

SIAM.

ARBITRATION OF THE CLAIM OF M. A. CHEEK AGAINST THE SIAMESE GOVERNMENT.¹

To the Senate:

I transmit herewith, in response to the resolution of the Senate of February 24, 1897, a report from the Secretary of State in relation to the claim of M. A. Cheek against the Siamese Government, with accompanying papers.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, March 2, 1897.

The PRESIDENT:

In answer to the resolution of the Senate, dated February 24, 1897, requesting that that body be furnished with "all the information in possession of the Department of State relating to the claim of M. A. Cheek against the Siamese Government," I have the honor to say that the correspondence on file in this Department relating to the claim of M. A. Cheek against Siam is so voluminous that it is physically impossible to place copies of it before the Senate during the continuance of the present session. There are not less than 2,000 pages of typewritten matter. The resolution, moreover, does not call specifically for correspondence, but for information. I submit, therefore, as a substitute for the full correspondence, a brief synopsis of the case, together with copies of the most recent communications that have passed between the two Governments:

SYNOPSIS.

April 23, 1889, Dr. M. A. Cheek, a citizen of the United States, residing in Siam, entered into the following agreement with Prince Warawan Nakorn, who represented the Government of Siam:

First. That His Royal Highness Prince Warawan Nakorn agrees to advance to Dr. M. A. Cheek the sum of 600,000 ticals to be used in the working of teak forests and the purchasing of teak wood.

Second. That Dr. M. A. Cheek shall, by the way of security, execute a bill of sale mortgage in favor of His Royal Highness Prince Warawan Nakorn on all teak wood now belonging to Dr. M. A. Cheek, according to a schedule accompanying this agreement, and on all teak wood which may be worked or purchased by him during the currency of this agreement; also on 76 elephants now belonging to Dr. Cheek and on all elephants which may be purchased by, or which may become the property of, Dr. M. A. Cheek during the currency of this agreement. Dr. Cheek shall pay to His Royal Highness Prince Warawan Nakorn interest at the rate of 7½ per cent per annum on all moneys advanced to him by His Royal Highness Prince Warawan Nakorn.

¹ Papers up to February 27, 1897, inclusive, reprinted from Senate Doc. No. 180, Fifty-fourth Congress, second session.

Third. That Dr. Cheek will deliver at Bangkok, at an estimated price of 3 pikot, all wood which may be worked or purchased by him; upon the arrival of the wood at Bangkok the estimated price of 3 pikot shall be released and Dr. Cheek may at any time after such delivery draw from His Royal Highness Prince Warawan Nakorn the amount of money so released for carrying on the work up country.

Fourth. That at the end of each season (about the 31st of March) Dr. Cheek shall make up his books and render a statement of the amount of wood in stock, the value of such wood, and the actual cost of wood delivered at Bangkok during the season; the difference between the actual cost of the wood delivered at Bangkok and the estimated cost of 3 pikot shall be debited or credited as the amount may be found to be greater or less than the estimated cost of 3 pikot. In reckoning the cost of the wood delivered at Bangkok, Dr. Cheek shall include all expenses incurred in the handling of the wood. Dr. Cheek shall receive no salary.

Fifth. That Dr. Cheek shall have the management of the working of the teak forests, and of the buying and selling or disposing of the wood. Dr. Cheek will sell the wood at Bangkok, or will cut up and ship the wood as may be most profitable to the parties to this agreement, provided that the wood is not sold at a price of less than 3 pikot. Dr. Cheek shall not sell the wood at a less rate than 3 pikot, except with the knowledge of His Royal Highness Prince Warawan Nakorn. If the wood can not be sold at a price amounting to 3 pikot, His Royal Highness Prince Warawan Nakorn shall have the option of taking the wood over the rate of 3 pikot, or disposing of it.

Sixth. That Dr. Cheek shall make up the books of the teak business on the 31st of March of each year, and the profits realized shall be divided as follows: His Royal Highness Prince Warawan Nakorn shall receive one-third and Dr. M. A. Cheek shall receive two-thirds of the net profits.

Seventh. That during the currency of this agreement all forest leases now held by Dr. Cheek, or which may be acquired by him, shall become the property of His Royal Highness Prince Warawan Nakorn.

Eighth. That all teak wood now held by Dr. Cheek (except 4,400 logs to be delivered to the Borneo Company, Limited) and all wood worked by him during the currency of this agreement shall be dealt with according to the terms of this agreement.

Ninth. That this agreement shall remain in force for a period of ten years from the date of signing unless Dr. Cheek shall at any time settle up the account and pay to His Royal Highness Prince Warawan Nakorn such sums of money as may be due to His Royal Highness Prince Warawan Nakorn from him.

Tenth. That Dr. Cheek shall, from time to time, advise His Royal Highness Prince Warawan Nakorn of all transactions connected with the working and purchasing and selling of the wood.

Eleventh. It is hereby agreed that no liabilities for losses incurred in the management of the business shall be shared by His Royal Highness Prince Warawan Nakorn.

WARAWAN NAKORN,
MARION A. CHEEK.

Witness:

DEVAWONGSE.

On the same day Cheek executed to the same representative of Siam the following instrument, which is designated by the parties as a "bill of sale mortgage."

I, Marion A. Cheek, resident of Chiangmai, for and in consideration of the sum of six hundred thousand (tls. 600,000) ticals to be paid to me and on my account by H. R. H. Prince Warawan Nakorn, according to the terms of articles of agreement drawn up and signed this 23rd day of April, 1889, by and between H. R. H. Prince Warawan Nakorn of the first part and Marion A. Cheek of the second part, do hereby grant and sell unto H. R. H. Prince Warawan Nakorn and his assigns forever the teak wood and elephants according to a schedule hereto annexed, the said teak wood and elephants being my lawful property.

Provided, nevertheless, and this mortgage is upon the condition that if the said M. A. Cheek shall pay or cause to be paid to H. R. H. Prince Warawan Nakorn, or his assigns, the said sum of six hundred thousand (tls. 600,000) ticals with interest thereon at the rate of seven and one-half (7½ per cent) per cent per annum from the date of the payment of the same to M. A. Cheek or on his account by H. R. H. Prince Warawan Nakorn, then this mortgage shall be void, otherwise to remain in full force and effect.

And provided further, That until default be made by M. A. Cheek in the performance of the conditions of this mortgage or in the performance of the conditions of the said articles of agreement for the working of teak wood drawn up and signed this 23rd day of April, 1889, by and between H. R. H. Prince Warawan Nakorn and

M. A. Cheek, it shall be lawful for M. A. Cheek to retain possession of and to have the management of the said teak wood and elephants, to use the same for the joint benefit of H. R. H. Prince Warawan Nakorn and M. A. Cheek according to the conditions of the said articles of agreement hereinbefore mentioned.

