AUSTRIA-HUNGARY.

PASSAGE THROUGH UNITED STATES OF REMAINS OF LATE MEXICAN MINISTER TO AUSTRIA-HUNGARY.

Mr. McCormick to Mr. Hay.

UNITED STATES LEGATION,
Vienna, January 18, 1902.

Sir: I have the honor to acquaint you that the remains of the Mexican minister to this court, Don Jose de Teresa y Miranda, have been intrusted to the North-German Lloyd Steamship Company for transmission to Mexico, via Bremen and Galveston, on board the steamship Breslau.

They will leave the first-named port on the 23d instant, and are due to arrive in Galveston eighteen days thereafter.

I have deemed it proper to assure the chargé d'affaires, Mr. Lizardi, that the Department of State would request, and that the Treasury Department would issue to the collector of the port at Galveston, such instructions as will insure the entrance of the remains at the port of Galveston without let or hindrance, and their transmission without delay by such route as may be decided upon to the Mexican frontier.

I have also the honor to inform you that Madame de Teresa, widow of the late minister and sister-in-law of President Porfirio Diaz, sails with her family from Cherbourg on the steamship Kronprinz Wilhelm, and is due to arrive in New York on or about the 21st of February.

Believing that I would be carrying out the wishes of the Department, I have assured Mr. Lizardi that such instructions would be issued through the proper channels to the customs authorities in New York as would insure Madame de Teresa's receiving every possible courtesy at their hands on her arrival.

I have, etc.,

Robert S. McCormick.

Mr. Hay to Mr. McCormick.

No. 32.]

DEPARTMENT OF STATE,
Washington, February 12, 1902.

Sir: Referring to your unnumbered dispatch of the 18th ultimo, I have now to inform you that the Mexican ambassador here, in his note No. 249 of the 7th of this month, expresses the earnest thanks of his Government for your kindness and courtesy in informing the Department of the arrival of the remains of the late Mexican minister to

*Printed, page 794.*
Austria-Hungary and of the arrival of the wife and family of the deceased minister at New York, in order that the customary customs courtesies might be extended.

I am, etc.,

JOHN HAY

AGREEMENT BETWEEN RUSSIA AND CHINA RELATIVE TO MANCHURIA.\(^a\)

Mr. Hay to Mr. McCormick.

DEPARTMENT OF STATE,
Washington, February 3, 1902.

Sir: I have to inclose herewith a copy of a memorandum expressing the views of the United States in regard to the proposed convention and arrangement between the Chinese and Russian Governments respecting Manchuria, which has been cabled to the American missions at Pekin and St. Petersburg. You will take early occasion to acquaint the Government to which you are accredited with the text of this memorandum.

I am, etc.,

JOHN HAY.

[Inclosure.]

Memorandum respecting Manchuria.

DEPARTMENT OF STATE,
Washington, February 4, 1902.

An agreement by which China cedes to any corporation or company the exclusive right and privilege of opening mines, establishing railroads, or in any other way industrially developing Manchuria, can but be viewed with the gravest concern by the United States. It constitutes a monopoly, which is a distinct breach of the stipulations of treaties concluded between China and foreign powers, and thereby seriously affects the rights of American citizens; it restricts their rightful trade and exposes it to being discriminated against, interfered with, or otherwise jeopardized, and strongly tends toward permanently impairing the sovereign rights of China in this part of the Empire, and seriously interferes with her ability to meet her international obligations. Furthermore, such concession on the part of China will undoubtedly be followed by demands from other powers for similar and equal exclusive advantages in other parts of the Chinese Empire, and the inevitable result must be the complete wreck of the policy of absolute equality of treatment of all nations in regard to trade, navigation, and commerce within the confines of the Empire.

On the other hand, the attainment by one power of such exclusive privileges for a commercial organization of its nationality conflicts with the assurances repeatedly conveyed to this Government by the imperial Russian ministry of foreign affairs of the Imperial Government’s intention to follow the policy of the open door in China, as advocated by the Government of the United States and accepted by all the treaty powers having commercial interests in that Empire.

It is for these reasons that the Government of the United States, animated now as in the past with the sincerest desire of insuring to the whole world the benefits of full and fair intercourse between China and the nations on a footing of equal rights and advantages to all, submits the above to the earnest consideration of the Imperial Governments of China and Russia, confident that they will give due weight to its importance, and adopt such measures as will relieve the just and natural anxiety of the United States.

\(^a\)Identical instruction sent to United States representatives to Belgium, China, France, Germany, Great Britain, Italy, Japan, the Netherlands, Russia, and Spain. (Completely covered under China, p. 271, and Russia, p. 928, this volume.)
RAISING OF UNITED STATES LEGATION TO AUSTRIA-HUNGARY AND AUSTRO-HUNGARIAN LEGATION TO THE UNITED STATES TO EMBASSIES.

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

LEGATION OF THE UNITED STATES,
Vienna, March 6, 1902.

(Mr. McCormick reports that he has been officially notified that the Austro-Hungarian legation in the United States will be raised to an embassy so soon as the Delegations, which meet in May, vote the necessarily increased subventions for its support; that this step is dictated by the wish, on the part of Austria-Hungary, to manifest its friendship and recognition of the high position as a world power attained by the United States.)

Mr. McCormick to Mr. Hay.

No. 71.]

UNITED STATES LEGATION,
Vienna, March 7, 1902.

Sir: I have the honor to transmit herewith copy of telegram *a* of the 6th instant sent to the Department.

It conveys the announcement of the purpose of the Austro-Hungarian Government to raise its mission to ambassadorial rank, as made to me personally by His Excellency Count Lützow, first chief of section, who emphasized the desire on the part of his Government to express its friendship for, and its recognition of, the high position attained by the United States as a world power. He added that his Government considered it necessary to increase the appropriation for its mission in Washington that it might be maintained on a footing in keeping with its new rank, and for this reason it was not prepared to make the change until after the meeting of the Delegations in May, when the necessary formal proposals would be laid before the two bodies.

Count Lützow repeated the assurances given on a former occasion that the Austro-Hungarian Government had maintained an attitude of strict neutrality during the Spanish-American war, to which I replied that, aside from the facts as stated by him, the United States Government harbored no rancor on this score, and recognized the strong ties which bound Austria-Hungary to Spain, and the natural sympathy which existed between the reigning houses of the two monarchies. He expressed his gratification at this and the hope that the relations between this monarchy and the United States of America might grow closer as time went on, in which I joined him. He also intimated a wish that I cable the announcement with the sentiments which he had expressed in behalf of his Government. I will state here, in explanation of the fact that the first information to reach the Department on the subject was through the press, that the statement as cabled was given out in advance of any official communication, with my knowledge

*a* Printed, ante.
and assent, to be sent to the United States, and not given to the Vienna press, which only published the announcement this morning.

Count Lützow further informed me that the present Austro-Hungarian minister at Washington, Mr. Hengelmüller von Hengervár, would remain in Washington and become the first Austro-Hungarian ambassador to the United States.

I have, etc.,

ROBERT S. McCORMICK.

Mr. McCormick to Mr. Hay.

No. 72.]

UNITED STATES EMBASSY,
Vienna, March 8, 1902.

SIR: For the information of the Department, I have the honor to inclose herewith, with its translation, a cutting from the Vienna Fremdenblatt, the semi-official organ of this Government, with reference to the proposed raising of the Austro-Hungarian mission at Washington to ambassadorial rank.

