Geneva, the twentieth day of the month of October, of the year one thousand eight hundred and sixty-eight.]

[No. 11.]

NOTE.

(*a*) The amendment proposed by France is contained in brackets after Article IX.

(*b*) The interpretation placed upon Article X by England and France is to the following effect:

The question being raised as to whether, under Article X, a vessel might not avail herself of the carrying of sick or wounded to engage with impunity in traffic otherwise hazardous under the rules of war, it

was agreed that there was no purpose in the articles to modify in any particular the generally admitted principles concerning the rights of belligerents; that the performance of such services of humanity could not be used as a cover either for contraband of war or for enemy merchandise; and that every boat which or whose cargo would, under ordinary circumstances, be subject to confiscation can not be relieved therefrom by the sole fact of carrying sick and wounded.

Question being raised as to whether, under Article X, an absolute right was afforded to a blockaded party to freely remove its sick and wounded from a blockaded town, it was agreed that such removal or evacuation of sick and wounded was entirely subject to the consent of the blockading party. It should be permitted for humanity's sake where the superior exigencies of war may not intervene to prevent, but the besieging party might refuse permission entirely.

The full text of the French interpretation of Article X is subjoined.

[No. 12.]

[Translation.]

NOTE TOUCHING THE INTERPRETATION OF ARTICLE X ADDITIONAL TO THE CONVENTION OF GENEVA.

The second paragraph of the additional Article X reads thus: "If the merchant ship also carries a cargo, her neutrality will still protect it, provided that such cargo is not of a nature to be confiscated by the belligerent."

The words "of a nature to be confiscated by the belligerent" apply equally to the nationality of the merchandise and to its quality.

Thus, according to the latest international conventions, the merchandise of a nature to be confiscated by a cruiser are:

First. Contraband of war under whatever flag.

Second. Enemy merchandise under enemy flag.

The cruiser need not recognize the neutrality of the vessel carrying wounded if any part of its cargo shall, under international law, be comprised in either of these two categories of goods.

The faculty given by the paragraph in question to leave on board of vessels carrying wounded a portion of the cargo is to be considered as a facility for the carriage of freight, as well as a valuable privilege in favor of the navigability of merchant vessels if they be bad sailors when only in ballast; but this faculty can in no wise prejudice the right of confiscation of the cargo within the limits fixed by international law.

Every ship the cargo of which would be subject to confiscation by the cruiser under ordinary circumstances is not susceptible of being covered by neutrality by the sole fact of carrying in addition sick or wounded men. The ship and the cargo would then come under the common law of war, which has not been modified by the convention except in favor of the vessel exclusively laden with wounded men, or the cargo of which would not be subject to confiscation in any case. Thus, for example, the merchant ship of a belligerent laden with neutral merchandise and at the same time carrying sick and wounded is covered by neutrality.

The merchant ship of a belligerent carrying, besides wounded and sick men, goods of the enemy of the cruiser's nation or contraband of war is not neutral, and the ship, as well as the cargo, comes under the common law of war.

A neutral ship carrying, in addition to wounded and sick men of the belligerent, contraband of war also is subject to the common law of war.

A neutral ship carrying goods of any nationality, but not contraband of war, lends its own neutrality to the wounded and sick which it may carry.

In so far as concerns the usage which expressly prohibits a cartel ship from engaging in any commerce whatsoever at the point of arrival, it is deemed that there is no occasion to specially subject to that inhibition vessels carrying wounded men, because the second paragraph of Article X imposes upon the belligerents, equally as upon neutrals, the exclusion of the transportation of merchandise subject to confiscation.

Moreover, if one of the belligerents should abuse the privilege which is accorded to him, and under the pretext of transporting the wounded should neutralize under its flag an important commercial intercourse which might in a notorious manner influence the chances or the duration of the war, Article XIV of the convention could justly be invoked by the other belligerent.

As for the second point of the British Government, relative to the privilege of effectively removing from a city, besieged and blockaded by sea, under the cover of neutrality, vessels bearing wounded and sick men, in such a way as to prolong the resistance of the besieged, the convention does not authorize this privilege. In according the benefits of a neutral status of a specifically limited neutrality to vessels carrying wounded, the convention could not give them rights superior to those of other neutrals who can not pass an effective blockade without special authorization. Humanity, however, in such a case, does not lose all its rights, and, if circumstances permit the besieging party to relax the rigorous rights of the blockade, the besieged party may make propositions to that end in virtue of the fourth paragraph of Article X.

ENTRANCE OF NEUTRAL MEN-OF-WAR INTO BLOCKADED PORTS.

Note to all foreign representatives in Washington.

DEPARTMENT OF STATE,
Washington, July 15, 1898.

SIR: With reference to the blockade maintained by the United States of various ports in Cuba, and of the port of San Juan, Puerto Rico, as well as of any other ports that are now or may hereafter be blockaded by the United States during the war with Spain, I have the honor to suggest that it is desirable that neutral men-of-war, which may wish to enter or to depart from such blockaded ports, should pay due regard to the usual naval observances in such cases. While there is no disposition on the part of this Government to restrict the courteous permission heretofore accorded to neutral men-of-war to enter block-

aded ports, it is advisable that all risk of error or mischance should be avoided by due attention to the rules prescribed by prudence as well as by courtesy. To this end, a neutral man-of-war desiring to enter or to depart from a blockaded port should communicate with the senior officer of the blockading force.

With respect to the port of Habana, it is advisable that neutral men-of-war desiring to enter or to leave that port should, besides observing the above suggestions, approach the port from points between north by west and north by east, and follow the same general course in departing. As the officer commanding the blockading squadron is stationed north of Morro, such a course would enable vessels readily to communicate with him, and thus not only attend to a matter of proper naval ceremonial, but also to avoid the danger of a neutral man-of-war being mistaken for an enemy in the dusk, or in thick weather.

Accept, etc., WILLIAM R. DAY.

Mr. Hengelmüller to Mr. Day.

[Translation.]

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN LEGATION,
Washington, July 23, 1898.

MR. SECRETARY OF STATE: I have the honor, Mr. Secretary of State, to acknowledge, with thanks, the reception of the note of July 15 instant, by which you make known to me the new regulations relative to war vessels of neutral powers entering blockaded ports.