M. A. CHEEK.

Witness:

DEVAWONGSE.

(Here follows a list of Cheek's property to which the lien was to attach.)

The amount named in the above-quoted instruments, to wit, ticals 600,000, was paid to Cheek. January 23, 1890, the Siamese Government advanced Cheek ticals 200,000 additional, upon terms set forth in the following instrument:

This agreement, made the 23rd day of January, 1890, supplementary to the agreement of the 23rd of April, 1889, between His Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse of the one part, and Dr. M. A. Cheek of the other part.

Whereas under the agreement of the 23rd of April, 1889, entered into between His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse and the said Dr. Cheek, a sum of six hundred thousand ticals (tls. 600,000) was advanced to the said Dr. M. A. Cheek by His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse for the purposes specified therein; and whereas the said Dr. Cheek is now desirous to have a further advance of two hundred thousand ticals (tls. 200,000) in addition to the sum of six hundred thousand ticals (tls. 600,000) already advanced by His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse under the agreement aforesaid; and whereas His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse agrees to advance the same;

Now it is mutually agreed between the said parties as follows:

First. That for the considerations already expressed and specified in the aforementioned agreement of the 23rd of April, 1889, His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse advances the sum of two hundred thousand ticals (tls. 200,000) to the said Dr. M. A. Cheek (of which receipt is hereby acknowledged), and the said Dr. M. A. Cheek hereby agrees and promises to pay to His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse interest at the rate of seven and a half ($7\frac{1}{2}\%$) per cent per annum on the said sum of two hundred thousand ticals (tls. 200,000).

Second. That as a security for the payment of the said sum of two hundred thousand ticals (tls. 200,000) so advanced by His said Royal Highness Krom Mun Naradhip Prabhandhbhongse the said Dr. M. A. Cheek hereby agrees to mortgage, under the bill of sale hereto annexed, all his properties as specified in the schedule attached to the bill of sale to the said His Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse.

Third. That the provisions of Clauses II, III, IV, V, VI, VII, VIII, IX, and X of the aforesaid agreement of the 23d of April, 1889, entered into between the said Dr. M. A. Cheek and His said Royal Highness Prince Krom Mun Naradhip Prabhandhbhongse shall in all respects be applicable to this present agreement as if they were inserted therein, in so far as they are not contrary to the terms of this present agreement.

In witness whereof, the parties hereto have signed and sealed this present agreement on the date first above written.

NARADHIP.

M. A. CHEEK.

Witness:

DEVAWONGSE.

Estimating a tical to be worth 50 cents in currency of the United States, the whole amount advanced to Cheek by Siam upon the terms set forth in the contracts quoted was \$400,000.

It appears from Cheek's memorial that he had, previous to any of these agreements with Siam, leased large tracts of teak forest in Upper Siam, which he needed capital to work. The capital needed was furnished to him by the Government of Siam, as above shown. In explanation of the legal effect of his contracts with Siam Cheek sets forth the usages of the industry upon which he entered in Siam. It requires, according to his statement, about three and a half years to get a log of teak timber from the stump to the market in Bangkok. The logs are first girdled, then cut, and then dragged to the nearest stream by

elephants. Thence they are floated, first singly and afterwards in rafts, down these streams into the main river, which carries them to Bangkok. In the dry season the small streams are too shallow to float the logs, and they lie where they are cut until the arrival of a season of sufficient water to float them.

At the time of his agreement with Siam, Cheek had logs in all stages of progress toward the market. At the end of the first year of his contract with Siam he paid the interest for that year upon the money advanced. The second year, ending March 31, 1891, was a dry year and very little timber was got into market. Cheek was compelled to employ the proceeds of his second year's sales in keeping up the work in the forests, it being necessary to make advances to his employees and subcontractors. In view of these facts the Siamese Government indulged Cheek in consideration of his promise to pay compound interest on the advancement for the second year—that is, the interest due was added to the principal.

The next season, ending March 31, 1892, was worse than the preceding, and Cheek failed a second time to pay the interest on the Siamese advancement. The proceeds of his sales for that year were in fact insufficient to keep the forest work going on, and he was compelled to raise additional funds by some means. He had at this time, according to his statement, a sufficient quantity of logs in the forests and in the streams to pay, when sold, the full amount of the advancement made to him by Siam, both principal and interest, and to leave a handsome surplus for himself.

Cheek endeavored to get money from the Bombay-Burmah Trading Corporation by a sale for cash of logs to be delivered the following season (1892-93). Since Cheek's agreement with Siam compelled him to dispose of his logs in a manner therein specified, his proposal to the Bombay-Burmah Trading Corporation required the sanction of the Siamese Government, which was refused. Cheek then sought relief from another lumber company called the Borneo Company, and made with that company a provisional arrangement by which for a reasonable commission, in addition to the actual cost of transportation, that company undertook to transport during the coming season all the teak logs in the water at the time of the negotiation, and all others which Cheek might be able to put into the water. He had at that time 12,000 logs in the streams and hoped to put in 8,000 more, making in all 20,000 logs to be transported by the Borneo Company. Cheek valued these logs at rupees 48 to 50 each, and he expected to raise on them at least rupees 576,000—estimating the rupee at 33½ cents, amounting to about \$192,000. This provisional arrangement was also subject to the ratification of the Siamese representative, and was rejected by him.

Cheek was then left without funds to pay the interest on the Siamese advance or to continue his work. August 20, 1892, the Siamese Government notified our consul-general at Bangkok that all of Cheek's timber arriving after that date would be taken over as the property of the Government. At the same time a Government official seized the logs already in Bangkok and others belonging to Cheek which had reached a place higher up the river called Chainat. This official continued to seize logs as they came down. September 11, 1892, the Siamese representative telegraphed Cheek, who was up in the forest country:

Wood received. Will be sold at public auction. Proceeds in bank until your settlement.

Cheek protested, but in vain.

Cheek claims that under his contracts with the Siamese Government, as construed in accordance with the usages of the enterprise in which he was engaged, annual interest was to be paid upon the money advanced to him only when the season had been good and he was able to raft his logs. In bad years the partner or lender who had advanced the capital was required by local custom to let the interest go over until a good season, when all past dues would be liquidated. Failure to pay interest at the end of a year in which it was impracticable to market the timber was not, Mr. Cheek claims, a breach of contract justifying any proceeding in the nature of foreclosure.

Cheek makes the further point that the summary method adopted by the Siamese Government was unlawful and injurious to him, even if he had been legally in default.

