

HAITI.

CONSULAR IMMUNITIES. ARREST BY HAITIAN AUTHORITIES OF AN EMPLOYEE OF THE UNITED STATES VICE-CONSUL-GENERAL.

Mr. Powell to Mr. Hay.

No. 545.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, April 5, 1899.

SIR: I transmit to the Department under this inclosure the correspondence that has lately passed between the foreign office of the Haitian Government and the legation upon an attempt on the part of the Haitian authorities to arrest one of the employees of Dr. J. B. Terres, the vice-consul-general.

The correspondence will give the history of the case and my action in the matter. I have since had an interview with the secretary of foreign affairs ad interim, Hon. Stephan Lafontant, and believe the incident to be happily closed without friction, the Haitian secretary of foreign affairs stating the unpleasant incident arose from a misinterpretation of orders on the part of subordinate officials; that they were not authorized to make such arrest or to invade the domicile of our vice-consul-general.

The Department will favor me to pass upon my action.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

Mr. Terres to Mr. Powell.

No. 309.]

CONSULATE-GENERAL OF THE UNITED STATES,
Port au Prince, Haiti, March 30, 1899.

MY DEAR MINISTER: On the afternoon of the 29th, when I arrived at my residence, I found at the entrance and also on the premises some fifteen or twenty Haitian soldiers, who, however, withdrew before I had time to reach the gate. I inquired of one of my domestics what was their mission. He replied that they had come with an order to arrest two men I had employed on the premises.

The following morning, in coming from my bath, I found two Haitian generals stationed on the gallery of my house. I asked them what was their mission. They informed me that they had an order to arrest two Spaniards that I had in my employment. I demanded who had given them such orders. They replied that it was an order from the minister of the interior. I told them that I did not admit of any right on his part to invade my premises with an armed force under any pretext whatever, and that if he desired any information from me on any matter, to write to me officially and I would answer him.

Mr. Minister, I most solemnly protest against any such action on the part of the Haitian Government, and I lay these facts before you hoping that you will take such steps as you may deem necessary to prevent a like occurrence.

I am, etc.,

JOHN B. TERRES.

[Inclosure 2.]

Mr. Terres to Mr. Powell.

CONSULATE-GENERAL OF THE UNITED STATES,
Port au Prince, Haiti, April 1, 1899.

SIR: On the afternoon of the 30th ultimo I received from the minister of the interior the inclosed communication, which I transmit to you with my reply to same.

Respectfully, etc.,

JOHN B. TERRES.

[Subinclosure.—Translation.]

Mr. Auguste to Mr. Terres.

PRIVATE OFFICE OF THE SECRETARY OF STATE OF THE INTERIOR,
Port au Prince, March 30, 1899.

MR. THE VICE-CONSUL: On the request of the chargé d'affaires of the Dominican Republic addressed to me, I would be greatly pleased if you would have delivered Mr. Marcon Aroche (Alvarez) to the chief of the post of Carrefour. Mr. Marcon Aroche, alias Alvarez, works at present in the tobacco plantation that belongs to you and which you have established in that quarter.

Please accept, etc.,

T. AUGUSTE.

[Subinclosure.]

Mr. Terres to Mr. Auguste.

CONSULATE-GENERAL OF THE UNITED STATES,
Port au Prince, Haiti, March 31, 1899.

SIR: I have your favor of March 30. I have carefully noted the statement you have made therein. In reply to your communication I beg to inform you that I have brought this matter to the attention of our minister, who will take such steps as he may deem necessary to prevent our homes being invaded in future.

I am, etc.,

JOHN B. TERRES.

[Inclosure 3.]

Mr. Powell to Mr. Lafontant.

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, March 30, 1899.

SIR: Dr. J. B. Terres, the United States vice-consul-general, informs me this morning that his premises were entered yesterday upon an order from your honorable colleague, the Hon. T. Auguste, secretary of interior, for the purpose of arresting some of his employees, who were Cubans.

I desire to call your immediate attention to this matter, that in entering upon the premises of accredited officers of the United States, located in this Republic, is a grave infraction of international law, a recurrence of which will be very apt to lead to serious complications. I also desire to inform you that all Cubans resident in this Republic are under the protection of the United States while in the peaceful performance of their work, and are not to be molested.

You will greatly favor me by calling the attention of your honorable colleague, the Hon. Tancrede Auguste, to this matter, that your Government has no right to enter upon the premises of United States consular officers with either its military or its constabulary force.

Accept, etc.,

W. F. POWELL.

FOREIGN RELATIONS.

[Inclosure 4.—Translation.]

*Mr. Lafontant to Mr. Powell.*DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, Haiti, March 31, 1899.

MR. MINISTER: I hasten to acknowledge reception of your important communication of yesterday's date, which I immediately transmitted to the department of interior to obtain the necessary information.

However, and before even those informations, I can give you the assurance that it can never have entered in the intention of my colleague, Mr. the Secretary of State of the Interior, to give orders that may be of the nature to bring a violation of international laws and the violation of the dwelling of an accredited agent of the United States.

If a like circumstance has been able to take place, I remain convinced that it can only have been in consequence of badly interpreted instructions.

I take note that the Cubans residing in the Republic are under the protection of the Government of the United States of America, and I beg you to accept, Mr. Minister, the renewed assurance of my high consideration, etc.,

N. S. LAFONTANT.

Mr. Powell to Mr. Hay.

No. 547.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, April 10, 1899.

SIR: I transmit under this cover copies of the correspondence that has passed between the foreign office and the legation concerning the complaint made by Dr. J. B. Terres of an attempt to arrest one of his employees. This correspondence may be considered as a continuance of dispatch No. 545, April 6.

The inclosed correspondence having been received since the above dispatch was sent, this completes the history of the case, which has been settled without any unpleasant feeling being left.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

*Mr. Lafontant to Mr. Powell.*DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, April 8, 1899.

MR. MINISTER: Confirming to you the declarations that I have had the honor to make to you at our late interview, I am pleased to give you the assurance that in ordering, on the request of Mr. the chargé d'affaires of the Dominican Republic, the arrestation to be expelled of a Dominican who is in the service of Dr. Terres, vice-consul-general of the United States of America, my colleague of the department of the interior had in no wise the intention to violate the dwelling of an accredited agent of the United States, nor to commit any infraction of the international laws.

The order, moreover, not having any sequence, and the agent of the authority having stopped in view of the protestation of Dr. Terres.

You will kindly remember that in my dispatch of the 31st March, in reply to the one in which you made known to me the incident of which you thought to have a cause of complaint, I gave you the same assurances.

I have not failed to remark to you how much it would have been painful for the Government, that you could believe for a single instant that a minister of the Republic could have given an order of a nature to disturb the good relations that unite the two republics and to which my Government attaches such price.

Please accept, etc.,

N. S. LAFONTANT.

[Inclosure 2.]

*Mr. Powell to Mr. Lafontant.*LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, April 10, 1899.

SIR: I have your favor dated April 8. I am glad to know from you that it was not the intention of your honorable colleague, the minister of state for the interior, Hon. Tancrede Auguste, to violate any right of international courtesy that pertains to foreign representatives accredited to your Government, and that you have, on the part of your Government, promptly disavowed any such intention.

I heartily agree with you on the very pleasant way this incident has been closed, showing the strong and kindly feeling of your Government for that of mine, which I trust will continue to grow more binding as each advance in years.

I have the pleasure also to inform you in this dispatch that the two Dominicans referred to are not and have never been in the employ of our vice-consul-general, Dr. J. B. Terres.

Accept, etc.,

W. F. POWELL.

Mr. Hay to Mr. Powell.

No. 341.]

DEPARTMENT OF STATE,
Washington, April 25, 1899.

SIR: I have to acknowledge the receipt of your No. 119¹ of the 5th instant, San Domingo series, and your No. 545 of the same date, Haitian series.

In your first-mentioned dispatch you state that the Dominican charge at Port au Prince requested you to surrender two alleged Dominican refugees "said to be in the employ of the Vice-Consul-General Terres."

It appears from your No. 545 that the parties were merely employed "in the tobacco plantation" belonging to Dr. Terres, and that the Haitian military authorities did not enter the legation or consular premises, but merely went to Dr. Terres's residence. Even this is explained to have been the result of a blunder on the part of subordinate officials.

In view of these facts, the Department is of opinion that you had no authority whatever in the premises, either to grant or to refuse the surrender of the parties, or to approve their arrest.

I am, etc.,

JOHN HAY.

"ASYLUM" IN LEGATION AT PORT AU PRINCE.*Mr. Powell to Mr. Hay.*

[Telegram.]

PORT AU PRINCE, *August 2, 1899.*

Haitian sought asylum in legation; was removed by force. Have demanded his return, and apology from Government for invading same. Is to be returned. Please advise me as to surrendering him to authorities. Matters here very critical.

POWELL.

¹ Not printed.

Mr. Powell to Mr. Hay.

No. 613.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 2, 1899.

SIR: I respectfully inform the Department of what came very near resulting in a serious affair to-day. Hearing a considerable noise in the consulate, which is on the first floor of the building in which the legation is located, I was about to descend the stairs, when I was hastily informed that a posse of soldiers, under the command of the general of the La Place, had entered the consulate and taken from there a Haitian named Ulrick Duvivier. When I reached the lower floor I found the consulate filled with people, and our deputy, Mr. Batiste, talking rapidly to one of the generals in command of the military forces.