Accept, etc.,

HENGELMÜLLER.

Mr. Assis-Brasil to Mr. Day.

LEGATION OF THE UNITED STATES OF BRAZIL,
Block Island, July 22, 1898.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 15th instant, containing some suggestions respecting the naval observances for neutral men-of-war in ports now blockaded or which may hereafter be blockaded by the American Navy during the war with Spain. I shall transmit a copy of said note to my Government.

Accept, sir, etc., J. F. DE ASSIS-BRASIL.

Señor Infante to Mr. Day.

[Translation.]

CHILEAN LEGATION,
Cape May, N. J., July 19, 1898.

MR. SECRETARY: I have had the honor to receive the note in which your excellency indicates the advisability of duly observing the customary naval rules in case of blockade each time that a neutral vessel

of war may desire to enter or to leave a port blockaded by the American naval forces. Your excellency suggests certain particular observances relative to the port of Habana.

For the due observance of these rules I have hastened to communicate to my Government your excellency's above-mentioned note.

I avail myself of this occasion to renew to your excellency the assurances of my highest consideration.

E. INFANTE.

Mr. Rengifo to Mr. Day.

[Translation.]

LEGATION OF COLOMBIA,
Washington, July 23, 1898.

HONORABLE MR. SECRETARY: I have the honor to acknowledge the reception of your courteous note dated the 15th instant, by which you were pleased, with reference to the blockade by the United States of various ports of Cuba, the port of San Juan, island of Puerto Rico, as well as respecting any other ports that may be blockaded by the United States during the course of the present war with Spain, to submit the rules that it would be desirable to have observed by neutral war vessels on entering or leaving said ports, and with especial regard to the port of Habana the course that is to be followed, on arrival and departure, by the said war vessels.

I take pleasure in saying to you that I have transmitted the aforesaid suggestions to my Government for such effects as may follow.

With sentiments of the highest and most distinguished consideration, etc.

JULIO RENGIFO,
Chargé d'Affaires ad interim.

Mr. Calvo to Mr. Day.

LEGATION OF COSTA RICA,
Washington, July 18, 1898.

SIR: I have the honor to acknowledge the receipt this morning of your excellency's note dated the 15th instant, in which it is suggested with reference to the blockade maintained by the United States of various ports in Cuba and of the port of San Juan, Puerto Rico, and any other ports that may be blockaded by the United States during the war with Spain, that neutral men-of-war which may wish to enter or to depart from such blockaded ports should pay due regard to the usual naval observances in such cases as mentioned therein.

In answer thereto I have the honor to say that the contents of the above communication will be transmitted to the Government of Costa Rica by the next mail.

Be pleased, sir, to accept the renewed assurances of my highest consideration.

J. B. CALVO.

Mr. Brun to Mr. Day.

[Translation.]

DANISH LEGATION,
Bar Harbor, Me., July 20, 1898.

MR. SECRETARY OF STATE: I have the honor to acknowledge reception to your excellency of the note of the 15th instant relative to the admission of neutral vessels of war to Spanish ports blockaded by the United States fleet, and particularly the port of Habana.

I have hastened to transmit a copy thereof to my Government.

Be pleased to accept, Mr. Secretary of State, etc.

C. BRUN.

Mr. Wos y Gil to Mr. Day.

DOMINICAN LEGATION,
New York, July 19, 1898.

SIR: I beg to acknowledge receipt of your communication of the 15th ultimo in reference to rules and suggestions to neutral men-of-war entering or leaving blockaded ports.

I have taken due note and will communicate same to my Government as soon as possible.

Please accept, sir, the renewed assurance of my high consideration.

A. W. Y GIL,
Chargé d'Affaires.

Señor Carbo to Mr. Day.

[Translation.]

ECUADOREAN LEGATION,
Asbury Park, July 23, 1898.

MR. SECRETARY: I have the honor to reply to your esteemed official communication, dated the 15th instant, in which you are pleased to state the desirability that neutral vessels of war, wishing to enter or leave ports now blockaded by the United States, or which may be hereafter blockaded, during the existing war with Spain, shall observe the naval rules established by usage and courtesy, to the end of avoiding any mischance. I am further advised of the particular precautions which neutral vessels of war should take in the port of Habana in order to avoid their being taken for the enemy, by error, in the dusk or in bad weather.

While by the next steamer I shall communicate to my Government these suggestions, I beg you to accept, Mr. Secretary of State, the assurance of my highest consideration.

L. F. CARBO.

Mr. von Holleben to Mr. Day.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, July 20, 1898.

MR. SECRETARY OF STATE: I have the honor to acknowledge your excellency's favor of the 15th instant relative to the entrance of neutral warships into, and their departure from, a blockaded port, and to state that I have informed my Government of its contents.

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

HOLLEBEN.

Sir Julian Pauncefote to Mr. Day.

BRITISH EMBASSY,
New London, Conn., July 18, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant, communicating certain rules to be observed by neutral men-of-war entering or leaving a blockaded port in Cuba or Porto Rico.

I have communicated your note to the Marquis of Salisbury, to the admiral on the Atlantic Station, and to the governor of Jamaica.

I have the honor to be, etc.,

JULIAN PAUNCEFOTE.

Mr. Corea to Mr. Day.

[Translation.]

LEGATION OF THE
GREATER REPUBLIC OF CENTRAL AMERICA,
Washington, D. C., July 18, 1898.

SIR: To-day I have had the honor to receive your esteemed communication of the 15th instant, which refers to the rules to which neutral war vessels should conform that may desire to enter or leave the ports blockaded now or which may be blockaded by the United States during the war with Spain.

I have taken due note of referred-to communication, and by the next mail I shall have the honor to communicate it to my Government.

I reiterate, etc.,

LUIS F. CÓREA.

No. 202.] *Señor Arriaga to Mr. Day.*

[Translation.]

GUATEMALAN LEGATION,
Long Branch, N. J., July 20, 1898.

MR. SECRETARY: By the next mail I shall communicate to the minister of foreign affairs the note of your excellency dated the 15th

instant, relative to neutral vessels of war entering or leaving blockaded ports.

In having the honor to state this to your excellency, I am pleased to renew to you my high consideration.

ANTONIO LAZO ARRIAGA.

Mr. Léger to Mr. Day.

[Translation.]