The logs seized by the Siamese Government were sold at auction at much less than their value, and the proceeds appropriated by the Government. The next season, the winter of 1892-93, proved to be favorable for rafting timber, and had Cheek been permitted to go on with his work without molestation from the Government he would have been able to bring down all the logs he had cut, in value, as estimated by him, of rupees 640,000, about \$214,000. Even if the logs had been held in Bangkok without sale they could have been used as a basis of credit under Clause III of the agreement, to the extent of rupees 380,000, about \$126,666, an amount in excess of all that the Siamese Government could, at that time, by any construction of the agreement, have claimed from Cheek. But for this premature, arbitrary, and illegal action of Siam, Mr. Cheek contends, he would have been able to provide for current expenses, to pay off all interest due, and 100,000 rupees of the principal debt, besides keeping up the credit with his foresters and contractors which he had been so many years building up and carefully maintaining.

Not content with the summary seizure of all Cheek's logs that came down the river, the Siamese Government, July 15, 1893, published the following royal proclamation:

July 15, 1893, Chow Mun Rajabut, chief of the mahathai (department of the north), and commanding officer of the province of Chiengmai, has received orders from Phya Song Suradet, chief commissioner of the Lav Chieng States, that the following notice be published:

Whereas the minister of the royal treasury has sent an official letter No. 596/5892 dated the 9th September, 1892, contents as follows:

"Formerly Dr. M. A. Cheek made a written agreement and borrowed a large amount of money from the royal finance department for the purpose of working forests, and mortgaged forests, wood in forests and in streams, elephants, implements for forest work and debtors all and singular as security for the royal treasury with sundry conditions as set forth in said agreement.

"Afterwards Dr. M. A. Cheek violated the agreement in many particulars. Therefore Chow Mun Mahatlek was appointed commissioner of the royal treasury, with full power of attorney to act for the minister of finance in the province of Chiengmai. Therefore, anyone a debtor or creditor of Dr. M. A. Cheek, or who has charge of elephants or teak wood or implements for forest work, let him report to Chow Mun Mahatlek, commissioner at Chiengmai of the royal treasury, within the period of fifteen days from the date of this notice. If anyone is a debtor or has charge of elephants or teak wood or implements for forest work, let him give a correct report to the commissioner within the time appointed. The commissioner will deduct, relinquish, forego a suitable portion (of the debt). If afterwards it be ascertained that elephants, wood, implements for forest work, or debtors be concealed, secreted, removed, or falsely reported, and proper account be not rendered to the official, the said officer will prosecute in court (such offender), and they will be fined according to the law."

(SEAL OF CHOW RAJABUT.)

This embargo completed the demolition of Cheek's business, and left him a ruined man in the midst of the fourth year of his ten-year contract with Siam.

The questions which, according to the claimant, are involved are (1) the legal relations of the two parties to the contract—whether Cheek was a partner with Siam or a mere borrower of money; (2) whether Cheek was legally in default at the time the Siamese Government seized and sold the logs and published the manifesto of July 15, 1893; (3) whether the Siamese Government adopted a lawful remedy in case it should be found that Cheek was in default and was liable to a legal proceeding for the recovery of money due that Government.

In relation to the third point, it is contended for Cheek that the local law of Siam provided an adequate judicial remedy against him; and that the consular court of the United States was also a forum clothed with powers ample for the purpose of enforcing his obligations to Siam. The summary method of proceeding resorted to by Siam was, Cheek claims, in violation of Siamese law and also of the treaty between Siam and the United States. Cheek's losses are estimated by him at rupees 1,607,331 (\$535,777). From this amount he deducts the principal and unpaid interest of the Siamese advancement to him, amounting to rupees 1,266,218, leaving a total claimed by Cheek as damages of rupees 341,113 (\$113,704).

THE SIAMESE REPLY.

The Siamese Government has filed an elaborate reply to Cheek's claim, and alleges large indebtedness on the part of Cheek's estate as still existing and unpaid. According to the statement of Siam, Cheek was deeply in debt when the Siamese Government came to his relief in 1889. A considerable portion of the 800,000 ticals advanced to him was paid to his creditors and the residue thereof was applied to the timber business. On his first failure to pay interest (March 31, 1891) he was given as a favor another year in which to pay it. At the end of the second year (March 31, 1892) Cheek not only was unable to pay the accrued interest for the two preceding years, but he had not sufficient funds to continue the business, and was unable to raise money except by methods which involved the Siamese Government as his surety. Seeing that his financial condition was hopeless and that the only means of obtaining repayment of even a part of the money advanced to him was by immediate action, the Siamese Government decided to seize such timber as should come down the river and apply the proceeds to the indebtedness. The argument for Siam apologizes for, rather than defends, the order of July 15, 1893, which placed an embargo upon Cheek's business and destroyed it.

Siam's view of the case is apparently that when Cheek violated the conditions on which money was advanced to him by failing to pay the interest accrued thereon, the transfer of property made in the "bill of sale mortgage" became absolute, so that Siam in seizing the logs seized the property of the Government, and not the property of Cheek. It is declared in the Siamese argument that there is no law of mortgages in Siam, and therefore no procedure in the nature of foreclosure; that seizure and appropriation by an officer of the royal treasury was the legitimate and the only method of enforcing the rights of Siam as against Cheek in this case.

Cheek had, besides the logs seized by Siam, other property in upper Siam, which was also included in the "bill of sale mortgage." This

property was not seized by the Siamese Government, and when Cheek died it went into the hands of his administrator. Siam contends not only that the seizure of Cheek's logs and the other acts of the Government were lawful, but that the proceeds derived therefrom were insufficient to pay Cheek's indebtedness to Siam. The property now in the hands of Cheek's administrator is claimed by Siam as being subject to the "bill of sale mortgage" above referred to, and responsible for the amount of indebtedness still unliquidated. In other words, Siam has presented a counterclaim against Cheek.

NATURE OF THE CASE, NOT THE MERITS, STATED.

I have undertaken in this brief outline of the Cheek case to show the nature only of the controversy, and not to indicate the merits of either claimant. The merits of the case can be determined only from a study of the entire mass of evidence and consideration of the elaborate arguments filed on both sides. These will be presented later should the Senate desire, after reading this brief review of the case, to take it upon its merits.

I append hereto copies of the recent correspondence, which will show the present status of the negotiation for the settlement of this claim. The two Governments have agreed substantially upon settlement by arbitration, but the details and formalities remain to be completed.

Respectfully submitted.

RICHARD OLNEY.

DEPARTMENT OF STATE,
Washington, March 1, 1897.

Mr. Olney to Mr. Barrett.

No. 79.)

DEPARTMENT OF STATE,
Washington, October 15, 1896.

SIR: Your dispatch, No. 137, of August 19, 1896, in relation to the claim of Dr. M. A. Cheek against the Siamese Government, has been received.