On being informed, I immediately demanded the return of this man to the consulate, stating they had no right to enter it in the manner they did; that it was not Haitian territory; that if this man sought an asylum here there was a proper way to secure him, but they could not forcibly take him in this manner. The officer refused to give him up, and requested the use of the legation's telephone to communicate with one of the ministers of the cabinet, the secretary of the interior. I replied he was at liberty to do so, but that this man must be returned.

In the meanwhile the foreign secretary, Mr. St. Victor, reached the legation, some one having notified him. I demanded the immediate return of this man, and a suitable apology made by his Government for this forcible intrusion by a posse of armed soldiers into our legation. He replied the man was under arrest for conspiracy, and could not be surrendered to me. I reiterated my demand for the return of this person. He requested that I would wait until he communicated with the President. I informed him he could state to the President, with my compliments, that I would not allow our legation to be entered in this manner.

In a few moments thereafter the man was returned and is now here.

I immediately cabled to the Department my action. I also communicated in writing with the Government, demanding an apology for this forcible entry. Since this arrest one of the former ministers, Mr. Solon Menos, craved the protection of the legation, which I have given him.

Arrests have been made by the wholesale to-day, each legation has several that have fled to it for protection, many of the leading citizens are in prison, and no one feels safe.

This afternoon the foreign secretary called, stating the President regretted the hasty action of his general, and would inform me in writing. I requested of the President, through the foreign secretary, to exercise clemency toward those in prison; to think of the foul stain that would be cast upon his administration, especially as it had been markedly different from that of his predecessors; that the welfare of his country was intrusted to him for its good, as a wise and humane ruler; finally, that the world would mark his action at this moment of his country's history. He returned me word that he would not execute anyone, except those he found in arms against the Government; at the same time he sent a safe conduct to the ex-minister, Mr. Menos, that he might return to his home in perfect safety.

Inclosed please find correspondence.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

Mr. Powell to Mr. St. Victor.

No. 287.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 2, 1899.

SIR: Allow me to bring to your immediate notice that at 10.30 this morning the premises of our legation were violated by one of the general officers of the Government, in taking therefrom by force one who had entered our legation.

I consider this a gross violation of international courtesy that is due by you to a Government that has ever been friendly and mindful of your national interests.

I am therefore compelled to ask that a suitable acknowledgment be made for this invasion.

Accept, etc.,

W. F. POWELL.

[Inclosure 2.]

Mr. St. Victor to Mr. Powell.

[Translation.]

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
REPUBLIC OF HAITI,
Port au Prince, Haiti, August 3, 1899.

MR. MINISTER: I have the honor to acknowledge the receipt of the dispatch No. 287, of the 2d of this month, by which you draw my attention to the act committed by an officer, Haitian general, penetrating in the building occupied by the legation of the United States of America in this city, in pursuit of an individual who had taken refuge there.

Kindly, I beg you, permit me to remind you, Mr. Minister, that finding myself in the neighborhood of your legation at the moment that the unfortunate incident of which you entertain me took place, I did not lose a minute and hastened to transport myself there for the purpose of ordering the officer general to desist. I reserved to myself—and was preparing myself to do so when your letter reached me—to renew to you through an official dispatch the regrets that I have already had the honor to express to you by word of mouth in the name of the Government on the occasion of the error committed by one of its generals.

I would add that His Excellency the President of the Republic, notwithstanding that the officer in question has declared under oath that he was ignorant of the fact that the lower floor of the building formed a part of the legation of the United States of America, inflicted on him a severe reprimand.

The Haitian Government—I do not hesitate to invoke on the subject your high testimony—attaches too high a price to the friendship of the great Federal Republic, and seeks ever the occasion to prove its lively admiration and its ardent desire to always tighten more and more the bonds of cordial sympathy that unite so closely the two nations, not to reprove with energy an act so little in harmony with its most precious sentiments.

Please accept, etc.,

B. ST. VICTOR.

[Inclosure 3.]

Mr. Powell to Mr. St. Victor.

No. 289.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 4, 1899.

SIR: I have the honor to state that I have received your favor to-day, containing the regrets of His Excellency the President, that one of his general officers should enter this legation and take therefrom by force one who had sought our protection.

I shall transmit the same with an account of the incident to my Government.

Accept, etc.,

W. F. POWELL.

Mr. Adee to Mr. Powell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 3, 1899.

If newspaper telegrams correctly state Duvivier case your remonstrance against violation and demand for refugee's return were rightly made. He should be sheltered against all but strictly regular legal process. Should he or any other refugee be demanded on regular warrant, you should decline judicial service upon legation, saying you can only recognize a request made through minister of foreign affairs. If such request be made, refer it to this Department for instructions.

ADEE, *Acting.**Mr. Adee to Mr. Powell.*

No. 358.]

DEPARTMENT OF STATE,
Washington, August 3, 1899.

SIR: There was received from you yesterday a cipher telegram, which was interpreted to read as follows:

Haitian sought asylum in legation; was removed by force; have demanded his return and apology from Government for invading same. Is to be returned. Please advise me as to surrendering him to authorities. Matters here very critical.

Shortly after the receipt of your telegram I was shown press dispatches purporting to give the particulars of the incident, as to which your report was silent. It appeared therefrom that, while a number of presumably political arrests were being made, one Duvivier, described as "a newspaper man," was seized, that he dragged his captor within the precincts of the legation, that the captor succeeded in getting out again with Duvivier, that you had protested against the violation of your premises, and that the Haitian Government had apologized and returned Duvivier to you. This statement is not at variance with yours, and is supposed to present the salient facts with fair accuracy.

While the facts so appearing do not indicate that the man was a refugee in the ordinary acceptance of the term, by having sought asylum and been admitted to its enjoyment by you, but rather suggest that Duvivier and his captor were both intruders, forced upon you in the heat of a struggle and without your consent, the circumstance that the captor appears to have continued to assert forcible authority within your precincts by removing his captive thence would seem to have been such a violation of your diplomatic domicile as to justify your remonstrance and your demand for a restoration of the status quo which existed from the moment when the captor's exercise of force within your dwelling became an infringement of your privilege.

Such an invasion of your domicile is, however, to be carefully distinguished from the collateral question of your right or power to afford to a native of the country immunity from the pursuit of the territorial authorities by claiming for him so-called "asylum." The Department has uniformly discountenanced the assertion by its diplomatic agents of the claims of right of asylum. In holding, as it has repeatedly done, that its agents are not competent, under inter-

national law, to harbor an accused criminal from the pursuit of law it has also held that the pursuit must be shown to be orderly and regular. It could, under no circumstances, admit that mere arbitrary force can be exerted by local agents to effect the capture of any person within the minister's dwelling.

Further than this, it is soundly held that, even when the refugee criminal is pursued in regular course of law, with exhibition of a warrant of arrest by a qualified officer of the courts, he may neither be formally arrested within the legation precincts nor formally surrendered by the minister to the agent of the law. The former would amount to an exercise of local jurisdiction within the envoy's domicile which is inconsistent with his diplomatic immunities and his representative dignity. The latter would virtually be an assumption by the envoy of a nonexistent function of surrender by way of quasi extradition, for which no warrant of international or statutory law can be adduced. The envoy can neither admit service upon him of a local judicial warrant nor become in any way a party to the execution of the writ. Under the varying conditions presented by this class of questions it is impossible to lay down any hard and fast rule of action for an envoy's guidance. The facts of each case are indispensable to a determination of the principles involved and the course to be pursued. It may be generally said, however, that sentiments of humanity and abstract justice counsel the affordance of shelter to an unfortunate person from lawless violence; that such shelter is a different thing from a claim of asylum from the regular justice of the territorial sovereign; that upon sufficient allegation of the criminality of the refugee, and upon adequate showing of the regularity of the judicial proceedings had against him, the right of the envoy to harbor him disappears, and that the evidence of criminality and of the regularity of the legal process against the accused should be made known to the envoy through the diplomatic channel and not by invasion of his domicile by attempted arrest therein.

Should a demand be diplomatically made upon you for the person of Duvivier, or any other person similarly situated, you will report it to the Department, with the evidence of criminality and of the regularity of the proceedings, in order that the matter may be determined with full knowledge of all pertinent facts.

The foregoing considerations will serve to elucidate the telegram sent to you to-day, of which a transcript is appended.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Powell to Mr. Hay.

[Telegram.]

PORT AU PRINCE, *August 5, 1899.*

Cable has been received. Will follow instructions. Situation very bad; arrests still being made. The legation full of refugees. May need naval vessel to protect our interests. If so, will cable.

POWELL.

Mr. Powell to Mr. Hay.

No. 616.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 8, 1899.

SIR: I respectfully inform the Department of the course of events up to the time (9 a. m.) of closing the mail. At present everything is quiet. The Government is still making arrests, though a few have been released. Many that are supposed to be suspected have been secluded by their friends until the excitement is over.

The number now confined in prison is 69, though many more have been arrested but released. These men will no doubt be exiled by a decree of the Government. The President has sent me word (orally) that none would be executed. The most prominent of the men arrested is C. Fouchard. He was at one time the minister of finance under President Salomon; upon the death of President Hippolite, was candidate for the office of President, at the time General Sam was elected, but withdrew in his favor. He is one of the wealthiest men in the Republic and has a large number of friends, but lately he has taken no part in politics. His arrest has therefore caused great surprise.

The *Moniteur* (the official organ), with an official statement of the Government's action, appears to-day. I inclose it.