LEGATION OF THE REPUBLIC OF HAITI,
Deer Park, Md., July 18, 1898.

MR. SECRETARY OF STATE: I have had the honor to receive your note of the 15th instant by which you are pleased to inform me of the forms which the Department of State desire to see observed by vessels of war of neutral powers entering ports of Cuba and Porto Rico, now in a state of blockade, or in leaving said ports.

In thanking you for this communication, which I shall not fail to transmit to my Government, I avail with pleasure of this occasion to renew to you, etc.

J. N. LÉGER.

No. 38.] *Mr. Hoshi to Mr. Day.*

LEGATION OF JAPAN,
Washington, July 19, 1898.

SIR: I have the honor to acknowledge the receipt of your note of the 15th instant, suggesting that, in view of avoiding all risk of error or mischance, due regard should be paid to the usual naval observances by neutral men-of-war which may wish to enter or to depart from any blockaded port in Cuba and in Porto Rico, as well as any other ports that are now or may hereafter be blockaded by the United States during the war with Spain.

In reply I beg to state that I have taken due note of the contents of your communication, and will not fail to notify the authorities concerned.

Accept, etc., TORU HOSHI.

Mr. Pom Ye to Mr. Day.

LEGATION OF KOREA,
Washington, July 18, 1898.

SIR: I have the honor to acknowledge the receipt of your letter of the 15th instant, in regard to the naval observances with reference to the blockade maintained by the United States of Cuban ports, as well as other ports, that the neutral men-of-war wishing to enter or to depart from such blockaded ports should communicate with the senior officer of the blockading force.

Accept, Mr. Secretary, the assurances, etc.

CHIN POM YE.

No. 2.] *Mr. Romero to Mr. Day.*

[Translation.]

MEXICAN LEGATION,
Atlantic City, N. J., July 18, 1898.

MR. SECRETARY: To-day I received your esteemed circular communication dated the 15th of this month, in reference to the rules which should be observed by war vessels of neutral nations entering or leaving ports of Cuba and Porto Rico blockaded by the United States, and particularly with reference to Habana, as also respecting any other ports which the United States may in the future blockade during the war with Spain.

In informing you that I have already transmitted a copy of this circular note to my Government, I am pleased to reiterate, etc.

M. ROMERO.

Mr. de Weckherlin to Mr. Day.

[Translation.]

LEGATION OF THE NETHERLANDS,
New York, July 25, 1898.

MR. SECRETARY OF STATE: I have the honor to acknowledge reception of the communication which you have been pleased to address to me the 15th instant on the subject of the blockade, by the United States of America, of various ports of the island of Cuba, as also of other blockades which have been or will be declared by the United States.

Be pleased to accept, etc. G. DE WECKHERLIN.

Mr. Eguiguren to Mr. Day.

[Translation.]

LEGATION OF PERU,
Washington, July 18, 1898.

SIR: The undersigned, minister of Peru, has the honor to acknowledge receipt of the note of the Honorable Secretary of State, dated the 15th instant, making important suggestions touching the rules which neutral vessels of war wishing to enter or to leave ports which the United States have blockaded or may blockade during the present war with Spain should observe.

The undersigned will transmit to his Government at the first opportunity the above-mentioned communication, and avails himself of this occasion to reiterate, etc.

VICTOR EGUIGUREN.

Mr. de Santo-Thyrso to Mr. Day.

[Translation.]

LEGATION OF PORTUGAL IN THE UNITED STATES,
Mendham, N. J., July 19, 1898.

YOUR EXCELLENCY: I hasten to acknowledge the receipt of the note your excellency did me the honor to write me under the date of the 15th instant in regard to the relations between the American squadrons blockading Spanish ports and the neutral war vessels that may enter or sail from those ports.

While certain that the ships of the Royal Navy will scrupulously observe the rules adopted by international law and the usage of war, I have lost no time in transmitting the note of your excellency to the Government of His Majesty.

I improve this opportunity, etc.

SANTO-THYRSO.

Count Cassini to Mr. Day.

[Translation.]

IMPERIAL RUSSIAN EMBASSY,
Narragansett Pier, July 19/7, 1898.

MR. SECRETARY OF STATE: I have the honor to acknowledge to your excellency the receipt of your note of the 15th July instant, relative to the steps to be taken and the regulations to be observed by the war vessels of the neutral powers which may have occasion to enter one of the ports of Cuba or the port of San Juan de Porto Rico, etc., which are blockaded by the squadrons of the United States.

While I am persuaded that the Imperial Government has already given orders to the commanders of our war vessels to the end of holding them to strict conformity with the established rules and usages in analogous cases, I have duly brought to the knowledge of the Imperial Government, without loss of time, the contents of the official note which your excellency has been pleased to address to me.

Be pleased to accept, etc.

COUNT CASSINI.

Mr. Grip to Mr. Day.

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
Washington, July 16, 1898.

MR. SECRETARY OF STATE: I have the honor to acknowledge receipt of your excellency's note of the 15th instant by which you are pleased to inform me of the forms which the Government of the United States desires to see observed by the neutral vessels of war which are destined for blockaded ports in the island of Cuba and particularly for Habana.

I shall not fail to advise my Government without delay of this important communication.

Be pleased to accept, etc. A. GRIP.

Señor Andrade to Mr. Day.

[Translation.]

LEGATION OF THE UNITED STATES OF VENEZUELA,
Washington, July 16, 1898.

SIR: I have had the honor to receive your excellency's note, dated the 15th instant, relative to forms of courtesy and prudence which the United States would desire should be observed by neutral vessels of war on entering the various ports now blockaded in the islands of Cuba and Puerto Rico—as also those which in the future may be blockaded during the war with Spain—and in departing from such ports.

I shall avail of the first occasion which may offer to inform the minister of foreign affairs of Venezuela of the contents of your above-mentioned note.

I reiterate to your excellency the assurances of my highest consideration.

JOSÉ ANDRADE.

Mr. von Holleben to Mr. Day.

[Translation.]