I would especially call the Department's attention to the "question arising out of the emigration movement" which "may have to be settled between this Monarchy and the United States"—a reference to the naturalization treaty and the difficulties growing out of the treatment accorded to naturalized citizens of Austro-Hungarian birth returning to the Monarchy for any purpose, involving at times a disregard of the character of passports of which such naturalized citizens may be the bearers.

I have, etc.,

ROBERT S. McCORMICK.

[Enclosure—Translation.]

Leading article of the semi-official Fremdenblatt of Friday, March 7, 1902.

In the estimates for the common expenses for 1903 the Delegations will find that the Imperial and Royal legation in Washington has been raised to the rank of an embassy, and that an increased amount is to be appropriated to meet the expenses. We are convinced that the Delegations will pass the sum without hesitation as it will enable our representative in the United States to maintain himself on an equal footing with those of other European powers and Mexico. As it is to be supposed that the Americans will reciprocate this action and make the Vienna legation an embassy, the relations existing between Austria-Hungary and the trans-Atlantic Republic will also in its outer forms bear witness to the importance which these relations have gradually assumed, and which it is hoped will be further developed as time goes on. It would be a soreness if we were to remain behind the other great powers in regard to the rank which our representative at Washington holds; not alone France and England but also Russia, Germany, and Italy attach importance to being fitly represented, which clearly shows that the cultivation of good relations with this growing power is not to be neglected, and Austria-Hungary is now following this lead. To-day, no country can remain isolated or pretend to ignore what is transpiring beyond its borders, the more so as "beyond its borders" has become a mere geographical expression. Points heretofore widely separated have been brought closer together to such an extent that one can no longer speak of distances, but rather of varying degrees of proximity. The consequence of this annihilation of distance and the increase of production and consequent competition is a continual, and rapid, and intense movement and countermovement among the innumerable bodies within this network, and therefore a continued conflict of interests at stake. The intercourse thus created, and the consequent development of political relations and growth of political aspirations, bring together states separated from each other by vast dis-
AUSTRIA-HUNGARY.

stances, and a commonwealth, such especially a one as the North American Republic with its ever active community of 75,000,000 people must occupy an ever-increasing space within this circle. A strong proof of this is the journey of Prince Henry and the enthusiastic reception with which he has met at the hands of the American people. The fact that Europe and America are called upon to act in the future more in common than heretofore has been made evident in the past few days.

Austria-Hungary has only a small coast line, and our political interest does not reach beyond the Mediterranean. This, however, does not prevent that questions arising out of the emigration movement may have to be settled between this Monarch and the United States. Few have been the cases which might have led to political animosity between the two countries, nor will there be any in the future as far as the human mind can foresee. We have no ground to interfere in its disputes and they have none to interfere in ours. But it becomes every day more important that we should cultivate friendly sentiments in order to facilitate the exchange of views when political questions do arise. Austria-Hungary has no wish and pursues no policy of expansion and has only commercial interests on the ocean, the waters of which wash the shores of the United States. Nevertheless, every power, even if determined not to trespass the limits within which it has moved heretofore, must come in contact with all the great powers and although it is true that at the present time even the smallest civilized nations have an economic policy of their own, it is because they are forced to do so, otherwise they would be driven ashore by the current while the others flourish. If we are desirous of developing our industry we must carefully watch every movement and keep in touch with all commercial nations. This is the more necessary at the present time in view of the impending change in the mercantile and political relations between Europe and the United States.

Mr. Hay to Mr. McCormick.

No. 40.] DEPARTMENT OF STATE,
Washington, April 7, 1902.

Sir: Referring to your telegram of the 6th ultimo, and to your confirmatory dispatch of the following day's date, reporting the intention of the Austro-Hungarian Government to raise its mission at Washington to the rank of an embassy, you are instructed to express to the minister of foreign affairs the gratification with which the President has heard of this new proof of the Emperor's friendly disposition toward the United States, and to say that in due time it will give him pleasure to reciprocate by appointing, in token of his high regard and esteem for the person of the Emperor and of his good wishes for the people of Austria-Hungary, as ambassador to Vienna a gentleman who he is sure will be agreeable to His Majesty.

I am, etc.,

JOHN HAY.

Mr. McCormick to Mr. Hay.

UNITED STATES LEGATION,
Vienna, May 29, 1902.

Sir: I have the honor to acknowledge the receipt of your dispatch No. 40 of the 7th ultimo regarding the intention of the Austro-Hungarian Government to raise its mission at Washington to the rank of an embassy, and beg to inform you that I have, as per instructions therein contained, expressed to the minister of foreign affairs the gratification with which the President has heard of this
new proof of the Emperor's friendly disposition toward the United States, and to say that in due time it will give him pleasure to reciprocate by appointing, in token of his high regard and esteem for the person of the Emperor and of his good wishes for the people of Austria-Hungary, as ambassador to Vienna a gentleman who he is sure will be agreeable to His Majesty.

I have, etc.,

ROBERT S. MCCORMICK.

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 29, 1902.

(Mr. Hay informs Mr. McCormick of his nomination and confirmation as ambassador of the United States to Austria-Hungary.)

Mr. McCormick to Mr. Hay.

No. 85.] United States Legation,
Vienna, May 30, 1902.

SIR: I have the honor to acknowledge your cable dispatch announcing my nomination and confirmation by the Senate as American ambassador at this court.

I appreciate most highly the confidence evinced in and the honor conferred upon me by this act, to merit which will be my constant endeavor.

I will add for the information of the Department that I have been able to elicit no information from the Austro-Hungarian foreign office with regard to a similar step on the part of this Government, beyond the extract from the speech of the foreign minister, Count Goluchowski, before the Delegations, under cover of my unnumbered dispatch of May 9, announcing that in the budget for the year 1903 provision was made for the elevation of their mission in Washington to ambassadorial rank. There would appear to be some reason for withholding this information until the change shall have become an accomplished fact.

I have, etc.,

ROBERT S. MCCORMICK.

Mr. Hay to Mr. McCormick.

No. 46.] Department of State,
Washington, June 3, 1902.

SIR: The President having been advised that the Government of Austria-Hungary is about to be represented in the United States by an ambassador extraordinary and plenipotentiary, he has, under authority conferred upon him by the Congress of the United States
and in recognition of the friendly intention of the Austro-Hungarian Government, appointed you, by and with the advice and consent of the Senate, to be ambassador extraordinary and plenipotentiary of the United States to Austria-Hungary.

* * * * * * *

I am, etc.,

JOHN HAY.

Mr. McCormick to Mr. Hay.

No. 1.]

UNITED STATES EMBASSY,
Vienna, June 30, 1902.

Sir: I have the honor to acknowledge the receipt of Department’s No. 46 acquainting me, as previously done by cable of the 29th ultimo, that the President has appointed me, by and with the consent of the Senate, to be ambassador extraordinary and plenipotentiary of the United States to Austria-Hungary, and inclosing my commission in that capacity and the letter of credence, with office copy, addressed to His Majesty the Emperor, and also inclosing new letters of credit in duplicate and cach of office.