The foreign secretary, Mr. St. Victor, sent me an official communication late yesterday, requesting the number of persons who have sought our protection. I have not yet answered the communication. I have been informed the Government intends to issue a decree expelling those it has arrested and confined, as well as those that have sought refuge in the several legations, each of which have several. If such a decree be made, I shall promptly cable for instruction before recognizing it.

The financial condition is still grave; but was temporarily relieved by a loan of \$200,000 by the bankers. This has had a tendency to relieve the situation greatly. I think the Government will, within a few days, realize the only steps to secure permanent security and allay the present feeling will be to consolidate their debts into one, retire the paper currency, and reduce the tariff on imports and exports, especially that on coffee. To do this they will have to secure a large loan and place the revenue derived from their customs, with the control of their custom-houses, as a guaranty for the repayment of such a loan, into the hands of a syndicate.

The surrender of their custom-houses they have heretofore refused. If they take this step, alluded to above, they will endeavor to float such a loan in the New York market. This will relieve the situation and bring immediate permanent relief.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

[Extract from *Le Moniteur*, August 5, 1899.—Translation.]

SECRETARY OF STATE OF THE INTERIOR AND OF THE GENERAL POLICE.

During the course of the week several citizens whose conduct was subversive to the order of established things have been placed under arrest. Encouraged by the moderation of the Government that they took for weakness, they gave themselves to a most active propaganda, discounting in advance the success of their machinations

and prognostications to all who would listen to them—the near downfall of the Government.

The duty of the authority was all marked out in such conjunctures; it has had apprehended these agitators by the police, and will not delay to deliver them to their natural judges. In fact, already the preliminary formalities of all the judicial information have been fulfilled in their regards.

Let the peaceable citizens reassure themselves! The Government, that always knows to distinguish the good seed from the tare, promise the greatest and most efficacious protection to their persons and their property. Imbued with its duties and conscious of its rights, it will not draw back before any measure proper to assure the interior peace and to give the most absolute security to all those who live under the shadow of the institutions that the nation has freely given itself.

[Inclosure 2.]

Mr. St. Victor to Mr. Powell.

[Translation.]

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, August 7, 1899.

MR. MINISTER: I have the honor to inform you that the Government of the Republic has charged me to inquire of you the persons who have been able to seek refuge at your legation.

I would be, in consequence, much obliged to you to let me know the names of those refugees.

Please accept, etc.,

B. ST. VICTOR,
Secretary of State for Foreign Relations.

Mr. Powell to Mr. Hay.

No. 623.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 14, 1899.

SIR: I have fully stated in dispatch No. 613 of August 2, 1899, of the attempted arrest of Mr. U. Duvivier, and the events that led to it. I have yet to add in answer to Department's No. 358, of August 3, 1899, that Mr. Duvivier entered the legation without my consent, and I think without any intention on his part to do so. Seeing his life in danger he fled to the nearest place that would afford to him protection; happily for him, ours was the nearest. The officers of the Government, eager to effect his capture, in the heat of the moment forgot where they were, or that they were trespassers.

As soon as my request was made known to the President, General Sam, the man was returned to the legation, and an apology made for the act, which the Department has received before this. I am now awaiting further instructions.

The principal crime imputed to Mr. Duvivier, if crime it may be called, was an article that appeared in one of the papers here of which Duvivier was the author. In it he severely criticised certain military officers of the Government for the ruthless and arbitrary way, without cause for the most trivial offense, arresting without warrant innocent persons as enemies of the State; if they attempted to resist they were shot on the spot.

The article in question raised the ire of Gen. St. Fort Colon, in charge of the arondissement (district) which includes this city, by whose directions most of these arrests had been made. Duvivier was summoned to the office of this general. While there he was arrested—placed

in prison. His friends secured his release from prison. Hearing that at the trial an attempt would be made upon his life, he was only represented by a lawyer. He was condemned by the court to undergo imprisonment, and in addition thereto to pay a fine. As soon as he was informed of the judgment, he surrendered himself to the prison authorities and paid the fine. Upon his release the implacable enmity of this man followed him.

The strained financial situation gave to him another opportunity to attempt to wreak his vengeance. Duvivier, with others, was said to be implicated in a plot to overthrow the Government. An order was given for his arrest; if he resisted he was to be immediately shot. Happily for him the posse of soldiers, under the command of the general of La Place, charged with his arrest met him in front of our legation. Before they could place him under arrest he had reached inside the doors of the legation. From thence, as I have stated in previous dispatch, he was taken by force.

It is unnecessary to renarrate the scene of arrest, as the Department has ere this perused the same in previous dispatch. I have simply to add, prompt action on our part saved this man's and many other men's lives and may have prevented an uprising of the masses that would have left the greater part of the city in ashes. The foreign colony, especially our citizens, would have been the greatest sufferers. As the legation is in the central or business part of the city we would have suffered with the rest.

It is due to the President, General Sam, to state that many of the acts of these generals are unknown to him. He has up to this time resisted with firmness the pressure of the enemies of these imprisoned men to issue orders to have them executed. He has only incarcerated them in prison. The most prominent, I understand, will be exiled. This will be the case with all those who have sought asylum at the various legations. Mr. Duvivier's life will not be safe as long as the present military chiefs are in power, even though he should receive assurance of safety from the President.

We have two others in the legation, Gen. Cicero François, a former military officer under a previous government, and Seneque Pierre, an ex-member of the Senate. Arrests are still being made, but not to the same extent as a few days ago. Matters are generally quieting down, exchange is falling, and if the Government can solve the financial question which presses upon it it will remain in power; otherwise it must fall.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

No. 624.]

LEGATION OF THE UNITED STATES,
Port au Prince, August 14, 1899.

SIR: The right of asylum as understood here may differ from what the Department may understand the term. This or any previous Government does not desire to take away the right of asylum or of granting protection to political refugees assumed by all the legations and consulates. This is the only safeguard in this land of sudden

revolutions that the Government itself has—to-day it may be in hot pursuit after a political opponent, to-morrow it may be seeking protection for itself. No one knows when he retires at night that he will not be awakened before dawn by a volley of musketry, find the Government overthrown and the members thereof seeking protection at the several legations or at the consulates. For another reason they do not seek to disturb this right—they then know where the disaffected ones are to be found, and they can more conveniently send them out of the country.

Under my predecessors two of the Presidents have sought asylums at our legation. The present President at one time was compelled to seek safety by going to one of the consulates. The general that led the detachment of soldiers that entered our legation was but a few years ago a refugee therein. If the present Government was overthrown each member thereof would have to seek asylum or protection at some legation. The Department can thus see the members of the Government are not eager to close the avenue that means life to them. If such an event should occur during the present administration we would have more than we could well accommodate, as our quarters are limited.

None of the legations care for this extra responsibility. As long as the refugee is in the legation he must be provided with food and bed; the former of course must come from the purse of the minister. This extra expense he is compelled to bear without a murmur for humanity's sake.

Instructions as to course to be pursued in such events have seldom been given. The first was by Mr. Fish to Mr. Bassett, who had given shelter to General Conal, afterwards President of the Republic. Mr. Fish stated to Mr. Bassett that General Canal should be delivered to the existing Government. Mr. Bassett failed to follow this instruction and was censured. A few months thereafter the Canal party was successful and Canal became President.

The present instruction conveyed in dispatch No. 613, of August 2, 1899, is such that it will greatly simplify the action of our representatives at this post when such cases arise as that which lately occurred at our legation. These instructions are all that one needs and give all needed authority to act in the premises. I am glad the Department has taken this view.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

[Telegram.]

PORT AU PRINCE, *August 16, 1899.*

Haytian minister for foreign affairs states that this Government has decreed all refugees in legations to leave country by first steamer. Please send instructions.

POWELL.

Mr. Adee to Mr. Powell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 17, 1899.

If any Haytian person sheltered in your legation is amenable to regular justice on a charge of crime or offense, you should notify him that he can not be longer sheltered against the order of expulsion. The Haitian Government has the right to expel its own citizens, and you can not shield them from the order simply because they happen to be your guests. You may shelter those under reasonable apprehension of lawless violence, but can not harbor an accused offender against Haitian law.

ADEE, *Acting.*

Mr. Adee to Mr. Powell.

No. 362.]

DEPARTMENT OF STATE,
Washington, August 17, 1899.

SIR: I have to acknowledge the receipt of your No. 613, of the 2d instant, reporting the forcible removal from the United States consulate by Haitian soldiers of Mr. Ulrick Duvivier, who had taken refuge in the consulate. You further report that you demanded his return, and that the Government of Haiti acceded thereto.

This appears to end the acute stage of the incident. Mr. St. Victor's frank disavowal of the unwarrantable action of the soldiery in invading your domicile and his expression of regret therefor are appreciated.

I am, etc.,

ALVEY A. ADEE, *Acting Secretary.*

Mr. Powell to Mr. Hay.

No. 629.]

LEGATION OF THE UNITED STATES.
Port au Prince, Haiti, August 18, 1899.

SIR: From the tenor of the cable received yesterday I think the Department is laboring under an error in regard to those who have sought shelter in our legation.

In the decree the Government does not cite these men to be guilty of any offense, either criminal or political, but simply notifies each legation that certain persons who have sought its protection must leave the country by first opportunity; the offense, if it can be called an offense, was in going to the legations for protection.

I do not deny the right of the Government to pass a decree of expulsion upon one or more of its citizens, or for them to assign or not to assign reasons for their expulsion, nor has my legation the right to request of them their reasons for so doing, it being a question in which they are the sole judge.