In this and in previous dispatches the Government of Siam has expressed a desire to have the matter of this claim submitted to arbitration, on condition that the Siamese counterclaim against the estate of Dr. Cheek shall be included in the submission and considered by the arbitrator. The Siamese claim against Cheek is supposed to relate to an unpaid balance of Cheek's indebtedness to that Government, which was not liquidated by the appropriation of Cheek's property under royal order in 1892 and 1893, which act of appropriation is the subject-matter of Cheek's complaint.

Dr. Cheek made his claim for damages against the Siamese Government subject to deduction of the amount which he—or his estate, now that he is dead—owes that Government. The proposition of Siam is therefore assumed to be that in case the arbitrator shall find that Cheek's indebtedness to Siam exceeds the amount of damages awarded him in consequence of the injurious action of the Siamese Government, the arbitrator shall have authority to make an award against Dr. Cheek's estate in favor of the Siamese Government for the amount of such excess.

You are instructed to ascertain from the Siamese minister of foreign affairs and to report at once whether the suggestion of the Siamese Government is rightly understood in the sense above explained.

I am, etc.,

RICHARD OLNEY.

Mr. Olney to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 19, 1896.

Cable answer to instruction 79.

OLNEY.

Mr. Barrett to Mr. Olney.

No. 153.]

LEGATION OF THE UNITED STATES,

Bangkok, Siam, December 29, 1896. (Received Feb. 12, 1897.)

SIR: I have the honor to inclose copies of correspondence passed between the foreign minister and myself in regard to the question raised in your esteemed No. 79 in regard to the arbitration of the Cheek case.

After receiving your instructions, as intimated in my 150, of December 23, I pressed the foreign minister for an answer, with what result you now see. * * *

I hardly feel as if I am warranted in cabling as much as it would appear would be necessary to explain the latest attitude of Siam. I shall try again to get a briefer and more explicit reply to your question, but if I fail I may only cable you that the Siamese Government desires you to await the receipt of the inclosed letters.

I have, as the correspondence will prove, to have them cable their consul-general their full answer if they did not feel like making it briefer for me, but now the foreign minister claims a misunderstanding, and seems to oppose any cabling.

In my reply which I shall send to the foreign minister's arguments about former propositions of arbitrations, etc., I shall feel constrained almost to inform him that rehashing old contentions already extensively and exhaustively discussed is not pertinent, nor is it of any advantage. * * *

I have, etc.,

JOHN BARRETT,
Minister Resident.

[Inclosure 1 in No. 153.]

Mr. Barrett to the Foreign Minister.

LEGATION AND CONSULATE-GENERAL
OF THE UNITED STATES OF AMERICA,
Bangkok, December 14, 1896.

MONSIEUR LE MINISTRE: Referring to an interview of recent date, I have now the honor to forward to you a formal note covering the matter then under discussion—a certain phase of proposed arbitration of the Cheek case.

I will now provide you with an extract from instructions received by me from the Honorable Richard Olney, Secretary of State of the United States, as follows:

* * * The Government of Siam has expressed a desire to have the matter of his claim submitted to arbitration on condition that the Siamese counterclaim against the estate of Dr. Cheek shall be included in the submission and considered by the arbitrator. The Siamese claim against Cheek is supposed to relate to an unpaid balance of Cheek's indebtedness to that Government, which was not liquidated by the appropriation of Cheek's property under royal order in 1892 and 1893, which act of appropriation is the subject-matter of Cheek's complaint.

Dr. Cheek made his claim for damages against the Siamese Government subject to deduction of the amount which he (or his estate, now that he is dead) owes that Government. The proposition of Siam is therefore assumed to be that in case the arbitrator shall find that Cheek's indebtedness to Siam exceeds the amount of damages awarded to him in consequence of the injurious action of the Siamese Government the arbitrator shall have authority to make an award against Dr. Cheek's estate in favor of the Siamese Government for the amount of such excess.

You are instructed to ascertain from the Siamese minister of foreign affairs and to report at once whether the suggestion of the Siamese Government is rightly understood in the sense above explained.

Your royal highness will please be good enough to inform me at your first convenient opportunity if the assumption above outlined is correct or not, in order that I may immediately inform my Government, and thus facilitate an early understanding as to an acceptable basis of arbitration.

Your royal highness will please accept my renewed assurance of high consideration.

I have, etc.,

JOHN BARRETT,
Minister Resident.

[Inclosure 2 in No. 153.]

Foreign Minister to Mr. Barrett.

FOREIGN OFFICE, *December 24, 1896.*

MONSIEUR LE MINISTRE: I have the honor to acknowledge the receipt of your letter of the 16th instant providing me with an extract from instructions received by you and relating to the proposed arbitration of the Cheek case.

I stated with pleasure that the principle of settling this case by arbitration, which I proposed in the name of His Majesty's Government, is admitted by the Government of the United States. As to the question whether the suggestion of the Siamese Government is rightly understood in the sense explained in the dispatch of the Honorable Richard Olney, whereof you kindly transcribe an extract, I regret to say that I can not accept the expressions "appropriation of Cheek's property" as corresponding with the views of His Majesty's Government on their own action, and that I can not consider as correct the following assumption of Siam's proposition:

That in case the arbitrator shall find that Cheek's indebtedness to Siam exceeds the amount of damage awarded to him, in consequence of the injurious action of the Siamese Government, the arbitrator shall have an authority to make an award against Dr. Cheek's estate in favor of the Siamese Government for the amount of such excess.

If this assumption were accepted by my Government as a right explanation of their views, it would follow that we admit as well founded Dr. Cheek's complaint of an alleged "injurious action" of this Government,

and his claim for damages on his account. I, on the contrary, am bound to state that His Majesty's Government never made such admission, and that the very first question which we propose to submit to arbitration is whether the action of this Government in attaching timber mortgaged to them as the only means of getting back their advances was or was not justified by Dr. Cheek's own repeated breaches of contract, and consequently whether Dr. Cheek is entitled in principle to claim any damages on account of said action.

It is only when this first question will have been decided by the arbitration court that it will be possible to decide whether and for what amount the balance of all accounts between this Government and Dr. Cheek (or Dr. Cheek's estate) is in favor of the former or of the latter.

Accept, etc.,

DEVAWONGSE,
Minister for Foreign Affairs.

[Inclosure 3 in No. 153.]

Mr. Barrett to Foreign Minister.

LEGATION AND CONSULATE-GENERAL
OF THE UNITED STATES OF AMERICA,
Bangkok, December 26, 1897.

MONSIEUR LE MINISTRE. In our conversation of Thursday, December 24, your royal highness kindly consented to exchange with me copies of cablegram to be forwarded, respectively, to the Department of State of the United States and the Siamese consul-general, in answer to the inquiry of the Department of State, touching the proposed arbitration of the Cheek case, transmitted to your royal highness in my note of the 16th instant and answered in your letter of December 24.