The office copy of the letter of credence I sent to the foreign office, at the same time asking that I be granted an audience with His Majesty for the purpose of presenting the original. In my note inclosing the office copy I embodied a copy of the address which I proposed to make to His Majesty the Emperor, and which reads as follows:

It is with peculiar pleasure and pride that I present my letter of credence to Your Majesty as the first ambassador of the United States near Your Majesty’s court. Heretofore it has been considered possible to raise the rank of a legation of the United States to that of an embassy only after that step had been actually taken by the Government to which the representative thus promoted was accredited.

It having been found within the provisions of the law, the President has appointed and the Senate confirmed me as ambassador to Your Majesty’s court, in recognition of the friendly intention of Your Majesty’s Government, as expressed through Your Majesty’s envoy extraordinary and minister plenipotentiary at Washington, without waiting for a similar action on its part, as well as to emphasize the wish for a continuance of the cordial relations existing between the two Governments, and to express the high regard and esteem in which Your Majesty is held by the people and Government of the United States.

I am charged by the President, Mr. Roosevelt, to convey to Your Majesty, as I conveyed on behalf of the late President, Mr. McKinley, the strongest assurances of his high personal esteem and best wishes, with the prayerful hope that Your Majesty may long be spared in health to rule over the peoples to whose welfare Your Majesty’s reign has so notably contributed.

I was received in audience by the Emperor on the 26th instant, when I read the short address above quoted. The Emperor responded that he fully appreciated the sentiment expressed by the action of the President and the Senate in raising the rank of this mission to that of embassy in the exceptional manner which I had explained to him.

He also desired me to say that he heartily reciprocated the kind feelings manifested by this act, as well as the good wishes which I had expressed on behalf of the President and Government of the United States; that he was pleased that I had been chosen as the first ambassador to reside near his court; I was personally most acceptable to him, and he had learned that I had established most agreeable relations with the officials of his Government, which would be valuable in cementing the friendly ties which he hoped would continue to bind the two coun-
tries together; that he appreciated the high position to which the United States had attained as a world power and hoped that the blessing of peace and prosperity might long be continued to its people.

On this occasion the following gentlemen were presented to His Majesty:

Mr. Chandler Hale, first secretary of embassy.
Capt. Floyd W. Harris, military attaché.
Commander W. N. Beecher, naval attaché.

I have, etc.,

ROBERT S. McCORMICK.

Mr. Hill to Mr. Hale.

No. 55.]

DEPARTMENT OF STATE,
Washington, July 22, 1902.

SIR: The ambassador's No. 1, of the 30th ultimo, reporting his audience with the Emperor on the occasion of the delivery of Mr. McCormick's credentials as ambassador, has been received.

With reference to Mr. McCormick's Nos. 71 and 72, of March 7 and 8 last, the embassy is instructed to advise the Department of the result of the steps which have been taken to raise the Austro-Hungarian mission at this capital to the rank of an embassy.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

Mr. McCormick to Mr. Hay.

No. 6.]

UNITED STATES EMBASSY,
Vienna, August 12, 1902.

SIR: Replying to the Department's No. 55 of the 22d ultimo, I have the honor to advise you that "the steps which have been taken to raise the Austro-Hungarian mission at Washington to the rank of an embassy" were embodied in the budget for the year 1903, passed by the Delegations on June 9, 1902, copy of which was sent to the Department without covering dispatch, the intention thus expressed to take effect when the sum thus appropriated for the increased expenses of the mission in its new capacity would become available, namely, on the first day of January next. In his speech on the budget, delivered before the Delegations, Count Goluchowski spoke as follows, with reference to the raising of the rank of their representation at Washington to the rank of an embassy:

The gigantic progress and the ever-increasing importance of the United States, as far as international politics are concerned, as well as the growing interest which we have to take in regard to the numerous Austrian subjects living in the United States, do not admit of any delay in placing our representative on an equal footing with those of the other great powers. For this reason I consider it advisable to put down the amount thus rendered necessary in the estimates of this year, and trust that this measure will meet the approval of the honorable assembly, the more so as it is in conformity with a desire repeatedly expressed here as well as in America, and the compliance with which commends itself on political and economic grounds. A law has been in force in the United States for some time which gives to the President
the right to raise the rank of diplomatic representations abroad to embassies, thereby rendering unnecessary the passing of a special act by Congress in order to confer the same rank on the representative accredited to the Imperial and Royal court. The latter will take place as soon as an analogous measure has been adopted in regard to our mission in Washington.

By the adoption of the budget this Government considered that it had raised the rank of its mission to that of an embassy, the delay in the appointment of an ambassador, or the putting into effect the act of the Delegations until January 1 next, being in keeping with the law and custom of this Government. His Excellency, Count Lützow, first secretary of state, informed me that this information and explanation would be transmitted to the Department through Mr. Hengelmüller, the Austro-Hungarian minister in Washington.

I have, etc.,

ROBERT S. MCCORMICK.

RIGHT OF WIDOW OF AUSTRO-HUNGARIAN SOLDIER TO PENSION.

Mr. Hill to Mr. McCormick.

No. 36.]

DEPARTMENT OF STATE,
Washington, March 14, 1902.

SIR: I inclose a copy of a letter asking whether the widow of a man who served in the Austrian army five years is entitled to a pension, or other gratuity, and, if so, what steps she must take to secure it. You are instructed to obtain the desired information.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Mr. Flournoy to the Secretary of State.

KNOXVILLE, TENN., March 8, 1902.

SIR: I have the honor to make the following representation of facts to your Department, on behalf of a widow, a resident of the United States, viz:

Her deceased husband served five years in the Austrian army; two years in active service, three years in the reserves; receiving honorable discharge therefrom November 20, 1852. She desires to know, first, whether the Austrian Government grants for such service any bounty, pension, or other gratuity; second, if so, how much, and what steps must she take in order to secure payment to her as such widow.

Should your Department not be able to furnish the information desired at first hand, would respectfully request, if not impracticable or deemed discourteous, that the information sought be gleaned from the Austrian minister, resident at Washington, D. C., and the widow furnished with same through my office.

I have, etc.,

C. H. FLOURNOY.

Mr. McCormick to Mr. Hay.

No. 77.]

UNITED STATES LEGATION,
Vienna, April 22, 1902.

SIR: Replying to your No. 36 of the 14th ultimo, with a copy of a letter from C. H. Flournoy appended thereto asking whether the widow
of a man who served in the Austrian army five years is entitled to a pension or other gratuity, and, if so, what steps she must take to secure it, I have the honor most respectfully to inclose herewith a copy of a letter from the Imperial and Royal ministry of war to Capt. Floyd W. Harris, the United States military attaché at Vienna, in reply to a request made by the latter for the desired information in regard to this matter.

I further beg to say that I referred this case to Captain Harris instead of sending it through the foreign office, in order to expedite the obtaining of a reply.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.]

Mr. Benkiser to Mr. Harris.

IMPERIAL AND ROYAL MINISTRY OF WAR,
SECTION 9, NO. 2896,
Vienna, April 14, 1902.

Sir: In reply to your esteemed inquiry of March 28, 1902, the Imperial minister of war has the honor to inform you that, as a general rule, a widow of a soldier is entitled to a pension in that case only in which her husband has acquired for himself a legal claim to a pension.

Since this is not the case in the present instance, on account of the short length of service of the husband, the widow has no right to the granting of a pension. See the Austrian act of April 27, 1887 (Article XX, Hungarian Statutes, 1887), concerning the provisions for widows and orphans of officers and soldiers.