The facts, though, are simply these: The financial question here, as in Santo Domingo, is the principal cause for this state of affairs; their expenditures for the past few years have been greater than their rev-

enue. To meet the difference they have had to resort to loans at a high rate of interest, in some cases 24 per cent. No country, I care not how rich its resources may be, can long withstand such a rate; there can be but one result. Finding it impossible to secure further loans, having no guaranty to give, all their resources mortgaged in advance, the price of coffee falling in the markets of Europe, the natives or country people, receiving but little for that which they produced, refused to bring or gather it; exchange commencing to rise, until at one time it reached 225 per cent; the exports being curtailed, the imports necessarily were also limited. Importers not being able to meet this high exchange, could not meet their obligations, and had either to go into liquidation or retire from business. To add to the complications, its employees had been unpaid for months; the army, which is the mainstay of the Government, commenced to show signs of dissatisfaction.

The Government was bound to do something to arrest this discontent, repress this murmuring, and endeavor to restore confidence. The means it took was to cause the arrest of those that had criticised its course. The most prominent men were sought, arrested, and thrown into prison. Those that had private grievances and happened to be in power took advantage of the same and denounced their enemies as conspirators against the Government. Duvivier's case falls under this class.

These arbitrary arrests and stagnation in business have somewhat repressed these murmurs, for fear that the Government may resort to still more violent measures, so that to-day quiet, if not confidence, is restored, giving to the Government a breathing spell, as well as a chance to extricate itself from its present difficulties.

The Government has also been helped by the foreign bankers, who have loaned \$200,000 to meet their obligations for the present month. The receipts not mortgaged that will be due next month will be sufficient to meet the demand for September; but if the Government does not within this time adopt some measure for permanent relief October will see an uprising which will end in the violent overthrow of the existing Government, in which all classes will join. Such is the state of affairs.

Those who have sought our protection will leave by the next German steamer, on the 22d of this month, for St. Thomas, from thence to Kingston.

I inclose the correspondence on the subject.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

Mr. St. Victor to Mr. Powell.

[Translation.]

REPUBLIC OF HAITI,
DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, August 16, 1899.

MR. MINISTER: My honorable colleague, the minister for the interior, having notified me by his dispatch, of date of the 14th instant, No. 145, the decision of the Government relative to the embarkment by the first occasion for foreign country of all the individual refugees in the legation and consulates, I have the honor to transmit

to you that decision in that which concerns Messrs. Ulrick Duvivier, Ciceron François, and Seneque Pierre, who have taken refuge at your legation.
Please accept, etc.,

B. ST. VICTOR,
Secretary of State for Foreign Relations.

[Inclosure 2.]

Mr. Powell to Mr. St. Victor.

No. 293.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 18, 1899.

SIR: I have your favor dated August 16, in which you inform me of a decree of your Government concerning certain gentlemen who have requested the protection of our legation, that they should debark from the city by the first occasion.
Accept, etc.,

W. F. POWELL.

[Inclosure 3.]

Mr. Powell to Mr. St. Victor.

No. 294.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 19, 1899.

SIR: Agreeable to the request made by your Government that the gentlemen who have sought protection at our legation should depart on the first steamer that should leave this port, these gentlemen will depart on the German steamer which leaves to-day.

Accept, etc.,

W. F. POWELL.

Mr. Hay to Mr. Powell.

No. 363.]

DEPARTMENT OF STATE,
Washington, September 1, 1899.

SIR: Your dispatch No. 623, of the 14th ultimo, in relation to the case of Mr. Duvivier, the circumstances of whose arrest by armed force within the precincts of your official dwelling and return to your keeping upon your demand have been previously reported and are now again circumstantially recited by you, has been received.

You say that you are awaiting further instructions in the case.

The Department's instructions, No. 358, of August 3, attempted to lay down general principles for your guidance in the event of a demand being made upon you, under warrant of regular judicial proceedings, for the withdrawal of the shelter you have afforded this man. Your later telegram, of August 16, indicates that no proceedings are or will be instituted against Duvivier, but that he comes within the reported decree of expulsion. If this be so, the Acting Secretary's telegram to you of August 17, by which you were told that you could not shelter Haitian citizens from the order of expulsion simply because they happened to be your guests, appears to give you all necessary direction in the premises.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Powell.

No. 364.]

DEPARTMENT OF STATE,
Washington, September 1, 1899.

SIR: I have to acknowledge the receipt of your dispatch No. 624, of the 14th ultimo, in which you comment upon the practice of so-called asylum in Haiti.

The observations you make to show the influence of this vicious practice in virtually inviting conspiracies against the established rule, and begetting a feeling of security in the minds of would-be conspirators, is quite in the line of what has been often said in the past by successive Secretaries of State, as you will see by reference to section 104 of Wharton's International Law Digest. Mr. Fish wrote in 1870 to your predecessor, Mr. Bassett:

Among other objections to granting such asylum it may be remarked that that act obviously tends so far to incite conspiracies against governments that if persons charged with offenses can be sure of being screened in a foreign legation from arrest, they will be much more apt to attempt the overthrow of authority than if such a place of refuge were not open to them.

Mr. Evarts, writing to Mr. Langston in 1874, said: "The conspirators of to-day may be the government of to-morrow."

So, too, Mr. Langston, writing from Port au Prince, April 10, 1878, aptly remarked:

It is surprising to witness the readiness and assurance with which a defeated revolutionist approaches the door of such places, demanding, as a matter of right, admission and protection. And before the revolutionary attempt is made, when the probabilities of success or defeat are being calculated, this protection in case of defeat is regarded and accounted as sure, and by this means refuge and escape are sought and gained. Exile is regarded as the only possible infliction, and this tempered by that sort of care which results from diplomatic and consular interest and assistance. (Foreign Relations, 1878, 444.)

The Department is glad that you find in its instruction No. 358 "all needed authority to act in the premises." You should not, however, confine yourself to observance of that one instruction, which may not fit the particular circumstances of a particular case arising, but you should study and be governed in any applicable instance by the voluminous instructions of my predecessors, to be found on the files of your legation. They not only lay down the general principles involved with especial fullness, but they cover a larger field of varying conditions than those sent to any other country, inasmuch as with no other government have more numerous, intricate, and vexatious questions of abusive "asylum" arisen than with Haiti.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Powell.

No. 365.]

DEPARTMENT OF STATE,
Washington, September 2, 1899.

SIR: I have received your dispatch No. 629, of the 18th ultimo, reporting the departure on that day, by the German steamer, of the three persons to whom your legation had afforded shelter during the recent political troubles in Port au Prince.

You remark, in this relation, that Messrs. Duvivier, Ciceron, and

Seneque had not been accused of criminal or political offense, but that their offense, if any, was in going to the legation for protection.

The Department does not so understand the situation. It is a right of sovereignty, more or less regulated by the constitution or law of the State, to expel from the national territory any citizens or subjects whose presence may be deemed to imperil the public good. The men in question appear from your statements to have been political suspects in this sense, and as such to have taken refuge in your dwelling to escape pursuit. On several occasions in the past your predecessors have exceeded their legitimate rights and functions in demanding and obtaining for this class of persons, natives of the country, permission to quit the territory unmolested—a practice which the Department has uniformly condemned. In this instance the Haitian Government seems to have anticipated some such demand on the part of the foreign representatives, and to have either ordered or permitted—it is not clear which—the departure of the refugees.

I am, etc.,

JOHN HAY.

Mr. Powell to Mr. Hay.

No. 648.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, September 5, 1899.

SIR: I respectfully inform the Department, as I was about to embark those who have sought asylum in our legation, in accordance with the instructions from the Department and the request made to us by the Government, the minister of foreign affairs, Mr. St. Victor, called and delivered an oral request from the President that I would retain these gentlemen a few days longer.

I have done so. After waiting a period of two weeks and receiving no information from the Government as to its intentions, I addressed a letter to the minister of foreign affairs requesting information as to what the Government proposed to do. I received in reply a dispatch stating to me the decision of the Government, with a request that they leave by the first opportunity.

I have arranged for these persons to leave this legation on the 6th of September by the French Trans-Atlantic Line for Santiago, Cuba, at which place they will take passage for Kingston, Jamaica. I shall inform the Government prior to their departure.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

Mr. Powell to Mr. St. Victor.

No. 298.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 30, 1899.

SIR: Agreeable to a request from His Excellency the President, I detained the gentlemen who are in the United States legation, as they were about to embark for St. Thomas, in accordance with a notification from your office. The request that was conveyed to me, that it was the desire of His Excellency that I should allow them to remain a few days longer, at the expiration of which time they would be allowed to return to their respective homes with a guaranty of safety from the Government.

Since that time I heard nothing in regard to the intentions of the Government.

The few days have grown into weeks and His Excellency is still silent as to what he intends to do.

I therefore request that His Excellency inform me, Are the gentlemen in my legation to be permitted to return to their homes with a guarantee of safety from the Government? Otherwise I shall send them away by first steamer. I request an answer, as I shall leave early next week for the United States.

Accept, etc.,

W. F. POWELL.

[Inclosure 2.]

Mr. St. Victor to Mr. Hay.

[Translation.]

REPUBLIC OF HAITI,
DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, September 2, 1899.

MR. MINISTER: I have the honor to acknowledge the receipt of the dispatch of August 30 last, by which you announce to me that in case it should not be permitted to the Haitian citizens that have sought asylum in your legation to return to their hearths you would induce them to leave by the first steamer.

In thanking you for that communication I have not failed to submit it to my colleague of the department of the interior. I hasten to inform you that the Government of the Republic has taken the decision to embark those refugees on the French packet boat that will leave this port the 13th of this month.