GERMAN EMBASSY, *Washington, August 26, 1898.*

In connection with my note of the 20th instant, concerning the entrance and departure of neutral vessels of war at a blockaded port, I have the honor, under the instructions of my Government, to inform your excellency respectfully that it considers the wish of the Government of the United States of America to exercise supervision over the movements of the vessels of war of neutral powers at the ports blockaded by American [naval] forces justified in principle. As regards the manner in which this is to be effected, the Imperial Government suggests that as a requisite to every entrance into a blockaded port on the part of a German war vessel the previous consent of the American Government be obtained through the diplomatic channel, and that the commander of the blockading force be notified thereof. In this way direct discussions between the naval commanders on each side as to entering a blockaded port would be avoided.

The commander of the neutral war vessel would be required, in a given case, to approach the blockaded port in such a manner that the commander of the blockading squadron would recognize with certainty, upon the appearance of the neutral vessel in the blockaded belt, her identity with the war vessel of whose coming he had been notified. This would be accomplished by the use of the international signals.

When, in an exceptional case, a neutral war vessel has to enter a blockaded port without previous diplomatic action, her commander would, at the request of the commander of the blockading force, obtain permission to enter by sending an officer to the blockade commander, and in case of refusal would have to submit.

In the opinion of the Imperial Government, no special formalities would be necessary in the case of the departure from a blockaded port, as in such case the identity of the neutral war vessel would be already

known. Besides, it would in many cases be impossible for the vessel coming out to find the commander of the blockading forces or to procure diplomatic intervention.

The Imperial Government likewise declares its willingness to comply with the particular wishes of the United States Government with regard to entrance into and departure from Habana, and the necessary instructions have been given to the commander of the German war vessel now stationed in West Indian waters.

Although, happily, present circumstances are such that the arrangements in question may appear unnecessary for an indefinite time to come, the Imperial Government would nevertheless be glad to know whether the foregoing views and suggestions are acceptable to the United States Government.

Accept, Mr. Secretary of State, etc.,

HOLLEBEN.

Mr. Adee to Mr. von Holleben.

No. 126.] DEPARTMENT OF STATE,
Washington, September 28, 1898.

EXCELLENCY: I had the honor to receive, in due course, your note of the 26th ultimo, in which, supplementing your previous note of the 20th of that month, concerning the entrance and departure of neutral vessels of war at a blockaded port, you informed me that your Government considered the wish of the Government of the United States of America to exercise supervision over the movements of vessels of war of neutral powers at the ports blockaded by American naval forces as justified in principle. As regards the details of such supervision and the manner in which notification of blockade and facilitation of entrance and departure are to be effected you add certain observations which have had careful consideration, although, as you yourself observe, present circumstances are such that the arrangements in question may appear unnecessary for an indefinite time to come and elucidation of the question may have no immediate practical application.

After consultation with the Secretary of the Navy, I am pleased to be able to inform you that the views of this Department coincide with the suggestions contained in your note defining the appropriate procedures and formalities as follows:

1. That a prerequisite of the entrance of a neutral vessel of war into a blockaded port, unless in a case of exceptional urgency, should be the consent of the Government establishing the blockade, obtained through the usual diplomatic channels.

2. The approach of the blockaded port in such a manner that the senior officer of the blockading squadron would recognize with certainty upon the appearance of a neutral vessel in the blockaded belt her identity with the war vessel of whose coming he had been notified.

3. In such exceptional cases as prevent permission being previously obtained through the usual diplomatic channels, the decision to rest with the senior officer present of the blockading squadron.

4. No special formalities in connection with the departure of neutral vessels of war from a blockaded port are requisite other than may be

necessary to identify the vessel leaving the port as a neutral, the arrangements concerning the same to be agreed upon between the commanding officer of the blockading squadron and the commanding officer of the vessel in the blockaded port.

Be pleased, etc., ALVEY A. ADEE,
Acting Secretary.

CIRCULARS TO THE UNITED STATES REPRESENTATIVES ABROAD.—WAR WITH SPAIN.

[Circular—Confidential.]

DEPARTMENT OF STATE,
Washington, April 15, 1898.

SIR: I append for your information copy of a circular instruction sent to-day to the United States consuls in maritime ports, directing them to watch and report the movements of Spanish ships of war and of all suspicious vessels.

Inasmuch as Spain has not adhered to the first article of the declaration subscribed by the signatories of the treaty of Paris of 1856, by which privateering was abolished, there may be reason to apprehend that, in the event of the present strained situation between the United States and Spain resulting in war, the Spanish Government may endeavor to resort to privateering as a means of increasing its offensive sea power. The inclosed instruction has especial reference to this contingency. It is expected that the vigilance of the consular officers will, the case arising, be efficiently supplemented by your own instant action in notifying the Government to which you are accredited of any information you may receive showing or reasonably suggesting that any vessel in a port of that country is being, or is proposed to be, fitted out for service as a privateer against the United States; and in such case you will ask that due diligence be employed to prevent any infringement of international law or of the laws of neutrality. Should the facts reported to you by the consul appear to require further evidence to support a remonstrance on your part, you will at once instruct the consul, by telegraph if need be, as to his duty in the premises.

In the event of any action by you in the sense of this instruction becoming necessary, you will fully advise the Department, using the telegraph if the matter be urgent or important.

Respectfully yours, JOHN SHERMAN.

(To all United States legations abroad.)

[Inclosure—Confidential.]

DEPARTMENT OF STATE,
Washington, April 15, 1898.

To the Consular Officers of the United States.

GENTLEMEN: You are hereby instructed to keep a sharp lookout for the arrival and departure of Spanish war ships or other suspicious vessels that may possibly be fitting out as privateers, and to telegraph

at once to the Department full information in the matter when in your discretion it seems of sufficient importance. In the case of suspected privateers you will also inform the diplomatic representative of the United States, if there be one in your country, in order that he can make proper representations to the Government, with a view of preventing the vessel's departure, if possible. If there be no diplomatic representative in the country where you are stationed, or if you be in a colonial dependency, like representations should at once be made through the consul-general, if there be one, or if not, by you directly to the local authority. You will also be alert to catch anything that will be of interest or value in case hostilities begin, and keep the Department fully advised.

All consuls will be expected to remain at their posts during the continuance of the present conditions, and leaves of absence will only be granted in very exceptional cases and for reasons of the greatest urgency.

Respectfully yours,

WILLIAM R. DAY,
Assistant Secretary.

DEPARTMENT OF STATE,
Washington, April 18, 1898.