For the Imperial minister of war:

Benkiser, G. M.

POLITICAL, SOCIAL, AND COMMERCIAL RELATIONS BETWEEN THE UNITED STATES AND AUSTRIA-HUNGARY.

Mr. McCormick to Mr. Hay.

UNITED STATES LEGATION,
Vienna, April 1, 1902.

Sir: Finding that the inclosed communication of the Neue Wiener Tagblatt from a correspondent in New York had escaped the attention of the consul-general here, I have the honor to transmit it herewith for the information of the Department, believing that it contains sufficient matter of interest, especially as it pertains to the method of the customs officials in New York in applying and interpreting the tariff laws.

It is important that the consular officials in the United States should lose no opportunity to counteract the effect of such statements as are made in this article and contradict them when not in accordance with the fact.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.—Translation.]

AUSTRIA-HUNGARY AND THE UNITED STATES—NEW YORK, MIDDLE OF MARCH.

It would not be surprising if the voyage of Prince Henry were to benefit likewise the relations existing between Austria-Hungary and America. The German-speaking Austrian is here without distinction, put in one pot with the subjects of the German
Empire, and to make this distinction is not a matter which concerns the Americans in general. While the Prince was here, one could frequently see the American eagle side by side with the Austrian double-headed eagle, and your warship, which it is said will soon pay us a visit, will dispel many errors and teach the know-nothings the political difference existing between the two great German-speaking nations. The fault of this is greatly due to the amicable relations existing between Germans and Austrians, who are members without distinction of one and the same clubs, associations, and singing societies, cultivating the art of song which forms a strong tie between the native Americans and the immigrant Germans. The Germans who wish sincerely to live in friendship with the Austrians will certainly not object if the latter profit by the favorable combinations of the present hour. Whether the raising of the legation in Washington to an embassy will promote this end is somewhat doubted. Emigration from Germany to the United States has of late years decreased, thanks to the improved economic and industrial conditions, and there is no ground to believe that the number of emigrants will increase again. A vast contingent of emigrants, however, is still supplied by the Slavish districts of Hungary, and Pittsburgh abounds with Slavs who there seek employment in the great steel works. The German-Austrians who come here through business or family relations soon become Americanized. The temptation held out is too great. Personal energy, which cannot develop itself at home, soon develops here, success follows, and with it love of the adopted country, which is lacking, however, in the feeling which the old country inspired. And if once the bands of hymn-singing twist themselves around the building millionaire, then he and his offspring are forever the prey of the New World. An example of this is Mr. Charles Schwab, the clever director of the great steel trust, whom you recently had in Vienna.

Unfortunately, Austria, like all other European countries, suffers under the cruel tariff laws of the United States. It is not so much the height of the tariff rates of which European industries complain, as the provoking indiscrimination of the customs officials. To be prepared for the payment of high duties and to make one’s calculations accordingly is no difficult matter. Wages in Austria are low, the American is accustomed to pay high prices, and Austrian manufacturers might work profitably even when paying high rates of duty. But it is the uncertainty which makes the manufacturer and the agent shrink back. With incredible disregard for the rights and interests of those concerned are the tariff laws construed by the customs authorities, to-day this way, to-morrow that way; to-day it classes merchandise under one heading, to-morrow under another heading; imposes fines and acts as if bound by no law. It has happened that competing American trusts have sent spies to Austria who transmitted false reports to their firms touching the cost of production of their goods.

On the strength of such reports the American customs officials suddenly declare that an undervaluation of the merchandise has been perpetual and subject the goods to fines and payment of higher rates of duty, protest against which, according to the incredible provisions of the law, is inadmissible, and redress can be obtained only by appeal to the collector of customs of the port, which is illusory. Reductions of customs rates of duty can scarcely be expected because the State has need of the revenue derived from this source, but a more uniform and less arbitrary treatment must be demanded by way of diplomatic intervention.

No one doubts that Austrian industry has a future in America. Its furniture, for instance, has many admirers, the so-called Vienna secession style, which had such a success at the late Paris Exhibition, has the sympathy of many Americans; its elegant, pleasing, and delicate forms will accommodate themselves easily to the modern American apartment house, and its English style will be sure to please at once. Vienna articles, such as fancy goods, bronzes, and terra-cotta ware, would certainly meet with favorable reception.

There is only this to be feared—that these articles, being carefully finished, will be too expensive for the great bazaars of Sixth avenue, which supply half of New York, and not sufficiently refined for the luxury of Fifth avenue. The cheapness of the German manufactories and the taste of the Parisian workshops naturally contract the Vienna ateliers within narrow limits. America is trying to create new industries and to manufacture all those articles herself which lack of skilled hands or want of raw material seemed to have denied her. It produces already excellent glassware for the table of the workman and for the drawing room. It is content to-day to import raw hides and manufactures them already into elegant and durable gloves. That in many cases (for instance beet-root sugar) Germans are the instructors is certainly a matter flattering to our national pride, just as the gradual decrease of the European export in the two last-mentioned articles is humiliating to that of Austria. Many Austrian goods bear foreign names—cloth from Brünn is called French; numerous other
articles, sent down the river Elbe by reason of cheaper freight rates and shipped by way of Hamburg, pass off as German goods, and the Austrian export to America is perhaps considerably larger than the official statistics show. One should think that America, with its wealthy population not averse to a good glass of spirits, would be a splendid market for the excellent Austrian and Hungarian wines, the more so as the domestic article grown in California and Ohio can hardly be said to be a fair substitute. The manner of adulterating wine, and producing it by chemical processes, has increased rapidly. Wines are passed off in America as Tokayer and Burgundy which never grew on European soil, and it almost seems as if that which we cherish most and constitutes one of the characteristics of its genuineness, namely, the peculiar flavor of the soil on which it has grown, renders it disagreeable to the taste of an American to whom the teetotum, with its taste resembling shoe leather, is a delicacy, and who therefore prefers a chemical preparation composed of vile substances.

I hope Austria will not let pass the opportunity which offers itself in the impending exhibition at St. Louis in order to enlighten America as to the value of its products. Nor will it be inopportune for Austrian manufacturers to take into consideration certain peculiarities and demands of trans-Atlantic agents and merchants and the American public at large. The latter rely upon the greater facilities of the manufacturer insuring a prompt supply of the goods ordered. Waiting is not to its liking. One needs here either cheap things by the dozen or very costly articles of the first class. Articles possessing a certain air of artistic workmanship, such as the Viennese mechanic likes to give even to articles of everyday use, are not appreciated here. Esthetics is a different science here in the New World from what it is in Europe. It springs from the adaptability of an article to its use, from well-proportioned plainness, and rejects the purely ornamental. With the Vienna baroque style you can make no headway here. The desire to replace immediately parts lost or injured renders necessary the production of a certain number of standard patterns or forms as perfect as possible, the parts of which can easily be exchanged, replaced, and are everywhere obtainable. This apparent simplicity, however, renders necessary trials, experiments, and the making of models to an extent unknown in Europe, where enterprise and capital are frequently lacking. Millions are spent in America for making studies to produce a special machine before a single specimen is placed on the market, while the German manufacturer demands the new pattern ready for use and continues to work with an old imperfect machine, when more perfect machinery has been for some time already in the possession of his competitor. The American also divours manufacturing from the distribution of the product, and the Germans were farsighted enough to adopt the same principle. The manufacturing and export of goods should be things as distinct from each other as framing laws and administering laws. The more pronounced the distinction between the banker, the manufacturer, and the merchant, the easier will be the development of each. The American is surprised to find that this maxim is so little known in Austria, and believes that the manufacturer would do better by sharing the profits from his products with the merchant, whose care it will be to look to the increase of the export, and looks upon this practice as the first condition for the increase of Austrian export to the United States.