If your royal highness will now, therefore, be good enough to provide me, as soon as convenient, with such copy of message, I will, upon the receipt thereof, provide you with a copy of mine.

Your royal highness will please accept my assurance of high consideration.

I have, etc.,

JOHN BARRETT,
Minister Resident.

[Inclosure 4 in No. 153.]

Foreign Minister to Mr. Barrett.

FOREIGN OFFICE, *December 28, 1896.*

MONSIEUR LE MINISTRE: I am afraid that there was some misunderstanding between us about the result of our conversation of the 24th instant. I had no idea of sending any cablegram to our consul-general, except to assist you in communicating with your own Government. I thus agreed that if you would show me how you would wire briefly to your Department of State, and referring to my cablegram to our consul-general at New York, I could oblige you by going to the expense of telegraphing fully the statement of our views.

As for myself, I can only repeat that I do not feel the necessity of telegraphing at all to our consul-general. His Majesty's Government are certainly anxious to arrive at the constitution of the arbitration court, and as proof of their earnest wish in this respect I beg to remark that when the idea of an arbitration was emitted nearly three years ago by Mr. Eaton, acting consul-general of the United States, in a letter which he addressed to me on the 21st of January, 1893, I at once accepted the proposal. The matter might thus have been considered as settled between both Governments nearly three years ago if Dr. Cheek had not simply refused to agree with this mode of just and friendly settlement. Since then the proposal of arbitration was renewed by His Majesty's Government more than one year ago, and repeatedly insisted on in my letters to you. But it is only on the 14th instant that you intimated your Government's acquiescence to the idea. This seems to indicate that, at least in the opinion of your Government, there is no such urgency in the case that we should recur to an expensive exchange of telegrams about the terms in which the case for Siam was stated in your letter of the 14th instant. I therefore beg to propose that you inform his excellency the Secretary of State that there is some difference between his statement of our case and ours, and that you send him by the next mail copy of our correspondence.

May I ask you by the same opportunity if you have already received instructions about the way in which your Government proposes to constitute the arbitration court and the procedure to be followed?

Accept, etc.,

DEVAWONGSE,
Minister for Foreign Affairs.

Mr. Olney to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 9, 1897.

Cable answer Cheek case.

OLNEY.

Mr. Barrett to Mr. Olney.

[Telegram.]

BANGKOK, *January 11, 1897.*

Siam holds arbitrator first decides whether action attaching mortgaged timber as only means recovering advances was justified by Cheek's breaches contract; hence whether Cheek entitled in principle claim any damages; then only possible decide whether and what amount balance all accounts between Siam Cheek favor former. Latter protests your expression appropriation and injurious action. The proposal prejudicial Cheek particularly "only means."

BARRETT.

Mr. Olney to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 19, 1897.

Cable 11th not understood. Arbitration must cover all disputed questions of fact or law. Hasten agreement. Answer inquiry October 15.
OLNEY.

Mr. Olney to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 1, 1897.

Continue to press arbitration or reference. When full details received here further course can be determined if need be.

OLNEY.

Mr. Barrett to Mr. Olney.

[Telegram.]

BANGKOK, February 2, 1897.

Siam agrees Cheek arbitration in acceptable form, except hold arbitration shall include administration of estate, which is new issue. Shall I accept and close matter?

BARRETT.

Mr. Olney to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, February 5, 1897.

* * * * *

Cheek arbitration—which first sentence mine 1st instance relates to—should be kept separate from Kellett Case. Yours February 2 received. Accept and close on basis indicated, if Cheek estate only and not United States is to respond to any award favor Siam.

OLNEY.

Mr. Barrett to Mr. Olney.

[Telegram.]

BANGKOK, February 16, 1897.

Cheek arbitration satisfactorily settled. I await your instructions constitution of the tribunal of arbitration.

BARRETT.

Mr. Olney to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
February 17, 1897.

Will Cheek estate and Siam consent one arbitrator, say governor Straits Settlements, or other suitable person near by.

OLNEY.

Mr. Barrett to Mr. Olney.

[Telegram.]

BANGKOK, *February 27, 1897.*

Negotiations on selection arbitrator Cheek Case proceeding favorably. It will be agreed to shortly. * * *

[Rest of telegram relates to other matters.]

BARRETT.

Mr. Barrett to Mr. Olney.

No. 176.]

LEGATION OF THE UNITED STATES,
Bangkok, Siam, March 2, 1897.

SIR: Acting on your telegraphed instructions of February 17, various suggestions were made as to the selection of the arbitrator. While the governor of the Straits Settlement might have been accepted, it was thought best to secure a distinguished jurist, if possible.

I presented the name of Sir Nicholas J. Hannen, British chief justice and consul-general at Shanghai. The foreign minister at once accepted, and we agreed to address him a joint note asking him to serve. We hope to telegraph or write him within a few days.

In my opinion, if Sir Nicholas J. Hannen will consent to act, we will be assured of an able and impartial arbitrator. He ranks as one of the most capable jurists in the Far East, is an authority on extraterritoriality and international law, and has a thorough knowledge of Asiatics.

The foreign minister held that the arbitrator should sit in Siam. While I thought that this should be left to the arbitrator, I saw that objection to the wish would prolong discussion, and hence yielded. We will therefore suggest to the arbitrator that he sit here in November or December. Before that date climatic conditions would hardly warrant us in asking him to come to Siam. It also gives sufficient time to make full arrangements without undue haste.

I have the honor to await any further instructions and trust that you will be good enough to forward them at your earliest convenience, as it is my desire to have all details settled before going to Cheangmai in June or July to investigate the Kellett matter.

I have the honor, etc.,

JOHN BARRETT,
Minister Resident.

Mr. Sherman to Mr. Barrett.

No. 111.]

DEPARTMENT OF STATE,
Washington, May 5, 1897.

SIR: Acknowledging the receipt of your dispatches Nos. 171 and 176, dated, respectively, February 18 and March 2, 1897, reporting that you have practically closed the terms of arbitration of the Cheek case, I confirm my cablegram to you of yesterday's date as follows:

Numbers 171 and 176 received. Suggestions approved. Model of agreement mailed.

It appears from your reports that the instructions of the Department have been complied with, and that the terms of agreement are satisfactory. I inclose copy of a protocol or agreement between the United States and Mexico, signed March 2, 1897, for the settlement of a claim, which will serve as a guide to you in framing the agreement for the arbitration of this matter between the Siamese Government and Cheek. The previous correspondence so fully covers the case that there is no occasion to give you special directions. The three essentials are:

(1) That every matter in dispute between the two parties shall be included, both facts and law.