Please accept, etc.,

B. ST. VICTOR,
Secretary of State for Foreign Relations.

[Inclosure 3.]

Mr. Powell to Mr. St. Victor.

No. 301.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, September 2, 1899.

SIR: I have the honor to receive your favor of this date, informing me that it is the decision of your Government that those who have sought refuge at the several legations shall leave the country by first opportunity, requesting of me that I comply with the decision of your Government.

In answer to your request, I will see that the gentlemen who have sought asylum within the legation of the United States shall leave the country by the first opportunity. The date of departure, name of vessel, and destination I will inform you when fully made.

Accept, etc.,

W. F. POWELL.

[Inclosure 4.]

Mr. Powell to Mr. St. Victor.

No. 302.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, September 4, 1899.

Sir: In compliance with your request dated August 16, 1899, that your Government requested those persons who have sought asylum in this legation "should leave by first steamer." In conformity with that request, these gentlemen will leave on the 7th of September, by the French Trans-Atlantic Line, for Santiago, Cuba.

Accept, etc.,

W. F. POWELL.

Mr. Adee to Mr. Terres.

[No. 368.]

DEPARTMENT OF STATE,
Washington, September 15, 1899.

SIR: I have Mr. Powell's dispatch No. 648, of the 5th instant, in further relation to the question of the expulsion from Haiti of certain refugees sheltered by your legation.

It seems that after Mr. Powell had notified the Haitian Government that he was prepared to withdraw protection in respect to the refugees whose expulsion had been ordered by the Haitian Government he was orally requested, by a message from the President, that he would retain those persons a few days longer; that after waiting two weeks and hearing nothing further on the subject, he requested the minister for foreign affairs to inform him whether the gentlemen in his legation were to be permitted to return to their homes with a guaranty of safety from the Government, and notified Mr. St. Victor that otherwise he, Mr. Powell, would send them away by the first steamer.

This would seem to indicate an alternative proposition by Mr. Powell, either that the refugees should be pardoned and permitted to go to their homes in Haiti or that if this were not done he, Mr. Powell, would himself deport them from Haiti.

It is not thought that either of these propositions was intended by Mr. Powell. Fortunately, no occasion for discussing his intent in this regard has arisen, inasmuch as Mr. St. Victor, in reply, on the 2d of September, hastened to inform Mr. Powell "that the Government of the Republic has reached the decision to embark these refugees upon the next steamer leaving" the port.

A new phase of the question, however, is presented by Mr. St. Victor's further request that Mr. Powell would carry out (y donner suite) the decision reached by the Haitian Government, in reply to which Mr. Powell informed Mr. St. Victor, September 2, that he would "see that the gentlemen who have sought asylum within the legation of the United States shall leave the country by first opportunity," and would inform him of the date of departure, name of vessel, and destination.

The Department's previous instructions will show that it was here held that the order of expulsion was not executable by the minister of the United States. My telegram of the 17th of August was explicit in directing Mr. Powell to inform the refugees that he could not protect them against the order of expulsion. By this was meant that Mr. Powell should withdraw his protection and request the refugees to leave his premises. It was certainly not intended that he should see that they left the country by the first ship, or make arrangements for their departure, or become in any way responsible for their deportation in the manner suggested by his note to Mr. St. Victor of September 2.

It is hoped that Mr. Powell will be able to make the attitude of the United States in this regard clear to the Government of Haiti, and to remove any impression which may exist in the mind of that Government that it was any part of the duty of the minister of the United States in that country to participate in the execution of the order of expulsion.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Powell to Mr. Hay.

No. 659.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, November 14, 1899.

SIR: I have the honor to acknowledge dispatch No. 364, of September 1, concerning the right of asylum. Though the incident to which this dispatch alludes is closed, I trust the Department will bear with me in replying to a portion of the subject-matter of the same.

The Department does not recognize the peculiar state of affairs that exists in this Republic; no set rules that would apply to any other country can be literally followed here.

These people are of a mercurial temperament, easy to take offense, and proud and sensitive; they are naturally jealous of what they think are certain rights that pertain to them, or of the interference of a foreign power in their affairs.

This "right of asylum," as they claim, has become almost an absolute law to them; the National Government recognizes it. Many of those now in power have in the past few years been refugees in this or some of our sister legations. This assumption on their part is not of recent date, but has existed for nearly seventy years—long before Haiti was recognized by our Government as an independent power.

This question of "asylum" has been one of the principal questions which the Department has been called upon again and again by each of our representatives, with the exception of Mr. Durham, to decide. During the time that gentleman filled the office the country was in a state of tranquillity. Notwithstanding the instructions of the Department, not one of my predecessors has been able literally to carry out its instructions, and I am forced to add that it will be impossible for my successors to act differently from the course pursued by their predecessors as long as the other legations accredited here receive and protect those that come to them in such emergencies. Mr. Evarts, in his instructions to Mr. Langston, aptly and tritely states the situation as it exists here, "that the conspirators of to-day may be the government to-morrow."

I feel that the Department must trust to the discretion of its representative as each emergency occurs. I do not desire to be understood that it is the duty of your representative to shield or give protection to those that seek to introduce anarchy, or those that attempt to overthrow the existing Government, or to come between the Government and its citizens—all such persons should be made to pay the penalty of their acts—nor do I wish to be understood that your representative is to constitute himself the judge in such matters. His first duty should be to bring all the facts, without comment, to the immediate attention of the Department and await instruction, especially if the case be such that previous instructions to his predecessors will not cover the case.

To absolutely refuse to succor an individual that may seek his protection is simply to invite upon himself not only this man's enmity but that of his friends also. In the event of his friends becoming the ruling factors in the Government, the very first step would be a request that such a representative be recalled, as his presence would mar the cordial feeling between the two Governments, though he had only followed the instructions conveyed to him by the Department. Such a request the Department would be compelled to heed, the representative

would be recalled, and a stigma rest upon his official life for all time which he could not remove. This is the unpleasant feature connected with this state of affairs. Again, under present instructions, if the officials of the Government should seek refuge in our legation from those that attempted to overthrow them, we could not, without violating the instructions of the Department, receive them. Again, I fear the Department fails to observe this fact: A refugee comes to us, asks protection; we refuse to extend it to him; in return he refuses to leave our premises. Are we to use force to compel him to leave? We can not ask the Government to aid us. That would violate the sanctity of our legation. Here is another phase of this question on which I would like the Department to instruct me.

This question of asylum bears hard upon every legation, as when a man secures asylum it is at the expense of each representative to provide him with food from his table, as well as shelter, which must be met and defrayed from the personal funds of the representative, which I can assure the Department in the case of the present incumbent is inadequate to meet the same.

I would be glad if this question could be settled in such a way that would not reflect upon those that may fill the office of your representative. There is but one solution to this question, I think, and that is for each legation to absolutely refuse to shelter anyone but members of the Government in case of a revolution only.

Pardon me for the valuable time I have taken in calling your attention to this matter and the difficulty that surrounds it in following the given instructions of the Department.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

No. 660.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, November 15, 1899.

SIR: I have the honor to reply to Department's dispatch No. 368, of September 18, 1899, addressed, in my absence, to Dr. J. B. Terres, the vice-consul-general, in reference to the expulsion of certain refugees who had sought shelter in our legation. Dr. Terres, not being conversant with the facts, preferred the dispatch should remain unanswered until my arrival.

From the tenor of this dispatch, I find the Department is laboring under the impression that I have interfered in the execution of certain decrees of the Government and been a factor in assisting it to execute its laws upon its citizens. I therefore state for the information of the Department all the facts connected with the case and my action in the premises.

It is unnecessary for me to renarrate the facts pertaining to the arrest of Mr. Ulrick Divivier; these the Department is in possession of, in dispatches Nos. 613, of August 2, 623, of August 14, and 648, of September 5. On the evening following Mr. Duvivier's attempted arrest, Mr. Solon Menos, a former minister of foreign affairs, came to our legation, requesting our protection; the same evening Gen. Cicerone François applied; the following day Seneque Pierre, a former senator, made the same request; others applied, but because of our limited quarters we could not grant their requests. These men afterwards

applied to the other legations and were received. Mr. Menos received a letter from the President granting to him the liberty to return to his home, guaranteeing the fullest protection.

After these gentlemen had been with us two weeks, a note was received by each of the foreign ministers who had given shelter to these persons, that they must leave the country by first steamer. This note was sent from the foreign office, bearing the signature of Mr. Brutus St. Victor. The French minister immediately called upon Mr. St. Victor, the minister of foreign relations, representing that some of the persons in his legation had not the money to leave the country by the steamer then due. As soon as I received the note from Mr. St. Victor I informed the gentlemen who were with me of the decision of the Government that they would have to leave at the time named. They commenced to make preparation for their departure. On the day they were to sail Mr. St. Victor called with a request from the President that I would retain them a few days longer; at the time he privately stated to me that he did not think they would have to leave the Republic.

After waiting two weeks, and the time nearing when my leave of absence was to take effect, I addressed a note to the foreign secretary in regard to the length of time they were yet to remain with me, stating at the time that if I did not hear from him I should act upon the request as first made and they leave by first opportunity. In reply the foreign minister named a day requesting they leave at that time. A similar note was addressed to the French and German ministers.