PROTECTION OF CUBAN INTERESTS BY UNITED STATES CONSULAR OFFICIALS.

Mr. McCormick to Mr. Hay.

[Telegram—Paraphrase.]

LEGATION OF THE UNITED STATES,

Vienna, June 28, 1902.

(Mr. McCormick reports that the request of the President of Cuba that United States consuls be permitted to extend protection to Cuban citizens and interests, conveyed in Department's telegram of May 24, has been granted by Government of Austria-Hungary.)

aPrinted, page 6.
ADMISSION INTO AUSTRIA-HUNGARY OF PROPRIETARY PREPARATIONS OF AMERICAN MANUFACTURE.

Mr. Hill to Mr. McCormick.

No. 57,]

DEPARTMENT OF STATE,
Washington, July 28, 1902.

SIR: The Sterling Remedy Company, of Kramer, Ind., as will appear from enclosed copies of communications from that company and their agent at Vienna, Mr. Kris, allege and complain as follows:

That their trade-mark "Cascarrets" has been registered in Austria and Hungary, and that they have made formal and due application through their said agent to obtain the necessary permit for importing "Cascarrets" into Austria and Hungary, but that such permit is withheld upon the ground that the importation of American specialties for medicinal purposes to be sold in packages at retail is forbidden, the regulation of the ministry of the interior, dated December 17, 1894, (R. G. Bl. No. 239,) restricting the granting of such permits to cases in which those specialties have been prepared in accordance with the pharmacopoeias of European states.

You are instructed to present this case to the Imperial Government, requesting an investigation and the ultimate abandonment of a course which appears to discriminate unjustly against an American export and to be inconsistent with the most-favored-nation provisions of the treaty of commerce and navigation concluded August 27, 1829, between the United States and Austria-Hungary.

In preparing this case for presentation you will avail yourself of so much of the material furnished in the inclosures as you may find appropriate for the purpose, and you may, in your discretion, consult with Mr. Kris, the company's agent, in respect to the matter.

I am, etc.,

DAVID J. HILL,
Acting Secretary.

[Inclosure.]

Sterling Remedy Company to Hon. C. B. Landis, M. C.

KRAMER, IND., July 1, 1902.

SIR: In developing our foreign business we have encountered a difficulty in Austria and Hungary which seems to look like a direct discrimination against the United States. We have been negotiating for nearly a year with Mr. Kris, the manager of the Alte K. K. Feldapotheke, the best-known drug house in Vienna, with reference to introducing our goods in that Empire. The first suggestion to enter the territory referred to came from the other side. We have made efforts to meet every requirement and condition affecting the importation of our goods into those countries.

Our application for registering the trade-mark "Cascarrets" in Austria and Hungary was filed first of all, and such trade-marks have been registered there.

We also prepared a formula showing contents of "Cascarrets," properly sworn to and legalized by the general consulate at Chicago, and made application through our agent, Mr. Kris, to obtain the necessary permit for importing "Cascarrets" into Austria and Hungary. To-day we are receipt of a letter from our agent, which I have translated and inclose you a copy, together with clipping referred to in the communication. Said clipping is necessarily printed in German, and the paragraph marked thereon authorizes the importation of preparations made in European States, which, if strictly construed, would be a very marked discrimination against the

"Not printed."
United States and probably inconsistent with the favored-nation treaty undoubtedly in existence between the two countries.

We have already spent considerable time, work, and money in preparing for the sale of our goods in this territory, and we do not feel that we ought to abandon the enterprise on account of a ruling which certainly can not be based on equitable international principles.

You will notice Mr. Kris’s suggestion to have our Department of State interpellate the Austrian embassy regarding this subject, and it occurred to Mr. Kramer and myself that you might be willing and able to take this matter up for us, as being one of great importance to the proprietary interests of America. We do not think this question has ever been brought to adjudication. If the condition which reveals itself in our negotiations is to be maintained, then the importation into Austria of any chemical goods put up in packages ready for retailing is prohibited as far as America is concerned, whereas all European countries have at least a chance to secure admission of their products.

Will you please advise whether you can take any action personally in this matter and see the Secretary of State with reference to it, or be kind enough to give us the correct advice in the premises?

* * * * *

Very truly, etc.,

STERLING REMEDY COMPANY,
A. B. SCHANZ, Secretary.

[Subinclosure.—Translation.]

Mr. Kris to the Sterling Remedy Company.

VIENNA, June 16, 1902.

HONORED SIRS: Last week I spent the forenoon of every day in the sanitary department in connection with this matter, and herewith communicate to you the result of our consultations.

The importation of American specialities for medicinal purposes to be sold in packages at retail is forbidden under the rulings of the department. The United States are specifically excluded. In answer to my remark addressed to the sanitary referee, that the United States were supposed to be on earth, he pointed out to me that he was compelled to adhere strictly to the letter of the law. I am of the opinion that the clause referred to must be an oversight of our authorities, and inclose herewith a clipping of our medicinal tax schedule for your information. I have been compelled to withdraw our application in the form in which it was filed, and on Wednesday, June 18, shall call on the American consul here, and call his attention to this question. The importation by prescription—i.e., through the medical profession, A. B. S.—could be accomplished, but this method would be inadequate for a large commercial enterprise like this. I have no doubt but that, with your assistance, I shall be able to secure the right of retailing your goods, and beg you, immediately upon receipt of this letter, to have your proper authorities interpellate the Austrian embassy regarding this subject. It certainly can not be the case that you Americans are allowed to import our articles put up for the retail trade while the reverse privilege is denied us. Regarding my audience with the American consul-general, I shall report to you within a few days. I hope you will not hesitate in taking the necessary steps, as the sale in our country of this article is certain to be an extensive one, but these legal formalities must be gone through.

Respectfully,

M. KRIS.

Mr. Adee to Mr. Hale.

No. 60.]

DEPARTMENT OF STATE,
Washington, August 14, 1902.

SIR: Referring to the Department’s No. 57, of the 12th ultimo, I inclose a copy of a letter from Hon. C. B. Landis, with inclosure, relating further to the attempt of the Sterling Remedy Company to establish itself in Vienna.

I am, etc.,

ALBEN A. ADEE,
Acting Secretary.
AUSTRIA-HUNGARY.

[Inclosure.]  

Mr. Landis to Mr. Hill.

DELPHI, IND., August 11, 1902.

DEAR MR. HILL: I transmit herewith a letter in the matter which I referred to you recently relative to the Sterling Remedy Company's attempt to establish itself in Vienna.

Kindly make it a part of the papers.

Very truly yours,

C. B. LANDIS.

[Subinclosure.]

Sterling Remedy Company to Mr. Landis.

KRAMER, IND., August 9, 1902.

SIR: I have a letter from our agent at Vienna in which he expresses the desire to have his name given to our officials, so that, if possible, he may appear before the proper authorities in Vienna in connection with the investigation of our claim of discrimination against American pharmaceuticals. The name of our agent is M. Kris, Alte, K. K. Feld-Apotheke, Wien, L, Stephansplatz 8.