(2) That in case an award is made in favor of Siam it shall be against the Cheek estate only and not against the United States.

(3) That the two Governments shall divide equally between them the common items of expense attending the hearing of the case by the arbitrator.

Sir Nicholas J. Hannen, British chief justice and consul-general at Shanghai, China, is perfectly satisfactory to this Government as the arbitrator, and there is no objection to his sitting in Siam.

You have in your office duplicates of all the papers concerning the case which are on file here, and this relieves the Department from sending you copies of the documents here. If you need any, however, cable for them and they will be sent immediately.

You will notice that in the Mexican case, the protocol of which is inclosed, the two parties have contented themselves with submitting to the arbitrator the documents and correspondence which have already passed between them with such additional arguments as each may choose to make. I am not sufficiently well acquainted with the conditions to advise you to follow this precedent in that respect. It may be that valuable evidence is attainable by you which has not already been submitted. If so, it would be well to make the agreement broad enough to admit such evidence. If, on the other hand, the papers which have already been presented contain all there is in favor of Cheek's case, the agreement may be framed accordingly. The Department refrains from hampering you with specific instructions which may do more harm than good.

Trusting that your intelligence and perfect familiarity with the case will enable you to make a proper agreement, you are hereby authorized to draw up and sign the same as representative for the United States in this matter, but before the agreement becomes operative, a copy of it must be sent here for approval. If approved, you will be notified by cable. In the meantime you may be preparing the case for submission to the arbitrator, and on receipt of notice that the agreement to arbitrate is satisfactory to both Governments the arbitrator may proceed with the case.

Respectfully, yours,

JOHN SHERMAN.

Mr. Barrett to Mr. Sherman.

[Telegram.]

BANGKOK, *May 12, 1897—12.10 p. m.*

Hannen telegraphs will act arbitrator if British minister for foreign affairs approves. I would advise you to communicate with the British minister for foreign affairs as soon as possible. Siamese Government doing it.

BARRETT.

Mr. Barrett to Mr. Sherman.

No. 212.]

LEGATION OF THE UNITED STATES,
Bangkok, June 22, 1897.

SIR: I have the honor to inclose copies of letters exchanged with Mr. George Greville, British minister, and with his royal highness the foreign minister, in regard to the expenses and honorarium of the arbitrator in the Cheek case, Sir Nicholas Hannen.

The substance of the correspondence is that Sir Nicholas Hannen thinks that, for the convenience of all parties, it would be best to include expenses and honorarium in one fee of 10 guineas a day for the time he is necessarily absent from Shanghai, to which the Siamese foreign minister and myself have, of course, agreed.

According to Sir Nicholas Hannen's arrangements and our own, it would appear that the arbitration court would sit about the 13th of December. The arbitrator is due to arrive in Singapore on December 8, and should reach here approximately on the 13th. His absence from Shanghai will probably be from fifty to sixty days, making his total fee from \$2,500 to \$3,000, of which, according to your instructions, the United States will pay half.

I have the honor to be, etc.,

JOHN BARRETT,
Minister Resident.

[Inclosure 1 in No. 212.]

Mr. Greville to Mr. Barrett.

BANGKOK, *June 19, 1897.*

MR. MINISTER: I have the honor to inform you that I have received a letter from Sir N. Hannen, Her Majesty's chief justice and consul-general at Shanghai, who has accepted to act as arbitrator in the Cheek estate claims, stating that he thinks it will be for the convenience of all parties that expenses and honorarium should be included in one fee.

Sir N. Hannen thinks that 10 guineas a day, during such time as he may be necessarily absent from Shanghai, will be a proper fee for him to charge.

This fee will cover everything, unless Sir N. Hannen should be compelled to travel away from Bangkok into the interior, for the purposes of the arbitration, in which case he would expect that the expenses of such journey be defrayed by the Siamese Government.

Should these terms be agreed upon, Sir N. Hannen will be prepared to leave Shanghai by the Pacific and Oriental steamer of the 27th of

November next, due in Singapore December 8, and he would proceed to Bangkok by earliest opportunity.

Should these terms be agreed to, I should be much obliged if you would be so good as to inform me thereof, so that I may communicate the result to Sir N. Hannen by telegraph.

I take this opportunity, etc.,

GEORGE GREVILLE.

[Inclosure 2 in No. 212.]

Mr. Barrett to Prince Devawongse.

UNITED STATES LEGATION,
Bangkok, Siam, June 19, 1897.

MR. MINISTER: I have the honor to append a copy of a letter received this day from Mr. George Greville, Her Britannic Majesty's minister resident, in regard to the expenses and honorarium of Sir N. Hannen, Her Britannic Majesty's chief justice and consul-general at Shanghai, in the capacity of arbitrator of the Cheek case.

Your royal highness will please note that Sir N. Hannen thinks that 10 guineas a day would be a proper amount for him to charge.

This arrangement is acceptable to me; and, if it is the same to you, will you be good enough to inform me at once in order that I may communicate with Mr. Greville and enable him, as he desires, to telegraph Sir N. Hannen?

Your royal highness will please accept my renewed assurance of high consideration.

I have the honor, etc.,

JOHN BARRETT,
Minister Resident.

[Inclosure 3, in No. 212.]

Prince Devawongse to Mr. Barrett.

FOREIGN OFFICE, *June 20, 1897.*

MR. MINISTER: In acknowledging with thanks the receipt of your kind communication of yesterday, with reference to Mr. George Greville's letter to you concerning the expenses and honorarium of Sir N. Hannen, Her Britannic Majesty's chief justice and consul-general at Shanghai, in the capacity of arbitrator of the Cheek case, and in which you kindly state that the arrangement is acceptable to you, and asking me to give you my reply, I beg to say, that on my part I see no objection to the terms mentioned in the note of Mr. George Greville, who has also kindly written to me an identical note on the same subject, except that whatever may be the stipulations expressed therein, our agreement is that we each share one-half of all the expenses and fees of Sir N. Hannen, till further understanding.

I have therefore written to the British minister resident, accepting in my own name as well as yours, the terms of Sir N. Hannen, and I inclose the letter opened under this cover, so that you may send it, if you will kindly do so, when you send your reply to Mr. George Greville.

Accept, Mr. Minister, etc.,

DEVAWONGSE,
Minister for Foreign Affairs.

[Inclosure 4 in No. 212.]

Mr. Barrett to Mr. Greville.

UNITED STATES LEGATION,
Bangkok, Siam, June 21, 1897.