As soon as the latter request was received, it was made known to the gentlemen that were with me, and word was conveyed to the agent of the French line to secure passage to Santiago, Cuba. On the day of their departure our deputy consul, Mr. Battiste, at my request, accompanied them to the boat that was to convey them to the steamer, the French minister conveying those at his legation in his carriage to the boat and went with them to the steamer, those at the German legation being sent under the protection of the German minister to the French legation. An hour after the departure of the gentlemen that were with me I left by steamer for New York.

The course that I have pursued in this case has been that which has been followed by my predecessors and by every legation here. I have assumed no responsibility in their embarking, except so far as to have the agent of the company meet them at the legation to procure their tickets, which they could not do themselves. The instruction of the Department was carried into effect as soon as possible.

The Department is unaware of the fact we can not always carry into execution instructions as given. We can request a refugee to leave our premises, but if he refuses to do so, we must either use force to compel him, or else request the Government to assist us to pursue such a course. I am aware the Department would seriously object.

The Government of Haiti has not the impression, the Department thinks, that it is the duty of your representative to participate in the execution of the order of expulsion, nor would I accept such an order from this Government.

Allow me also to state in this connection that the shelter often given to these refugees is at times a great help to the Government itself. Heated passions are allowed to cool, and the Government is able to extricate itself from a serious dilemma, though at the expense of the

several legations. This, in fact, was the case of the refugees that were with us. They started for Santiago, but the military authorities refused permission for them to land. They had to return here and left for St. Thomas. After their departure, the Government found the charges made against them to be false. Passports allowing them to return were sent. Some have availed themselves of them and returned; others preferred to remain away.

I have, etc.,

W. F. POWELL.

Mr. Hay to Mr. Powell.

No. 384.]

DEPARTMENT OF STATE,
Washington, December 6, 1899.

SIR: I have to acknowledge the receipt of your No. 659, of the 14th ultimo, relative to the right of asylum in Haiti. In reply I have to say that in view of the peculiar situation in that Republic and the varying circumstances of each case the only safe course would seem to be to bring all the facts to the immediate attention of the Department and await its instructions.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Powell.

No. 385.]

DEPARTMENT OF STATE,
Washington, December 7, 1899.

SIR: I have to acknowledge the receipt of your No. 660, of the 15th ultimo, relative to the Duvivier incident. In reply I have to say that in view of your assurance as to the understanding of the Haitian Government concerning the attitude of the United States and the legation toward the expulsion of the refugees sheltered by the legation, the Department is content to allow the matter to rest upon its instruction No. 368, of September 15 last, and your present dispatch.

I am, etc.,

JOHN HAY.

STATUS OF HAITIANS, DESCENDANTS OF EMIGRANTS FROM THE UNITED STATES.

Mr. Powell to Mr. Hay.

No. 621.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 14, 1899.

SIR: I inclose a communication addressed to Dr. Terres, the vice-consul-general, from Mr. Charles Miot, the United States consular agent at Gonaïves.

The facts are, on Sunday, August 13, 1899, General Prudo, of the arrondissement of Gonaïves, impressed into the Haitian army two young men, one by the name Julian Guillaury, the other a son of Ch. Black. The fathers of these young men claim to be American citizens. The young men impressed, though, were born in Haiti.

General Prudo was written to and informed they were American citizens and were released. I call attention to that portion of Mr. Miot's letter referring to the registering of Americans in that district.

Mr. Miot informed me that the parents of these young men had not returned to the United States for many years, their sons had not been there at any time, nor had they been registered at the consular agency.

In order that the Department may be fully informed in regard to this class of cases, about 1824 this Republic extended an invitation to settlers to take up their abode here, granting to them a certain amount of land. Many residing in Louisiana accepted the offer of the Republic and emigrated. In 1845 there was another large immigration here. This also was principally from the Gulf States. Another large immigration took place in the years 1861, 1862, and 1863. These people came from the northern tier of the Southern States, with a few from the Middle and New England States. The early immigrants settled either here or at Gonaives; those of a later period at Les Cayes, also called Aux Cayes, and other parts of the Republic.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

Mr. Miot to Mr. Terres.

CONSULAR AGENCY OF THE UNITED STATES OF AMERICA,
St. Marc, August 11, 1899.

SIR: I have the honor to make you know the little incident that gave birth to the two telegrams I showed you at Port au Prince.

Last Sunday they were beating up for soldiers. Two young men, one the son of Julian Guillaury and the other the son of Ch. Black, were taken and put in prison to be incorporated. The two fathers, who are Americans, came to this consulate complaining about the fact. My son, Em. Miot, wrote to General Prudo, commandant of this arrondissement, who put the two men at once in liberty.

But General Prudo used to consider them as Haitians, as they were born here and have never made any declaration that could make them known as American citizens.

It would be good to take the names of all Louisianians and children and make them declare if they intend to be American or Haitian citizens, so that I might know how to do with them in future.

I am, etc.,

CHARLES MIOT.

Mr. J. Guillaury brought me his papers, by which I see that he is really an American citizen. Ch. Black has no papers.

[Subinclosure.]

Mr. Miot to General Prudo.

ST. MARC, August 6, 1899.

GENERAL: I come by the present to beg you to kindly set at liberty the sons of Ch. Black and that of J. Guillaury, both American subjects, arrested this morning and committed to prison.

With the hope that my request will find a good welcome, I beg you to accept, etc.,

EM. MIOT,

United States Consular Agent (ad interim).

[Inclosure 2.]

Mr. Powell to Mr. Miot.

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 14, 1899.

SIR: Your letter to the vice-consul-general, Dr. J. B. Terres, in regard to the impressment of certain American citizens into the military service and their subsequent release has been handed me.

In reply to your request as to registering those from Louisiana who emigrated from there, I have referred the matter to the Department. My own opinion is that when they accepted the terms of the Government it was with the understanding they should become citizens. I will be glad if you will furnish me this necessary information:

First. When did they come to Haiti; that is, the year? Did they accept the offer made about this time?

Second. Have they at any time since their arrival here returned to the United States?

Third. Do they now intend to return? Have they had their children, when born, registered in your consulate?

Respectfully, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

No. 622.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 14, 1899.

SIR: It has been the custom of some of my predecessors, so I have been informed, to issue to certain Americans residing in this Republic certain papers or permits showing that they were American citizens.

Since the recent troubles application has been made to me by Antoine Phelps, aged 34, and Emanuel Phelps, aged 30, for such permits. I have refused, stating I would refer the matter to Mr. Hay, the Secretary of State, for instructions.

I have refused to grant such papers for the following reasons:

First. The right to grant such papers, or to declare who are American citizens, rests alone with Congress, or in the courts of the United States. This power is not delegated to the representatives of the United States, the only paper of an official character upon this subject being the passport.

Second. I do not believe the parties applying for them are entitled to the same. One is 34 years old, the other 30; both were born in Haiti, though their parents are American citizens, having come to the Republic about the year 1824. The applicants themselves have never been in either of the States, nor have they any intention of going. At the time of their birth they were not registered, nor has either since obtaining his majority shown any inclination to register him as an American citizen.

To evade the laws of the country they claim to be American citizens and desire certain papers to show this fact. Such papers, I think, they are not entitled to.

I therefore request the Department to inform me if papers entitling them to the rights of American citizens should be issued to them.

I have, etc.,

W. F. POWELL.

[Inclosure.]

LEGATION OF THE UNITED STATES OF AMERICA,
Port au Prince, Haiti, May 17, 1869.

To whom these presents may come, greeting:

This is to certify that from proof to me furnished Pierre Phelps is a citizen of the United States and entitled to all the rights of American citizens residing abroad. Given under my hand and official seal the day and date above written.

[SEAL.] *E. H. HOLLISTER,*
Minister Resident and Consul-General of U. S. A. at Port au Prince, Haiti.

Presented and viséed at this legation this 30th day of October, 1869.

EBENEZER D. BASSETT,
Minister Resident of the United States, near the Government of Haiti.

Mr. Powell to Mr. Hay.

No. 644.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, September 2, 1899.

SIR: I called the attention of the Department, in dispatch No. 621, dated August 14, to the impressment of two Americans into the Haitian army. They were released at first, but have afterwards been placed or enrolled.

From the investigation made I find the parents have for the past thirty years been considered as Haitians; they have not returned to the United States and do not intend to return. The sons are of age, and have expressed no desire to become or to register themselves as American citizens. In view of the facts before me, I do not feel warranted to act in their behalf, except by instructions from the Department.

I inclose certain letters bearing upon the case.
 I have, etc.

W. F. POWELL.

[Inclosure.]

Mr. Miot to Mr. Powell.

CONSULAR AGENCY OF THE UNITED STATES OF AMERICA,
St. Marc, August 29, 1899.

SIR: I received your dispatch of the 14th instant, and take notice that you referred to your Department about our Louisianians. I told Mr. Guillaury to let his son do what they ask from him until I receive instructions. In answer to the questions you ask me, I will tell you:

1. That all the Louisianians came in the year 1860 with the immigration of President Jeffrard.
2. They say that they did not accept the offer made at that time.
3. They never returned to the United States. The young Guillaury says that he would go to the United States if he could.
4. None of the children had been registered at the consulate when born.

Mr. Julian Guillaury, the father, has all his papers in good order. He has:

1. A certificate of the mayoralty of New Orleans, 1860.
2. A passport under his name to come to Haiti.
3. A certificate dated September, 1889, from my predecessor, authenticated by Mr. John W. Thompson, consul-general at Port au Prince.

I remain, etc.,

CHARLES MIOT.

Mr. Hay to Mr. Powell.

No. 366.]

DEPARTMENT OF STATE,
Washington, September 2, 1899.