Mr. Kris is the manager of a drug firm that has been in existence over six hundred years. He is a man of excellent standing and was deeply interested in securing a permit for importing our goods. I think his idea really is that our interests might be furthered by application to the Austrian ambassador in Washington—of course, necessarily, through the State Department. I assume, however, that this is simply a question of procedure, and that the proper action has been taken in transmitting the matter to the American embassy in Vienna.

Thanking you, etc.,

A. B. SCHANZ,
Secretary Sterling Remedy Company.

Mr. Hale to Mr. Hay.

UNITED STATES EMBASSY,  
Vienna, August 27, 1902.

SIR: I have the honor to acknowledge the receipt of the Department's No. 60, of the 14th instant, inclosing a copy of a letter from Hon. C. B. Landis, with inclosure, relating further to the attempt of the Sterling Remedy Company to establish itself in Vienna.

Referring to the Department's original instruction in this matter, No. 57, of the 28th ultimo, I have the honor to inform you that on the 11th instant, as per instruction, the above case was presented to the Imperial and Royal Government, but as yet the imperial and royal ministry for foreign affairs has not replied to this embassy's protest.

I have, etc.,

CHANDLER HALE.

Mr. Hale to Mr. Hay.

No. 25.]  

UNITED STATES EMBASSY,  
Vienna, October 13, 1902.

SIR: Referring to the Department's No. 57, of July 28, 1902, inclosing therewith copies of communications from the Sterling Remedy Company, of Kramer, Ind., and from their agent at Vienna, Mr. Kris, alleging and complaining as follows:

That their trade-mark "Cascareto" has been registered in Austria and Hungary, and that they have made formal and due application through their said agent to
obtain the necessary permit for importing "Cascarets" into Austria and Hungary, but that such permit is withheld upon the ground that the importation of American specialties for medical purposes to be sold in packages at retail is forbidden, the regulation of the ministry of the interior, dated December 17, 1894 (B. G. Bl., No. 239), restricting the granting of such permits to cases in which those specialties have been prepared in accordance with the pharmacopoeias of European States.

And instructing this embassy to present the above case to the Imperial Government, requesting an investigation and the ultimate abandonment of a course which appears to discriminate unjustly against an American export and to be inconsistent with the most-favored-nation provisions of the treaty of commerce and navigation concluded August 27, 1829, between the United States and Austria-Hungary, I have the honor to inform you that in reply to this embassy’s note of August 13, 1902, presenting, as per instructions, the above case, the imperial and royal ministry for foreign affairs replies under date of the 8th instant that the ministry of the interior, having made the necessary investigations in this matter, reports that the above-named Kris petitioned the city council of Vienna on May 9, 1902, for a permit enabling him to introduce into Austria the above referred to "Cascarets," which permit was granted on June 11, 1902, but not before Mr. Kris had withdrawn said petition.

The imperial and royal ministry for foreign affairs further adds that foreign medical specialties, as well as domestic pharmaceutical preparations, may be sold in Austria, provided that the druggist who petitions for the right to sell such articles complies with the provisions of the laws of December 17, 1894, No. 239, and of April 16, 1901, No. 40 (copies of which, together with translation, are herewith inclosed), and after it has been shown by examination by a committee of experts that the medical preparation in question corresponds in form and ingredients with the respective regulations.

For the further information of the Department I beg most respectfully to inclose herewith a translation in full of the reply of the imperial and royal ministry for foreign affairs denying Mr. Kris’s allegation that his request for a permit to sell "Cascarets" was refused.

I have, etc.,

CHANDLER HALE.

[Inlosure 1.]

Translation of the verbal note from the ministry for foreign affairs.

Referring to the esteemed note of August 13, 1902, in relation to the complaint made by the United States touching the sale of "Cascarets," manufactured by the Sterling Remedy Company in Kramer, Inc., and sold by Moritz Kris, druggist, in Vienna, the ministry for foreign affairs begs to say that the ministry of the Interior has made the necessary investigations in this matter and now reports that the above-named Moritz Kris made a petition to the Vienna city council on May 9, 1902, requesting to be permitted to introduce this remedy, but that he (Kris) withdrew said petition, although the same was granted on June 11, 1902. Consequently there can have been no refusal to grant his petition.

The ministry for foreign affairs begs to say, in addition, that foreign medical specialties, as well as domestic pharmaceutical preparations, may be sold in the Austrian part of the Monarchy, provided that the Austrian druggist who petitions for the right to sell these articles complies with the provisions of the law of December 17, 1894 (No. 239), and of April 16, 1901 (No. 40), and after it is shown by examination on the part of a committee of experts that the medical preparation in question fully corresponds in form and ingredients with the respective regulations.

Vienna, October 8, 1902.
1. The privileges granted to druggists in regard to the sale at retail of medical preparations is extended in so far as to allow not only the sale of medical preparations given in the seventh edition of the Austrian Pharmacopoeia of 1889, but also in those of the three previous editions, except those which have experienced a change of preparation as given in the seventh edition, which can be sold only on the presentation of a physician's prescription.

Furthermore, it is permitted to druggists to sell at retail all articles and preparations made according to the pharmacopoeias of European countries and not subject to sale only when prescribed by a physician.

All these preparations must be offered for sale only under their authentic names.

In cases where drugs come into consideration which are excluded from sale, such as B. Pulvis ippecacuanha opiusa, they will be handed over to parties only in single doses and in such daily portions as will never reach the maximum limit allowed for adults, and an approximate proportion for children. Aside from this, all necessary precautions must be taken to prevent any undue use of such drugs.

2. The law of December 12, 1889, touching the arbitrary multiplications of prescriptions remains in force, but it is permitted that prescriptions now on file in drug stores may continue to be prepared, on condition that they do not contain ingredients excluded from private sale.

All these and similar preparations must be labeled and known under a name signifying their nature and effect, rendering misconception or error impossible.

Misleading or improper names must not be given even to well-tried remedies. For instance, "pillula purgantis" are not to be named "Vienna blood-purifying pills of the holy Elizabeth," or spiritus sinapia (mustard plaster) be called algophon.

Inasmuch as the foregoing prohibition has not been fully complied with, druggists are held to act in conformity with this provision before the 31st of December, 1895.

3. Druggists are allowed to prepare specialties and name them under the conditions as given under paragraph 2, showing on the attached label the doses to be taken, and observing all other rules in connection with the preparation of medicines.

As specialties, however, can only be considered as remedies, containing materials universally recognized as possessing healing qualities, as, for instance, balsamum copaive, oleum santali, etc., or medical preparations, such as extractum filicis maris, extractum cubeb, and other mixtures prepared in a manner to make them less obnoxious to sight, smell, or taste; for instance, capsule gelatinose, or amylacee, dragees varnishini, or otherwise coated pills, gelatine medicate, suppositoria medicata, saponae medicata, etc.

4. All such preparations made and sold by druggists must be entered in a book kept for this special purpose, specifying the manner and length of time of preparation and the proportions of ingredients used in the composition.

Every wrapper inclosing a dose of a medical composition prepared in a drug store and kept on hand for retail sale must have a label on which is written the name of the drug store, the contents, the price, and the manner of using the article.