SIR: I transmit herewith copies of each of the following documents:

1. House Doc. No. 405, Fifty-fifth Congress, second session, being the message of the President to Congress on the relations of the United States to Spain by reason of the warfare in the island of Cuba;[1]

2. Senate Doc. No. 230, same Congress and session, containing the reports of the United States consular officers respecting the condition of the reconcentrados in Cuba, the state of war in that island, and the prospects of the projected autonomy; and[1]

3. Senate Report No. 885, same Congress and session, being the report of the Committee on Foreign Relations of the Senate relative to affairs in Cuba.[1]

These documents fully present the facts touching the situation in Cuba and show the reasons for the present attitude of this Government toward the question.

In addition to the copies now sent you a copy of each of the first two mentioned documents were mailed to you a few days ago without an accompanying dispatch.

Respectfully yours,

JOHN SHERMAN.

(To all United States legations abroad.)

DEPARTMENT OF STATE,
Washington, April 25, 1898.

SIR: I confirm my telegram of the 22d instant, reading as follows:

In the event of hostilities between the United States and Spain the policy of this Government will be not to resort to privateering, but to adhere to the following recognized rules of international law:

First. The neutral flag covers enemy's goods, with the exception of contraband of war;

[1] Not printed.

Second. Neutral goods, with the exception of contraband of war, are not liable to capture under an enemy's flag, and

Third. Blockades in order to be binding must be effective.

Respectfully yours,

JOHN SHERMAN.

(To all United States legations abroad.)

DEPARTMENT OF STATE,
Washington, April 25, 1898.

SIR: In connection with my telegram of the 22d instant, a copy of which is appended on the overleaf, I inclose herewith three copies of the President's proclamation[1] announcing the institution of a blockade of the north coast of Cuba between Cardenas and Bahia Honda, and the port of Cienfuegos, on the south side of the island.

Respectfully yours,

JOHN SHERMAN.

(To all United States legations abroad.)

[Inclosure—Telegram.]

DEPARTMENT OF STATE,
Washington, April 22, 1898.

By proclamation to-day, under resolution of Congress approved 20th, President announces blockade of ports on north side of Cuba between Cardenas and Bahia Honda; also Cienfuegos, south side. Notify minister for foreign affairs.

SHERMAN.

(To all United States legations abroad.)

DEPARTMENT OF STATE,
Washington, April 28, 1898.

SIR: In connection with the Department's telegram of the 25th instant, confirmed on the overleaf, I inclose herewith six copies of a proclamation[2] by the President touching the existence of war between the United States and Spain.

You will communicate one copy to the Government to which you are accredited.

Respectfully yours,

J. B. MOORE,
Acting Secretary.

(To all United States legations abroad.)

[Inclosure—Telegram.]

DEPARTMENT OF STATE,
Washington, April 25, 1898.

A joint resolution of Congress, approved April 20, directed intervention for the pacification and independence of the island of Cuba. The Spanish Government on April 21 informed our minister at Madrid

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[1] Proclamation printed, p. 769.

[2] Printed, p. 772.

that it considered this resolution equivalent to a declaration of war, and that it had accordingly withdrawn its minister from Washington and terminated all diplomatic relations. Congress has therefore, by an act approved to-day, declared that a state of war exists between the two countries since and including April 21. You will inform the Government to which you are accredited, so that its neutrality may be assured in the existing war.

SHERMAN.

(To all United States legations abroad.)

DEPARTMENT OF STATE,
Washington, May 5, 1898.

SIR: I inclose for your information two copies of the instructions issued by the Treasury Department for the guidance of collectors of customs and others in the clearance of vessels and shipments therein during the war with Spain.

Respectfully yours,

J. B. MOORE,
Acting Secretary.

(To all United States legations abroad.)

[1898.—Treasury Department Circular, No. 72, Bureau of Navigation.]

Clearance of vessels and shipments therein during the war with Spain.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., April 27, 1898.

To Collectors of Customs and others:

Your attention is directed to the following act of Congress, approved April 28, 1898, entitled "An act declaring that war exists between the United States of America and the Kingdom of Spain":

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

"First. That war be, and the same is hereby, declared to exist, and that war has existed since the twenty-first day of April, anno Domini eighteen hundred and ninety-eight, including said day, between the United States of America and the Kingdom of Spain.

"Second. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States to such extent as may be necessary to carry this act into effect."

The following instructions are issued for your guidance:

First. Clearance will be refused to any vessel for a port or place blockaded by the United States. (The President, on April 25th, proclaimed a blockade of the north coast of Cuba, including ports on said coast between Cardenas and Bahia Honda and the port of Cienfuegos on the south coast of Cuba.)

Second. Clearance will be refused to any vessel carrying goods which are contraband of war for any Spanish port.

Third. Clearance will be refused to any vessel carrying coal for any Spanish port.

Fourth. Clearance will be refused to any American vessel for any Spanish port.

Fifth. Up to and including May 21, 1898, clearance will be granted to any Spanish merchant vessel now in any port or place of the United States for any foreign port, except a port blockaded by the United States, provided that such vessel shall not have on board any officer in the military or naval service of Spain, or any coal (except such as may be necessary for the voyage), or any other article prohibited or contraband of war, or any dispatch of or to the Spanish Government. Collectors will issue a certificate to any such vessel on clearance, reciting that said vessel has complied with

the provisions of the proclamation of the President of the United States, signed April 26, 1898, and by virtue of that proclamation is entitled to continue her voyage if met at sea by any United States ship, except to a blockaded port. To the certificate shall be attached a copy of the proclamation aforesaid.

Clearance in ballast will be granted to any Spanish merchant vessel which, prior to April 21, 1898, shall have sailed from any foreign port bound for any port or place in the United States, as soon as her cargo is discharged, for any foreign port, except a port blockaded by the United States, provided such vessel shall not have on board any officer in the military or naval service of Spain, or any dispatch of or to the Spanish Government. Collectors will issue a certificate to any such vessel on clearance, reciting that said vessel has complied with the provisions of the proclamation of the President of the United States, signed April 26, 1898, and by virtue of that proclamation is entitled to continue on her voyage if met at sea by a United States ship, except to a blockaded port. To the certificate shall be attached a copy of the proclamation aforesaid.