MY DEAR COLLEAGUE: I have the honor to acknowledge the receipt of your esteemed note of June 19, informing me of the terms which his excellency, Sir Nicholas Hannen, Her Britannic Majesty's chief justice and consul-general at Shanghai, who has accepted the invitation of His Royal Highness Prince Devawongse, the Siamese foreign minister, and myself to act as arbitrator in the Cheek case, deems will be for the convenience of all parties, viz, that expenses and honorarium should be included in one fee of 10 guineas a day during such time as he may be necessarily absent from Shanghai.

I beg to state that such terms are perfectly acceptable to the United States Government, and to the Cheek estate, and I am informed in a letter from his royal highness, the Siamese foreign minister, written in response to one of inquiry from me, that they are also acceptable to the Siamese Government.

He is good enough to forward, through me, his reply to a letter of yours addressed to him on the same subject, which you will find inclosed.

You will please therefore be good enough to telegraph his excellency, Sir Nicholas Hannen, accordingly, as kindly proposed by you.

The time which he suggests coming to Bangkok would appear agreeable to all parties. If unexpected conditions cause any modification of plans, we will duly notify him through your kind offices.

It may be of interest for me to state that I have just received full instructions from my Government, as to the formal protocol to be drawn up between the Siamese and the United States Governments covering this agreement, and I shall, at a very early date, negotiate with the foreign minister on the matter. As soon as it is duly signed, we shall be pleased to provide you with a copy to be forwarded to his excellency, Sir Nicholas Hannen.

If at any time, he or you desires further information on any point, I am sure that either the Siamese foreign minister or myself will be glad to acquaint you with such.

Expressing on behalf of my Government, which is taking great interest in this case, its pleasure in his excellency, Sir Nicholas Hannen's acceptance of the position of arbitrator, in which I know likewise the Siamese Government joins, and thanking you for the assistance of yourself and Mr. Archer in making arrangements,

I have the honor to remain, my dear colleague, etc.,

JOHN BARRETT,
United States Minister Resident.

Mr. Adee to Mr. Barrett.

No. 130.]

AUGUST 4, 1897.

SIR: I have to acknowledge the receipt of your dispatch No. 212, of the 22d of June last, reporting the arrangements made by you in conjunction with the Siamese Government for the payment of the honora-

rium and expenses of the arbitrator, Sir Nicholas Hannen, in the Cheek case, and to say that your action in the matter is approved by the Department.

Respectfully, yours,

ALVEY A. ADEE,
Acting Secretary.

Mr. Barrett to Mr. Sherman.

No. 222.]

LEGATION OF THE UNITED STATES,
Bangkok, July 22, 1897.

SIR: I have the honor to inform you that the Siamese foreign minister and myself, after communication with Sir Nicholas J. Hannen, and the Cheek estate, have postponed the date of arbitration in the Cheek case to February 1, 1898. I trust that this date will be acceptable to the Department, as it is to all others concerned.

As can be seen by correspondence inclosed in my No. 221, of this date, the postponement was readily arranged. The reasons for this step, founded on conditions explained in my 216, and authorized in Department's telegram of July 13, can be briefly summarized as follows:

In consequence of the Department's instructions, Mr. Kellett must remain here until my return from Cheangmai. Supposing I am able to leave within the next ten days, I shall not reach Cheangmai until approximately August 31.

The work to be done at Cheangmai can hardly be accomplished in less than fifteen days.

Returning with all speed I may be able to get back by October 1, as one can come down in about one-half the time required to go up.

Supposing Mr. Kellett leaves for Cheangmai one week after my arrival, he will not reach Cheangmai until about November 10.

To get the evidence, which is apparently of greatest importance, he will require nearly two months in and out of the forests, and could not leave Cheangmai until well into January and hence not reach Bangkok until the last of January.

The Siamese foreign minister agreed with me as to the necessity of this delay, as otherwise the administrator (through Mr. Kellett) could not possibly make a definite report on the administration of the Cheek estate during this year in response to the Siamese Government's demand that the administration of the estate be included in the arbitration.

We first asked Sir Nicholas J. Hannen to agree to a postponement until February 15, 1898, but as February 1 is his latest date we have agreed thereto.

I would simply add that I should have started for Cheangmai long before this, were it not for the characteristic slowness of the Siamese Government in negotiating the Cheek protocol.

I have the honor, etc.,

JOHN BARRETT,
Minister Resident.

Mr. Barrett to Mr. Sherman.

No. 223.]

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

SIR: I have the honor to inclose a copy of the Cheek protocol signed to-day by His Royal Highness Prince Devawongse, the Siamese foreign minister, and myself, and to confirm the following telegram:

BANGKOK, July 26, 1897.

SHERMAN, *Washington*:

The convention (Cheek protocol) is signed. Everything I insist (upon) is included. The arbitration postponed (until) February 1. Will depart shortly for Cheangmai.

BARRETT.

Inasmuch as the protocol includes all the points for which I contended, as well as the essential features named in your No. 111, of May 25, and is acceptable to the Cheek estate, I trust that it will meet your esteemed approval.

Whenever you see fit to telegraph, as soon as possible after the arrival of this letter, as intimated in the dispatch just named, I beg to suggest that you communicate also with the Siamese consul-general in New York that he may send a confirmatory message to the Siamese Government.

Objections which I feared the Siamese Government might raise I succeeded in overcoming by discussing, in a friendly and frank manner, with the foreign minister and other high officials, including the foreign adviser, the points at issue until perfect accord was attained; and although the Siamese Government consumed nearly four weeks in preparing to sign the protocol, it finally yielded to my representation, enabling the foreign minister and myself to affix this day our signatures thereto, which we did with reciprocal expressions of kindly feelings and high esteem—both glad that a most important step had been taken leading to the settlement of this great case.

I have the honor, etc.,

JOHN BARRETT,
Minister Resident.

[Inclosure in No. 223.]

Protocol of an agreement between His Royal Highness Prince Devawongse Varopraker, minister for foreign affairs of His Majesty the King of Siam, and John Barrett, minister resident and consul-general of the United States of America, for submission to an arbitrator of the claims of the late Marion A. Cheek (or of the estate of said Marion A. Cheek) against the Government of His Majesty the King of Siam, and of the Government of His Majesty the King of Siam against the late Marion A. Cheek (or the estate of said Marion A. Cheek).