When selling a preparation as described in the foregoing to a party, such directions must be written on the label as are given in the respective regulations.

In regard to the prices to be charged for articles prepared in larger quantities and kept on hand to be sold for immediate use, the rates to be charged will not be calculated according to the tariff rates in the prescription tax, but will be made on a reduced scale, on the basis of the wholesale price of the articles and in proportion to the time consumed in their preparation.

A price list must be kept in every drug store of all medical preparations exposed for sale, the prices to be in accordance with the quantities of the medicinal ingredients and materials used in their composition, which price list shall be subject to approval by the political authorities.

5. Of all medical preparations of foreign manufacture as well as of specialties prepared in Austria coming under paragraph 1 of the ministerial degree of September 17, 1883, No. 152, the druggist must keep two complete and classified lists, one for those of domestic make and one for those made abroad, which must be produced when required by the authorities or shown to the examining board when making its visit.

Of all the labels, lithographed wrappers, directions for use, etc., used in the sale of medical preparations, a complete list of specimens and samples must be kept, as well as copies of advertisements and announcements, ready to be shown to the official authorities.
6. (Has become obsolete by its repeal, and the provisions of the new paragraph No. 6 will be found in inclusion No. 3.)

7. Violations of this law, if not coming under the criminal law, will be punished according to the provisions of the ministerial decree of September 30, 1857, No. 198.

BACQUEHEM.

[Inclusion 3.]

Translation of the law of April 16, 1861 (No. 40).

Modifying paragraph 6 of the law of December 17, 1894, touching retail sale of medical specialities and pharmaceutical preparations by druggists, which paragraph is to read henceforth as follows:

"The proper Government Officials must supervise the manufacture and sale of pharmaceutical preparations, examine the lists, and prohibit the manufacture and sale of such preparations as are found to be not in compliance with the existing regulations, leaving to the plaintiff the right to make appeal against such decision.

"The owner or responsible manager of a drug store must report to the proper authorities the manufacture of any new article intended to be sold to the public, as well as any foreign-made pharmaceutical preparation or specialty for the sale of which he may act as agent.

"In case the authorities applied to decline to issue the permit desired, it then becomes necessary to send two samples of the article in question, in their original packages, to the provincial government, and in case the latter also declines, the case may be taken to the ministry of the interior.

"The sale of the article in question can not commence until three months after notification has been made, unless previous notice has been received by the druggist stating that the ministry of the interior has found no reason to issue an order prohibiting the manufacture and sale of said article.

"It is prohibited, when selling the article, to refer to this official communication.

"The expenses involved in the examination of a medical preparation or a foreign remedy or specialty must be borne by the druggist who made the petition.

"This law will take effect on the day of its publication."

KOERBRE.

JEWS IN ROUMANIA—DISCRIMINATIONS AGAINST, CONDITION OF HELPLESSNESS TO WHICH THEY ARE REDUCED, AND OBJECTION OF UNITED STATES GOVERNMENT TO IMMIGRATION OF SUCH PERSONS.\(^{a}\)

Mr. Hay to Mr. McCormick.

DEPARTMENT OF STATE,
Washington, August 11, 1902.

Sir: In the course of an instruction recently sent to the minister accredited to the Government of Roumania in regard to the bases of a negotiation begun with that Government looking to a convention of naturalization between the United States and Roumania, certain considerations were set forth for the minister's guidance concerning the character of the emigration from that country, the causes which constrain it, and the consequences so far as they adversely affect the United States.

It has seemed to the President appropriate that these considerations, relating as they do to the obligations entered into by the signatories of the treaty of Berlin of July 13, 1878, should be brought to the attention of the Governments concerned and commended to their consideration in the hope that, if they are so fortunate as to meet the

\(^{a}\)Identical instruction sent to representatives of the United States to France, Germany, Great Britain, Italy, Russia, and Turkey. See also under Roumania.
approval of the several powers, such measures as to them may seem wise may be taken to persuade the Government of Roumania to reconsider the subject of the grievances in question.

The United States welcomes now, as it has welcomed from the foundation of its Government, the voluntary immigration of all aliens coming hither under conditions fitting them to become merged in the body politic of this land. Our laws provide the means for them to become incorporated indistinguishably in the mass of citizens, and prescribe their absolute equality with the native born, guaranteeing to them equal civil rights at home and equal protection abroad. The conditions are few, looking to their coming as free agents, so circumstances physically and morally as to supply the healthful and intelligent material of free citizenship. The pauper, the criminal, the contagiously or incurably diseased are excluded from the benefits of immigration only when they are likely to become a source of danger or a burden upon the community. The voluntary character of their coming is essential; hence we shut out all immigration assisted or constrained by foreign agencies. The purpose of our generous treatment of the alien immigrant is to benefit us and him alike—not to afford to another state a field upon which to cast its own objectionable elements. The alien, coming hither voluntarily and prepared to take upon himself the preparatory and in due course the definitive obligations of citizenship, retains thereafter, in domestic and international relations, the initial character of free agency, in the full enjoyment of which it is incumbent upon his adoptive State to protect him.

The foregoing considerations, whilst pertinent to the examination of the purpose and scope of a naturalization treaty, have a larger aim. It behooves the State to scrutinize most jealously the character of the immigration from a foreign land, and, if it be obnoxious to objection, to examine the causes which render it so. Should those causes originate in the act of another sovereign State, to the detriment of its neighbors, it is the prerogative of an injured State to point out the evil and to make remonstrance; for with nations, as with individuals, the social law holds good that the right of each is bounded by the right of the neighbor.

The condition of a large class of the inhabitants of Roumania has for many years been a source of grave concern to the United States. I refer to the Roumanian Jews, numbering some 400,000. Long ago, while the Danubian principalities labored under oppressive conditions, which only war and a general action of the European powers sufficed to end, the persecution of the indigenous Jews under Turkish rule called forth in 1872 the strong remonstrance of the United States. The treaty of Berlin was hailed as a cure for the wrong, in view of the express provisions of its forty-fourth article, prescribing that "in Roumania the difference of religious creeds and confessions shall not be alleged against any person as a ground for exclusion or incapacity in matters relating to the enjoyment of civil and political rights, admission to public employments, functions, and honors, or the exercise of the various professions and industries in any locality whatsoever," and stipulating freedom in the exercise of all forms of worship to Roumanian dependents and foreigners alike, as well as guaranteeing that all foreigners in Roumania shall be treated, without distinction of creed, on a footing of perfect equality.

With the lapse of time these just prescriptions have been rendered nugatory in great part, as regards the native Jews, by the legislation
and municipal regulations of Roumania. Starting from the arbitrary and controvertible premise that the native Jews of Roumania domicile there for centuries are “aliens not subject to foreign protection,” the ability of the Jew to earn even the scanty means of existence that suffice for a frugal race has been constricted by degrees until nearly every opportunity to win a livelihood is denied, and until the helpless poverty of the Jew has constrained an exodus of such proportions as to cause general concern.