Sixth. Clearance will be granted to any American or neutral vessel destined for a neutral port, with a cargo also destined for a neutral port, without regard to the kind of cargo, on compliance with the provisions of law.

Where officers of customs have reason to believe that coal or articles considered contraband of war are destined for the use of enemies of the United States, clearance will be withheld until a report has been forwarded to, and instructions issued by the Department.

Seventh. Clearance will be issued in all other cases in compliance with the provisions of law.

Eighth. Collectors in doubt in any particular application for clearance will telegraph promptly the facts to the Department and withhold clearance until instructed.

Ninth. The Department declines to give general advice to masters and owners of vessels, shippers, consignees, etc. Any specific case requiring action by the Department must be submitted by those concerned to the proper officer of the customs, who, if in doubt, will communicate with the Department and await instructions before taking action.

O. L. SPAULDING, *Acting Secretary.*

DEPARTMENT OF STATE,
Washington, May 5, 1898.

SIR: I inclose two copies of a general order of the Navy Department in regard to the service assigned to the *Solace* as an ambulance ship.

Respectfully,

J. B. MOORE,
Acting Secretary.

(To all United States legations abroad.)

GENERAL ORDERS, }
No. 487. }

NAVY DEPARTMENT,
Washington, April 27, 1898.

The *Solace* having been fitted and equipped by the Department as an ambulance ship for the naval service under the terms of the Geneva convention is about to be assigned to the service.

The Geneva cross flag will be carried at the fore whenever the national flag is flown.

The neutrality of the vessel will under no circumstances be changed, nor will any changes be made in her equipment without the authority of the Secretary of the Navy.

No guns, ammunition, or articles contraband of war, except coal or stores necessary for the movement of the vessel shall be placed on board; nor shall the vessel be used as a transport for the carrying of dispatches, or officers or men not sick or disabled, other than those belonging to the medical department.

Information as to the special work for which the *Solace* is intended will be communicated to the commander in chief of the squadron by the Department.

JOHN D. LONG, *Secretary.*

[Circular.]

DEPARTMENT OF STATE,
Washington, May 12, 1898.

To the Diplomatic Officers of the United States:

GENTLEMEN: At the request of the Secretary of War and in view of the inquiries which have been made and are being made at the embassies and legations of the United States by officers of foreign armies who wish to take service in the American Army in the present war with Spain, you are instructed to notify such persons that the United States Government does not find it practicable to avail itself of their offer for the following reasons:

The Regular Army is now officered exclusively by natives or naturalized citizens of the United States, and aliens are not allowed to enlist as private soldiers.

The officers of the volunteer forces are appointed by the governors of the several States, and the General Government could not consistently recommend the appointment of foreign officers in the State troops when they are debarred from the Regular Army.

Respectfully yours,

WILLIAM R. DAY.

[Circular.]

DEPARTMENT OF STATE,
Washington, May 17, 1898.

SIR: I inclose herewith three copies of a circular[1] and papers relating to the adoption by the United States of the additional articles of the Geneva convention as a modus vivendi during the present hostilities with Spain.

You will furnish one copy to the minister of foreign affairs.

Respectfully, yours,

WILLIAM R. DAY.

(To all United States legations abroad.)

DEPARTMENT OF STATE,
Washington, May 31, 1898.

SIR: I inclose herewith for your information a copy of Advance Sheets of Consular Reports[2] for May 16, 1898, containing translations of the war decrees of Spain.

Respectfully, yours, WILLIAM R. DAY.

(To all United States legations abroad.)

[Consular.]

DEPARTMENT OF STATE,
Washington, June 16, 1898.

To the Diplomatic Officers of the United States.

GENTLEMEN: In connection with the Department's circular instruction of the 12th ultimo, concerning the exclusion of foreigners from

[1] Circular printed, p. 1107. [2] Printed p. 774.

the military service of the United States, I append herewith, for your information and guidance, copy of a letter from the Secretary of the Navy on the subject of enlistment in the United States Navy.

Respectfully yours,

WILLIAM R. DAY.

[Inclosure.]

The Acting Secretary of the Navy to the Secretary of State.

NAVY DEPARTMENT,
Washington, June 1, 1898.

SIR: Referring to your letter of the 27th ultimo, requesting to be furnished with such information regarding enlistments in the United States Navy as can be incorporated in the circular which it is proposed to send to the representatives of the United States abroad, embodying the law and regulations on the subject of enlistments, I have the honor to inclose herewith a copy of a letter from the Chief of the Bureau of Navigation on this subject.

I have the honor to be, sir, very respectfully,

CHAS. H. ALLEN,
Acting Secretary.

[Subinclosure.]

Chief of the Bureau of Navigation to the Secretary of the Navy.

BUREAU OF NAVIGATION, NAVY DEPARTMENT,
Washington, D. C., June 1, 1898.

SIR: 1. Referring to the letter from the Department of State, dated May 27, 1898, the Bureau has the honor to inform you that all persons enlisted for the United States Navy have to be enlisted by regular naval recruiting officers at permanent or temporary recruiting stations in the United States; and by the commanding officers of vessels cruising on foreign stations in time of peace. During war no one can be recruited in a foreign country.

2. Certain aliens, who declare their intentions of becoming naturalized citizens, and, in exceptional cases, those who do not, are enlisted, provided they can understand the English language sufficiently well for receiving instructions. There is no fund for paying traveling and other expenses before enlistments are made.

3. If aliens are enlisted, they are eligible to any position for which they can qualify, but the customs and regulations of the service have been that only men of long and continued service receive the higher ratings; and it is the opinion of the Bureau that not even a citizen of the United States residing abroad can enlist in time of war without coming to the United States, unless neutrality laws are violated.

* * * * * * *

Very respectfully,

A. S. CROWNINSHIELD,
Chief of Bureau.

[Circular.]

DEPARTMENT OF STATE,
Washington, June 30, 1898.

SIR: In connection with my telegram of the 29th instant, which I confirm on the overleaf, I inclose herewith three copies of the President's proclamation[1] announcing the institution of blockade of all the

[1] Proclamation printed p. 774.

ports on the south coast of Cuba, from Cape Frances to Cape Cruz, inclusive, and also of the port of San Juan, Puerto Rico.

One copy may be communicated to the minister for foreign affairs.

Respectfully yours,

J. B. MOORE,
Acting Secretary.

(To all United States legations abroad.)