SIR: Your dispatches Nos. 621 and 622, both dated the 14th ultimo, in relation to the status and liability to military service of certain persons who claim registration as citizens of the United States, have been received.

It appears that the persons you describe are either persons who have emigrated from the Southern States of the Union as settlers in Haiti under grants of land, or the children of such settlers born in Haiti.

It therefore becomes pertinent to ascertain, if possible, whether the grants to these colonists were conditioned upon the assumption by them of full or qualified Haitian allegiance. Such a condition is common in grants of land to immigrant settlers. If these persons immigrated to Haiti and took up land under a contractual tenure, whereby they shared in the political concerns of the Republic, that circumstance would, *prima facie*, establish an adoption of a new status and an abandonment of their original status, which would operate to give their children born in Haiti the character of Haitian allegiance, but to what extent, if at all, would depend upon the terms of their grants.

Assuming, however, that the immigrants held their lands under conditions which left their American citizenship unimpaired, they and their children would have enjoyed the right to protection, qualified by their ability to show that their residence in Haiti was of a temporary character and that they have in good faith held, and now hold, the fixed purpose to return to the United States, here to dwell and perform the duties of citizenship. The facts in each individual case would determine the title to receive a passport as evidence of the right to continued protection while sojourning in an alien land.

Your No. 622 reports two individual applications of persons who are supposed to belong to the classes you describe in your No. 621. The applicants, Antoine Phelps and Emanuel Phelps, are stated by you to be, respectively, 34 and 30 years of age, both having been born in Haiti of American parents who went thither in 1824. Neither of them was registered at the time of birth, or has at any time been in the United States, or has shown since attaining majority any purpose to come hither. The only evidence they present of their American character is a certificate, given by your predecessor, Mr. Hollister, in 1869, to one Pierre Phelps, whose relationship to the applicants is not stated, while their present application appears to be for some form of permit which will enable them to continue to reside in Haiti exempt from all burdens of such residence.

Under the reported circumstances you are not authorized to grant to the persons named a passport, which, as you correctly suggest, is the only certificate of citizenship which you are authorized to grant in any case.

A fuller report from you on the subject presented in your No. 621 is awaited.

I am, etc.,

JOHN HAY.

Mr. Adee to Mr. Terres.

No. 369.]

DEPARTMENT OF STATE,
Washington, September 16, 1899.

SIR: I have to acknowledge the receipt of Mr. Powell's No. 644, of the 2d instant, in regard to the impressment into the Haitian army of certain persons claiming to be United States citizens.

In reply I have to say that the report called for in the Department's No. 366, of the 2d instant, is awaited.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Powell to Mr. Hay.

No. 661.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, November 16, 1899.

SIR: I have the honor to reply to Department's No. 366, of September 2, and No. 369, of September 16, addressed to Dr. Terres, requesting further information as to the status of certain persons who claim registration as citizens of the United States, and as a result of such statement exemption from Haitian military service.

The class of persons to which I referred in dispatches Nos. 621 and 622, of August 14, were those that emigrated here upon an invitation of the Haitian Government that grants of land would be given them, providing it was their intention to become citizens of Haiti. Under this invitation many emigrated from the United States, principally from the Southern States, and made Haiti their home.

In reference to this particular incident referred to in the dispatches named above, the parties that claim exemption from military service were among that class of persons who received grants of land from the Haitian Government upon their becoming citizens.

I inclose an extract bearing upon this copied from their archives, and a copy of the law bearing upon this subject.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

[Extract from Haitian archives bearing upon emigration.]

PORT AU PRINCE, *March 26, 1860.*

We are desirous to receive amongst us all men of African origin who are willing to share our fortunes.

The reception given at St. Marc to 120 emigrants from Louisiana is a proof of the good will of the country people as regards these persons.

When they arrive here they will find, either to lease or to buy from the Government or private parties, fertile lands of a reasonable price. For persons unacquainted with the country, and who have studied its peculiarities, the system of leases is not to be despised, the very small annual charge being no obstacle to the prosperity of their labors. Besides, the Government is authorized by law to sell all national lands. They possess a great extent of land in different parts of the country, and will always place their lands at the disposition of the emigrants. The mode of sale imposed upon them by law in this case is for cash. In certain quarters these properties are sufficiently extensive to allow of the settlement of 100 families or more.

Permission will be granted to emigrants to buy land on their making the declaration that they wish to become Haitians and on their renouncing every other nationality.

Our law authorizes the formation of two sorts of companies, copartnerships, which do not need any preliminary authorization; and joint-stock companies, whose statutes would have to be submitted to the Government for their approval. It determines the conditions on which they exist and their mode of action. Under the control of this legislation companies could be formed either for exploring the mines or for the establishment of manufactories, and the Government would look very favorably on all serious undertakings of this sort.

The Government can not bind itself to the adoption of a protective tariff. Manufactories would, however, have a sufficient guaranty in our actual tariff, whose mean rate for the last twenty years has been 20 per cent upon the value of goods imported. As our fiscal legislation derives its principal revenue from the customs duties, it is not to be supposed that the existing system will be given up for a long time to come.

We have no law on patents. The principle, however, exists in our civil law as regards literary property, and might, if need be, be developed so as to afford protection to inventions.

Though the law of the national guard prescribes a monthly review thereof on every first Sabbath in the month, measures would be taken not to disturb the conscientious scruples of the members of those churches which forbid such a use of that day.

The sons of emigrants destined to a religious career will be exempt from military service. There will be no exception made in the case of those who may be engaged in secular pursuits or professions.

Provisions of all kinds being always to be had in abundance, there is no need of dispensing with the payment of the customs duties on provisions for the use of those who may arrive.

Machines, agricultural implements, and personal effects will be allowed to be brought into the country free of duty. There can be no exception made to the general rule in such cases as regards the disposal of produce by the emigrant.

The Government will engage to provide remunerating labor for honest and able, but poor, laborers who could not immediately purchase property. This they would do, either by means of leases or partnerships, or by placing them in such situations as, by economy and good conduct, they could in a few years become proprietors.

Lands for schools and chapels would be given by the State.

The emigrants would not be compelled to come to Port au Prince, but could go directly to that part of the country which they would choose.

They would, after the settlement of a year and a day in the Republic, enjoy all the privileges of Haitian citizens.

To make it easy for those needy persons of African origin who would wish to emigrate to Haiti, the Government has decided, since last year, to pay their passage at the following rates:

Fifteen dollars Spanish for every able-bodied man and woman; \$8 for children under 12 years of age and for aged persons above 60.

It is well to make known the contracts which are usually made in this country between agricultural laborers and proprietors. The proprietors give the land and necessary implements, the others cultivate the land and dispose of the produce. This is divided equally between the proprietor and the cultivator. The emigrants might enter into such agreements if they saw fit to do so.

The Government will always respect the religious belief of the emigrants no matter to what Christian sect they may belong. They will never be called upon to defend the Roman Catholic religion, whether they follow it or not.

The present Government, in its earnest desire to spread knowledge among the people, has founded and will yet found a number of primary schools. In these establishments instruction is given cheap, and even gratuitously, to certain children. The children of emigrants will enjoy in this respect the same privileges as Haitian children.

Our laws do not take away from anyone power to leave the country when he pleases. Nevertheless, the Haitian who abandons his country in times of imminent danger loses forever the right of citizenship. Those emigrants who do not care to remain in Haiti will be free to go back again. Those, however, whose passage the Government may have paid will not be able to leave the country until after three years' residence.

These, sir, are the communications which I am commissioned to make to you.

F's. JN. JOSEPH,
The Secretary of State, of the Interior, and of Agriculture.

[Inclosure 2.]

Law on the immigration into the country of persons of African or Indian race.

Fabre Geffrard, President of Haiti, by the advice of the council of the secretaries of state, has proposed the following law:

ARTICLE 1. After the promulgation of the present law five carreaux of land will be granted, free of all charge, to every family of laborers or cultivators of African or Indian race who shall arrive in the Republic. This grant will be reduced to two carreaux when the laborer or cultivator is unmarried.

ART. 2. These grants will be delivered, without expense and with a provisional title, to every family that shall have made before the proper magistrate the declarations prescribed by law to the end of obtaining naturalization, and they will be converted into final grants after a residence of a year and a day in the country.

ART. 3. The final grants will be given in exchange for the provisional grants only when it shall have been ascertained by the Government agent that cultivation has already commenced on the property granted.

ART. 4. The grantee shall not have the power to dispose of his grant before the expiration of seven consecutive years of occupation. Nevertheless, he will be able to obtain the authority to exchange his grant for another property, but only on the conditions, terms, and with the provisos above named.

The present law shall be promptly executed by the secretary of state, of the interior, and of agriculture.

National Palace of Port au Prince, the 1st September, 1860, year fifty-seventh of independence.

GEFFRARD et al.

Mr. Hay to Mr. Powell.

No. 382.]

DEPARTMENT OF STATE,
Washington, December 1, 1899.

SIR: I have to acknowledge the receipt of your dispatch No. 661, of the 16th ultimo, with which you communicate, in compliance with the Department's instructions, further information as to the status of the persons, landholders in Haiti, who claim United States citizenship and exemption from Haitian military service.

As the immigration of the persons in question and the acceptance by them of a land grant from the Haitian Government appears to have been expressly conditioned upon their becoming citizens of Haiti, the transaction must be regarded as a voluntary contract whereby the immigrant settler renounced his American citizenship and became merged in the body politic of the Haitian Republic.