His Majesty the King of Siam and the United States of America, through their representatives, His Royal Highness Prince Devawongse Varopraker, minister for foreign affairs of His Majesty the King of Siam, and John Barrett, minister resident and consul-general of the United States of America, have agreed upon and signed the following protocol:

Whereas the United States of America, on behalf of the late Marion A. Cheek, a citizen of the United States (or of the estate of said Marion A. Cheek), have claimed indemnity from the Government of Siam for arbitrary, unjustifiable, and other injurious action alleged to have been taken against the said Marion A. Cheek by the Government of Siam; and whereas the Government of Siam denies either the allegations of fact or contentions of law on which the claims of the other party are based, or the right of the other party to demand indemnity on account of such facts and contentions of law, and holds that in any case said Marion A. Cheek's liabilities to the Siamese Government, eventually including the amount of damages that might be awarded to Siam in consequence of the injurious action of said Marion A. Cheek or of the administrator of his estate (which injurious action is denied by the other party) exceeds the amount of damages that might be awarded to said Marion A. Cheek, or his estate, in consequence of the injurious action of the Government of Siam; it is therefore agreed between the two Governments, with the consent of the administrator of the estate of Marion A. Cheek:

I. That every matter of dispute, both facts and law, brought into issue between the two parties shall be referred to the decision of Sir Nicholas J. Hannen, Her Britannic Majesty's chief justice and consul-general at Shanghai, who is hereby authorized as arbitrator, and who has given to both Governments official notice that he has accepted this office by permission of his Government.

II. *a.* That the parties to this agreement shall jointly have printed, not later than the 25th day of September, 1897, copies of the correspondence, documents, evidence, proofs, and other matter which have passed between them or which have been submitted by one of said parties to the other party in the consideration or discussion of said case; and each party shall be provided with six copies of said printed matter, and two signed copies shall be immediately forwarded to the arbitrator through the British representative in Bangkok.

b. That on, or not later than, the 20th day of November, 1897, the parties hereto shall exchange with each other, and file with the British representative in Bangkok, to be immediately forwarded to the arbitrator, such pleadings, statements of fact, claims for compensation or damages, and other matter pertaining to the case as shall be deemed necessary by the party filing the same for a proper presentation of his case.

c. That when the court of arbitration opens both parties may file answers to the respective pleadings, statements of fact, claims for compensation or damages, and other matter pertaining to the case referred to in the above paragraph "*b.*" and the arbitrator may permit either or both parties to file further pleadings or statements, or not, as he deems advisable. Both parties may present evidence in support of the allegations contained in the various pleadings and statements filed in the case.

III. That the arbitration court shall sit in Bangkok from and after the 1st day of February, 1898, unless another date shall be agreed upon between the arbitrator and the two Governments, and the arbitrator, after examining the statements, pleadings, documents, evidence, proofs, and other matter submitted, may permit arguments and call for any additional evidence.

IV. That the arbitrator shall render his decision within three months after having left Bangkok. He shall decide on the statements, pleadings, evidence, proofs, and arguments submitted to him whether, and for what sum, the Government of Siam is indebted to the estate of Marion A. Cheek, or the estate of Marion A. Cheek to the Government of Siam, provided that, if the award is made in favour of the Government of Siam, it shall be against the estate of Marion A. Cheek only and not against the United States.

V. Reasonable compensation to the arbitrator and the other common items of expense attending to the hearing of the case by the arbitrator shall be paid in equal moities by the two Governments.

VI. Any award made by the arbitrator shall be final and conclusive, and the amount so awarded shall be paid, as the case may be, either by the Government of Siam or by the estate of Marion A. Cheek, not later than four months from the date of such award.

VII. Should either party to this protocol fail to comply with its provisions the effect thereof shall be determined by the arbitrator.

Done in duplicate at Bangkok this twenty-sixth day of July, 1897.

DEVAWONGSE,
JOHN BARRETT.

Mr. Sherman to Mr. Barrett.

DEPARTMENT OF STATE,
Washington, September 17, 1897.

No. 138.]

SIR: I have to acknowledge the receipt of your dispatches Nos. 221 and 222, both dated the 22d of July last, and relating to the arbitration of the Cheek case.

In reply I have to inform you that the postponement of the date of the arbitration of said case to February 1 next is acceptable to the Department.

Respectfully, yours,

JOHN SHERMAN.

Mr. Sherman to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 18, 1897.

Cheek protocol approved.

SHERMAN.

**OPPORTUNITIES FOR THE DEVELOPMENT OF AMERICAN TRADE
IN THE EAST.**

Mr. Barrett to Mr. Sherman.

No. 190.]

LEGATION OF THE UNITED STATES,
Bangkok, April 5, 1897.

SIR: In addition to my consular dispatch No. 37, entitled "Important concession granted to an American by the Siamese Government," as being a matter of commercial interest, I have the honor to call the Department's attention to the matter in a dispatch.

The granting of the concession of the absolute electric-lighting privileges for twenty years of Bangkok and suburbs, representing a population of over half a million, and spread over a large area, by the Siamese Government to Mr. Lawrence E. Bennett, an American civil engineer, I consider one of the most noteworthy evidences of what American energy can accomplish in the Far East, if the opportunity is appreciated and developed in the proper way.

There has been so much discussion of prospective concessions to Americans in China and other countries of Asia, that I am pleased to have this one actually obtained and put into practical working in the country to which I have the honor to be accredited.

Especially is it gratifying to me, and I hope to the Department of State, that this concession is granted within one month after the adjustment of recent difficulties with the Siamese Government. It is material evidence that American influence has not suffered, and that the opportunity for Americans of energy, reliability, and capital in Siam has not been unfavorably affected by recent events.

Had American companies or American interests made earlier and stronger efforts, in accordance with repeated previous reports and recommendations of mine, other concessions and other opportunities for the development of commerce, trade, and general business could have been secured and seized, which have gone into the hands of companies and representatives from European countries.

Mr. Bennett has won his concession by showing to the Siamese Government that it would gain rather than lose by the transaction and by proving that he could do what was expected as well as, or better, than anyone else. It is also the result of hard, persistent endeavor on his part and of competition with others for the valuable rights granted. As United States minister I have given him such moral support as was permissible and legitimate, and I am confident that the policy that I have followed here under your esteemed direction has been such as to enable the Siamese Government to place confidence in any relations they may have with Americans now or in the future. There is, of course, very much to be desired yet in the way matters are managed by the Siamese and in the promulgation of improvements of all kinds—the upbuilding of trade and commerce with foreign lands—but I am hopeful that experience and observation will prove to the Siamese Government the advantage of development and progress. They deserve credit, however, for having done much that commends itself to foreigners.

Finally, as suggested by Mr. Bennett's concession, I would urge through the Department of State, what I have said many times before, that now is the time for American material interests in the far East to be built up from Japan to Java. One of the greatest opportunities of the world is here. Great Britain, Germany, and France are competing

more hotly everyday for the chief share of its growing business and trade. Their merchants, exporters, steamship companies, and commercial representatives are leaving no stone unturned to thoroughly exploit the fields open in Japan, China, Siam, and neighboring lands and colonies. May Americans awake to the situation before it is too late.

I have, etc.,

JOHN BARRETT,
Minister Resident.