[Inclosure—Telegram.]

DEPARTMENT OF STATE,
Washington, June 29, 1898.

In addition to blockade of ports specified in his proclamation of April 22, 1898, President, by proclamation dated June 27, announces blockade of all the ports on the south coast of Cuba from Cape Frances to Cape Cruz, inclusive; also San Juan, Puerto Rico. Notify minister for foreign affairs.

MOORE, *Acting.*

[Circular.—Confidential.]

DEPARTMENT OF STATE,
Washington, July 1, 1898.

To the Diplomatic and Consular Officers of the United States.

GENTLEMEN: This Government is in receipt of information that ships carrying the Spanish flag have been, or are about to be, furnished with British or other neutral papers upon colorable transfers of ownership, made for the purpose of avoiding belligerent capture. It is desired that any such cases coming to your notice should receive your immediate attention, and that steps should be taken to prevent the colorable and void transfers of vessels under the Spanish flag to a neutral flag.

You will promptly report your action in such case to this Department.

Respectfully yours,

WILLIAM R. DAY.

[Circular.]

DEPARTMENT OF STATE,
Washington, August 18, 1898.

SIR: I append on the overleaf copy of the Department's telegram of the 12th instant, advising you of the signing of a protocol concluding the preliminaries of peace with Spain, and inclose herewith for your information, two copies of the President's proclamation[1] suspending hostilities thereunder.

Respectfully, yours,

J. B. MOORE,
Acting Secretary.

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[1] Proclamation, printed p. 830.

[Inclosure—Telegram.]

DEPARTMENT OF STATE,
Washington, August 12, 1898.

A protocol signed to-day by representatives of the United States and Spain concludes the preliminaries of peace. Spain relinquishes sovereignty to and evacuates Cuba; evacuates and cedes Puerto Rico and other islands in the West Indies and cedes an island in the Ladrones to be selected by the United States. The United States occupies and holds city, harbor and bay of Manila pending the negotiation of treaty of peace which shall determine the control, disposition, and government of the Philippine Islands. Hostilities are forthwith suspended pending execution of these terms. Plenipotentiaries not more than five on each side will meet at Paris on or before October 1 to conclude definitive treaty of peace.

DAY.

(To all United States legations abroad.)

CIRCULARS TO THE UNITED STATES LEGATIONS—INTERNATIONAL POSTAL CONGRESS.

DEPARTMENT OF STATE,
Washington, April 21, 1898.

SIR: You are instructed to notify the Government of the [Argentine Republic] that, as required by Article VI of the final protocol of the postal congress held at Washington in June last, the Government of the United States has received, through Dr. Hendrik Pieter Nicolaus Muller, the consul-general of the Orange Free State at the Hague and special commissioner of his Government for this purpose, the declaration of the adhesion of the Orange Free State to the Universal Postal Convention signed at Washington on June 15, 1897, as provided for in Article IV of the said final protocol.

The declaration is made with the understanding that:

(*a*) In the table inserted in Article IV of the Regulations of Execution mentioned *sub numero* 1, the equivalents shall be fixed for the Orange Free State as follows: At 2½ pence for 25 centimes; at 1 penny for 10 centimes; at one-half penny for 5 centimes.

(*b*) In paragraph 5 of Article XXXIV of the same regulations the Orangé Free State shall be placed in the sixth class as regards its quota of the expenses of the International Bureau.

Respectfully yours,

JOHN SHERMAN.

(To all United States legations abroad.)

[Circular.]

DEPARTMENT OF STATE,
Washington, July 15, 1898.

SIR: You are instructed to notify the Government of [———] that the convention and arrangements concluded on June 15, 1897, by the International Postal Congress held at Washington, have been ratified as follows:

Belgium.—Convention postale universelle. Arrangement concernant l'échange des lettres et des boîtes avec valeur déclarée. Arrange-

ment concernant le service des mandats de poste. Convention concernant l'échange des colis postaux. Arrangement concernant le service des recouvrements. Arrangement concernant l'intervention de la poste dans les abonnements aux journaux et publications périodiques.

Grand Duchy of Luxemburg.—Convention postale universelle. Arrangement concernant l'échange des lettres et des boîtes avec valeur déclarée. Arrangement concernant le service des mandats de poste. Convention concernant l'échange des colis postaux. Arrangement concernant le service des recouvrements. Arrangement concernant l'introduction des livrets d'identité dans le traffic postal international. Arrangement concernant l'intervention de la poste dans les abonnements aux journaux et publications périodiques.

Great Britain.—Convention postale universelle.

Independent State of the Kongo.—Convention postale universelle.

India.—Convention postale universelle. Convention concernant l'échange des colis postaux.

Mexico.—Convention postale universelle. Arrangement concernant l'introduction des livrets d'identité dans le traffic postal international.

Netherlands (for the Kingdom alone).—Arrangement concernant l'échange des lettres et des boîtes avec valeur déclarée. Arrangement concernant l'intervention de la poste dans les abonnements aux journaux et publications périodiques.

Netherlands (for the Kingdom and the Colonies).—Convention postale universelle. Arrangement concernant le service des mandats de poste. Convention concernant le service des colis postaux.

Netherlands (for the Kingdom and the Dutch East Indies).—Arrangement concernant le service des recouvrements.

Switzerland.—Convention postale universelle. Arrangement concernant l'échange des lettres et des boîtes avec valeur déclarée. Arrangement concernant le service des mandats de poste. Convention concernant l'échange des colis postaux. Arrangement concernant le service des recouvrements. Arrangement concernant l'introduction des livrets d'identité dans le traffic postal international. Arrangement concernant l'intervention de la poste dans les abonnements aux journaux et publications périodiques.

United States.—Convention postale universelle.

You are instructed to say at the same time that, following the procedure observed in the cases of the acts of the Vienna Postal Congress, the Government of the United States has not in view the real exchange of the ratifications of the conventions and arrangements of the Washington Congress; but that the instruments of ratifications will be kept in the archives of the Department of State and due notice of their receipt sent, as in the present instance, to each of the signatory States.

Respectfully, yours,

WILLIAM R. DAY.

(To all United States representatives abroad.)

DEPARTMENT OF STATE,
Washington, September 29, 1898.