You will test each individual case by this rule and act accordingly, withholding the passport if the fact of the acquisition of Haitian citizenship appear.

I am, etc.,

JOHN HAY.

FOREIGNERS IN HAITI REQUIRED TO PROCURE LICENSE TO DO BUSINESS.

Mr. Powell to Mr. Hay.

No. 640.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 29, 1899.

SIR: The subject of license I am compelled to call the Department's attention to again. I thought this question was finally adjusted and

settled for the future. During the time I was away last year the Chambers passed a law compelling every foreigner in business that they should make application to the President on a certain stamped paper and pay \$5 for the same.

On my return the matter was presented to me. I immediately protested to the foreign minister, Mr. St. Victor, and also reported my action to the Department * * *. The Department in its reply * * * sustained my action. I informed the secretary, Mr. St. Victor, that the enforcement of such regulations was in conflict with certain rights granted us under the treaty, that we should pay no higher tax than Haitians in the same business.

In a personal interview with the secretary, held afterwards, he stated he was willing to concede this and promised to inform me later in writing. After waiting some little time, not hearing from him, I requested another interview, which was accorded me. At that interview he stated that he would accord to our citizens the rights claimed for them and that he would enter into a private agreement in regard to it, in order that my colleagues of the German and French legation should not demand the same concession. Before this action was communicated to me in writing the present financial difficulties took place.

I have waited to receive his answer; not receiving one, I called upon him to-day and requested a definite reply as to the purpose of the Government toward our citizens in regard to the patents for the coming year (October 1). As usual, a request was made for delay. I informed him that this extra assessment for patents would not be paid by Americans in business; that I would send him a list of our citizens that were thus engaged, to whom I requested that licenses or patents be issued upon the payment of the same sum as paid by Haitians in similar enterprises.

He agreed that no extra charge would be made, but refused to accede to the request as to the manner of procuring the same—that is, that Americans should not be compelled to make application to the President to enter or continue business, stating on his part that this was a police regulation; that the President should know of the business the party was engaged in; that it was a matter with which the treaty had nothing to do.

I contend that this information is unnecessary, as it is all furnished in the patent granted by the commune to enter or continue business; that the regulation is one made to evade certain rights that we hold under the treaty. I also claim that if this is allowed a precedent is established by which they may enact other laws that will impair the rights for which we have been contending for years.

Before I make another move in this matter I would like to have the views of the Department. Shall I still demand that no application be made to the President, or allow the matter to remain as it is—that is, to make the application so required, but without having to pay the tax imposed by the law.

This matter is important, as all licenses expire at the close of September throughout the Republic.

I have, etc.,

W. F. POWELL.

Mr. Hill to Mr. Terres.

No. 372.]

DEPARTMENT OF STATE,
Washington, September 21, 1899.

SIR: I have to acknowledge the receipt of Mr. Powell's No. 640, of the 29th ultimo, stating that his discussion of the Haitian law requiring foreigners to apply to the President for patents or licenses to enter or continue business, and to pay fees therefor, had resulted, so far as American citizens were concerned, in the minister of foreign relations admitting that under the treaty with the United States they could not be compelled to pay a higher license fee than Haitians. The minister, however, persisted in maintaining that the regulation that they should apply to the President was a police regulation which must be observed, and which was not in contravention of the treaty.

In reply I have to say that the ground upon which this Government has always contested the right of the Haitian Government to impose and collect a fee for a license to American citizens to do business in Haiti is that such action is in violation of the treaty provision which declares that they shall not be compelled to pay "any contributions whatever" higher or other than those that are or may be paid by natives.

Neither this provision of the treaty nor any other, so far as the Department is aware, would justify this Government in contesting the Haitian requirement that American citizens shall make applications for licenses to conduct business.

Nor can the Department perceive how any right would be waived by failure to object to such a requirement.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

**CONSULAR IMMUNITIES—INVASION BY HAITIAN AUTHORITIES
OF RESIDENCE OF UNITED STATES DEPUTY CONSUL-GENERAL.**

Mr. Powell to Mr. Hay.

No. 655.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, November 11, 1899.

SIR: I call the attention of the Department to the unwarranted invasion of the residence of our deputy consul-general, Mr. Alex. Battiste, by the chief of police, with revolver in hand, assisted also by a portion of the police force of this commune.

As the affair took place prior to my arrival, and as the vice-consul-general, Dr. J. B. Terres, had called the attention of the Haitian Government to this outrage, I did not feel warranted in taking action until I had reported this matter to the Department.

I feel though that some decided action should be taken on the part of our Government to prevent such occurrences in the future.

If this Government be allowed without the slightest pretense to invade the residence of our consular officers, without an energetic warning on the part of our Government that such unwarranted proceedings can not be allowed, our national prestige of protecting our officials abroad will soon be a nullity.

I feel that the Department should inform this Government that acts of this character will have a tendency to mar the cordial feeling which

our Government has in the past as well as in the present extended to them.

On behalf of the deputy consul-general, Mr. Battiste, I desire to state that he did not wish that this matter should be brought to the attention of the Department, but I feel it a duty that the Department should be informed to prevent a like occurrence in the future.

I request that the Department instruct me so that a like flagrant outrage shall not again take place.

I have the honor to submit the correspondence of the vice-consul-general, Dr. J. B. Terres.

I remain, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

Mr. St. Victor to Mr. Terres.

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, October 28, 1899.

My colleague of the department of the interior has just announced to me that he is about to proceed to make domiciliary searches in the square where resides Mr. Alexander Battiste, deputy consul of the United States of America in this city, and that it is possible that they may penetrate in his dwelling. I hasten to give you notice, in view of avoiding all misunderstanding on the subject. The police will, moreover, be accompanied by the justice of the peace.

Please accept, etc.,

B. ST. VICTOR.

[Inclosure 2.]

Mr. Terres to Mr. St. Victor.

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, October 31, 1899.

SIR: Your dispatch dated the 28th instant, informing me that domiciliary searches were about to be made in the square inhabited by Mr. Alexander Battiste, deputy consul of the United States, and that possibly they might enter into his premises, was duly received at this legation, but being unwell and in the country I did not receive it until this morning.

As the messenger represented the case as being urgent, Mr. Battiste, our deputy consul, opened the dispatch, and on reading the contents immediately proceeded to his residence, and found it surrounded by and being searched by the police, who represented that they were searching for a thief. The only persons in his house at the time were his wife, her aged grandaunt, and children, and the abrupt and unceremonious manner in which the chief of police, revolver in hand, followed by his escort, the invasion of the yard by the police entering by breaking down the fence, was therefore quite sufficient to terrify and shock persons unaccustomed to such proceedings.

Now, Mr. Battiste being our deputy consul, our Government considers him as a person without reproach in every respect, and considering the position held by him under our Government it seems to me that such should have been taken into consideration before violating his premises under such pretext; and moreover Mr. Battiste would have certainly in person given any information in regard to his private residence that your Government might have desired.

Please accept, etc.,

JOHN B. TERRES.

[Inclosure 3.—Translation.]

Mr. St. Victor to Mr. Terres.

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, November 3, 1899.

SIR: I have received the letter that you have done me the honor to write to me, the 31st of October last, in relation to the searches made by the police of this city at the private residence of Mr. Battiste, Deputy Consul of the United States.

In thanking you for that communication, I hasten to express the regret that the unusual precautions taken by my department to facilitate the execution of that police measure did not produce the desired result. I will add that my regrets are the more intense and the more sincere, that Mr. Battiste has always merited the consideration of the Government.

Please accept, etc.,

B. ST. VICTOR.

Mr. Hay to Mr. Powell.

No. 378.]

DEPARTMENT OF STATE,
Washington, November 27, 1899.

SIR: I have to acknowledge the receipt of your No. 655, of the 11th instant, in which you report to the Department the invasion of the premises of the deputy consul by the chief of police and a body of the police force for the alleged purpose of making search for a thief, and you ask instructions as to any further representation to the Haitian Government.

The search seems to have been immediately accomplished without awaiting the result of the formal application made to the legation for its sanction.

The application so made is somewhat vague, but in the light of Mr. Battiste's report to Mr. Terres it appears that the entire square was being searched for an escaped thief who was supposed to have taken refuge there.

As the immunities attaching to the office of deputy consul do not include so-called asylum for persons charged with violating the law, no objection could be seen to effecting the proposed search after notification, and with the sanction and, if necessary, the full assistance of the officers of the legation. It seems clear, however, that the proceedings were not conducted with suitable consideration for Mr. Battiste's official position, his yard fence having been broken down and his premises alarmingly invaded by an armed force.

The protest made by Mr. Terres is approved as proper and timely. The reply from Mr. St. Victor is evasive and unsatisfactory, being confined to an expression of regret that the exceptional precautions taken by his department to facilitate the execution of the proposed police measure had not produced the expected result.

You will impress upon Mr. St. Victor the obvious circumstance that no time was allowed to the legation to respond in the desired sense, inasmuch as the search appears to have been already in progress when the agents of the legation hastened to Mr. Battiste's house for the purpose of aiding the local authorities in the orderly execution of the proposed search, and you will express the hope that you may not at any time hereafter be called upon to make renewed complaint respecting any such offensive disregard of the consideration and official amenities due to the representative agents of the United States at Port au Prince, or, indeed, anywhere else within Haitian jurisdiction.

As it would appear from Mr. Terres's statements that Mr. Battiste's fence has been broken down, you should insist, if it has not already been done, that any injury done to the property of this officer of the United States shall be made good.

I am, etc.,

JOHN HAY.