SIR: You are instructed to inform the Government of the [———] that Mr. Wos y Gil, chargé d'affaires of the Dominican Republic in the United States, has, under date of September 26, 1898, and by the direction of his Government, formally notified the Government of the

United States of the adhesion of the Dominican Republic to the Universal Postal Convention signed at Washington on June 15, 1897, as provided for in Article IV of the final protocol.

Respectfully yours,

ALVEY A. ADEE,
Acting Secretary.

(To all legations abroad. See Austria and Switzerland record for difference in text.)

[Circular.]

DEPARTMENT OF STATE,
Washington, October 1, 1898.

SIR: You are instructed to notify the Government of the [Argentine Republic] that the following instruments of ratification of the acts of the Washington Postal Congress have been deposited in this Department in addition to those mentioned in my predecessor's unnumbered instruction to you of July 15 last:

France and the French colonies.—Convention postale universelle. Arrangement concernant l'échange des lettres et des boîtes avec valeur déclarée. Convention concernant l'échange des colis postaux.

France (alone).—Arrangement concernant le service des mandats de Poste. Arrangement concernant le service des recouvrements. Arrangement concernant l'introduction des livrets d'identité dans le trafic postal international.

France (for the regency of Tunis).—Convention postale universelle. Arrangement concernant l'échange des lettres et det boîtes avec valeur déclarée. Arrangement concernant le service des mandats de poste. Convention concernant l'échange des colis postaux. Arrangement concernant le service des recouvrements. Arrangement concernant l'introduction des livrets d'identité dans le trafic postal international.

Germany and the German protectorates.—Convention postale universelle. Arrangement concernant l'échange des lettres et des boîtes avec valeur déclarée. Arrangement concernant le service des mandats de poste. Convention concernant l'échange des colis postaux. Arrangement concernant le service des recouvrements. Arrangement concernant l'intervention de la poste dans les abonnements aux et publications périodiques.

Siam.—Convention postale universelle. Arrangement concernant le service des mandats de poste. Convention concernant l'échange des colis postaux.

Sweden and Norway.—Convention postale universelle. Arrangement concernant l'échange des lettres et des boîtes avec valeur déclarée. Arrangement concernant le service des mandats de poste. Convention concernant l'échange des colis postaux. Arrangement concernant le service des recouvrements. Arrangement concernant l'intervention de la poste dans les abonnements aux journaux et publications périodiqes.

Venezuela.—Convention postale universelle. Convention concernant l'échange des colis postaux. Arrangement corcernant l'introduction des livrets d'identité dans le trafic postal international.

I am, etc.,

JOHN HAY.

(To all United States representatives abroad.)

DEPARTMENT OF STATE,
Washington, December 17, 1898.

To the diplomatic officers of the United States.

GENTLEMEN: Referring to the Department's unnumbered instruction of July 15 last, giving modifications of the deposit in its archives of certain instruments of ratification of the acts of the Washington Postal Congress, I have to inform you that, by a note dated the 13th instant, the British ambassador at Washington, under instructions from his Government, and to remove all uncertainty in the matter, advises the Government of the United States that the ministerial approval of Great Britain of the Postal Union Convention, the final protocol, and the detailed regulations signed at Washington on June 15, 1897, by the delegates from that country appointed to attend the Postal Union Congress held in this city, implies, in accordance with precedent, equal ministerial approval on behalf of those British colonies which the imperial post-office represents in the affairs of the union—that is to say, all the British colonies belonging to the union, except India, Canada, the Cape Colony, Natal, and the Australian colonies.

You will communicate this information to the government to which you are accredited.

I am, etc.,

JOHN HAY.

DEPARTMENT OF STATE,
Washington, December 22, 1898.

To the diplomatic officers of the United States.

GENTLEMEN: I have to advise you that the following instruments of ratification of the acts of the Washington Postal Congress have been deposited in this Department in addition to those mentioned in its instructions of July 15 and October 1 last:

Denmark and the Danish colonies.—Convention postal universelle. Arrangement concernant l'échange des lettres et des boîtes avec valeur déclarée. Arrangement concernant le service des mandats de poste. Convention concernant l'échange des colis postaux. Arrangement concernant l'introduction de la poste dans les abonnements aux journaux et publications périodiques.

Portugal and the Portuguese colonies—Convention postale universelle. Arrangement concernant l'échange des lettres et des boîtes, avec valeur déclarée. Arrangement concernant le service des mandats de poste. Convention concernant l'échange des colis postaux. Arrangement concernant le service de recouvrements. Arrangement concernant l'introduction des livrets d'identité dans le trafic postal international.

The Department is advised by the Portuguese minister at Washington that his Government is not at present in a position to ratify the "Arrangement concernant l'introduction de la poste dans les abonnements aux journaux et publications périodiques," but that as soon as the Portuguese postal administration is able to comply with its requirements it will notify the central bureau at Berne.

The Department is also in receipt of a note from the minister of foreign affairs of Montenegro, dated November 17, 1898, whereby notice

is given of the adhesion of the Government of that country to the principal convention and to the regulations for its execution.

You will communicate the substance of this instruction to the Government to which you are accredited.

I am, gentlemen, etc.,

DAVID J. HILL,
Acting Secretary.

DEPARTMENT OF STATE,
Washington, December 30, 1898.

To the diplomatic officers of the United States.

GENTLEMEN: I have to inform you that, in addition to the instruments of ratification of the acts of the Washington Postal Congress, notification of the deposit of which with the Government of the United States has heretofore been given, I have received through the minister of Korea at this capital the instruments of ratification by his Government of the principal convention, signed on June 15, 1897.

I am advised, however, by a telegram from the minister of the United States at Seoul that the Korean Government can not put the convention into execution for twelve months.

The Department has also received information through the diplomatic channel of the intention of the following Governments, whose instruments of ratification have not yet reached it, to put the convention into execution on January 1, 1899:

Argentine Republic, Bulgaria, Chile, Costa Rica, Egypt, Greece, Haiti, Japan, New Zealand, Persia, Peru, Roumania, Russia, Servia, and the South African Republic.

The Governments of Colombia, Italy, and Guatemala report they will not be able to ratify the convention for a month or two.

You are instructed to communicate this information to the Government of which you are accredited.

I am, etc.,

JOHN HAY.

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