The political disabilities of the Jews in Roumania, their exclusion from the public service and the learned professions, the limitations of their civil rights and the imposition upon them of exceptional taxes, involving as they do wrongs repugnant to the moral sense of liberal modern peoples, are not so directly in point for my present purpose as the public acts which attack the inherent right of man as a breadwinner in the ways of agriculture and trade. The Jews are prohibited from owning land or even from cultivating it as common laborers. They are debarred from residing in the rural districts. Many branches of petty trade and manual production are closed to them in the overcrowded cities where they are forced to dwell and engage, against fearful odds, in the desperate struggle for existence. Even as ordinary artisans or hired laborers they may only find employment in the proportion of one “unprotected alien” to two “Roumanians” under any one employer. In short, by the cumulative effect of successive restrictions, the Jews of Roumania have become reduced to a state of wretched misery. Shut out from nearly every avenue of self-support which is open to the poor of other lands and ground down by poverty as the natural result of their discriminatory treatment, they are rendered incapable of lifting themselves from the enforced degradation they endure. Even were the fields of education, of civil employment, and of commerce open to them as to “Roumanian citizens,” their penury would prevent their rising by individual effort. Human beings so circumstanced have virtually no alternatives but submissive suffering or flight to some land less unfavorable to them. Removal under such conditions is not and can not be the healthy, intelligent emigration of a free and self-reliant being. It must be, in most cases, the mere transplantation of an artificially produced diseased growth to a new place.

Granting that, in better and more healthful surroundings, the morbid conditions will eventually change for good, such emigration is necessarily for a time a burden to the community upon which the fugitives may be cast. Self-reliance and the knowledge and ability that evolve the power of self-support must be developed, and, at the same time, avenues of employment must be opened in quarters where competition is already keen and opportunities scarce. The teachings of history and the experience of our own nation show that the Jews possess in a high degree the mental and moral qualifications of conscientious citizenship. No class of immigrants is more welcome to our shores, when coming equipped in mind and body for entrance upon the struggle for bread, and inspired with the high purpose to give the best service of heart and brain to the land they adopt of their own free will. But when they come as outcasts, made doubly paupers by physical and moral oppression in their native land, and thrown upon the long-suffering generosity of a more favored community, their migration lacks the essential conditions which make alien immi-
gration either acceptable or beneficial. So well is this appreciated on
the Continent that even in the countries where anti-Semitism has no
foothold it is difficult for these fleeing Jews to obtain any lodgment.
America is their only goal.

The United States offers asylum to the oppressed of all lands. But
its sympathy with them in no wise impairs its just liberty and right
to weigh the acts of the oppressor in the light of their effects upon
this country and to judge accordingly.

Putting together the facts now painfully brought home to this Gov-
ernment during the past few years, that many of the inhabitants of
Roumania are being forced, by artificially adverse discriminations, to
quit their native country; that the hospitable asylum offered by this
country is almost the only refuge left to them; that they come hither
unfitted, by the conditions of their exile, to take part in the new life
of this land under circumstances either profitable to themselves or
beneficial to the community; and that they are objects of charity from
the outset and for a long time—the right of remonstrance against the
acts of the Roumanian Government is clearly established in favor of
this Government. Whether consciously and of purpose or not, these
helpless people, burdened and spurned by their native land, are forced
by the sovereign power of Roumania upon the charity of the United
States. [This Government can not be a tacit party to such an interna-
tional wrong. It is constrained to protest against the treatment to
which the Jews of Roumania are subjected, not alone because it has
unimpeachable ground to remonstrate against the resultant injury to
itself, but in the name of humanity.] The United States may not
authoritatively appeal to the stipulations of the treaty of Berlin, to
which it was not and can not become a signatory, but it does earnestly
appeal to the principles consigned therein because they are the prin-
ciples of international law and eternal justice, advocating the broad
toleration which that solemn compact enjoins and standing ready to
lend its moral support to the fulfillment thereof by its cosignatories,
for the act of Roumania itself has effectively joined the United States
to them as an interested party in this regard.

You will take an early occasion to read this instruction to the minis-
ter for foreign affairs and, should he request it, leave with him a copy.
I have the honor, etc.,

John Hay.

SENDING OF HUNGARIAN NATIONAL BANNER TO THE UNITED

STATES.

Mr. Adee to Mr. McCormick.

No. 63.]   

Department of State,
Washington, September 3, 1902.

Sir: I inclose herewith copy of a letter from Anthony S. Ambrose, esq.,
supreme president of the National Slavonic Society of the United States
of America, alleging that a delegation of Magyars are on their way to
this country with a costly Hungarian national banner, on which are
inscribed the words, "Be dauntlessly loyal to your fatherland, oh,
Magyars;" that this banner is sent as the gift of the Hungarian National
League to Hungarians living in the United States; that the gift was
prompted by the Hungarian Government and partly paid for by official representatives of that Government; and that it is intended to carry this banner through the United States, the object sought being to preserve the Hungarian nationality of Magyars living in the United States.

You will say to the Hungarian Government that such a report has reached us, and inquire whether such a flag, so inscribed, has in fact been sent to go on a tour through this country.

I am, etc.,

Alvey A. Adge,
Acting Secretary.

[Inclosure.]

Mr. Ambrose to Mr. Hay.

NEW YORK, August 26, 1902.

Dear Sir: A delegation of Magyars from Hungary is on its way to the United States with the Hungarian national banner to be presented to the Hungarians living in the United States. The banner is the gift of the "Hungarian National League," and it was sent here for the purpose, as the official and unofficial press of Hungary expresses it, "to preserve Magyars living in foreign lands for their native country." Inscribed on it are the words: "Be dauntlessly loyal to your fatherland, oh, Magyars!"

To defray the expenses connected with the making of the flag, the minister president of Hungary, Kalman Széll, contributed $500. A Government official, a gentleman by the name of Zényi, heads the delegation to the United States, and in New York City another official of the Austro-Hungarian Government, namely, the consul-general, Dessewffy, joined with his entire staff the reception committee which is to receive the flag with appropriate honors. A remarkable feature of this is that the flag is not intended for any one in particular, but is presented to all the Hungarians living in the United States, whether naturalized citizens or not. To better accomplish the object for which the flag is being sent here, namely, "to preserve the Magyars living in foreign lands," and "to foster in them a love for their fatherland," the flag is to travel from one Hungarian colony to another to give all of them an opportunity to touch its sacred folds. "The Hungarians living in the vicinity of New York," says the Hungarian newspaper, Magyar Hirmondó, under date of August 14, instant, "will participate in this holy effort with flaming patriotism, unselfish enthusiasm, and this celebrated day [meaning the day of the arrival of the banner in New York City] of the Hungarians of America will be worthy of their name and patriotism."

Sir, I myself am a native of Hungary, and I view this adulation of the Hungarian national colors in the United States with a mixed feeling of humiliation and shame. Like all other immigrants from the Old World, the Hungarians came to the United States to stay and to found homes for themselves and children. And if they came here to stay permanently and to cast their fortunes with the rest of the people of the country, what feeling other than that of sentiment can they have for their fatherland after their expatriation? The amalgamation of the Hungarian immigrants living in the industrial centers of the East is slow enough as it is, and now comes this disturbing element to retard it. Sir, I happen to be the president of the National Slavonic Society of the United States of America. This society has a membership of over 13,000, all of whom, with very few exceptions, are natives of Hungary. A clause in the by-laws, and one on which we lay much stress, is "That all members should become citizens as soon as entitled thereto." How can we hope to accomplish much in this direction, and make good American citizens out of my countrymen, if the Hungarian National League, and through it the Hungarian Government, is allowed to meddle with us? Hungarians cannot pay homage to two flags—to their own and that of their adopted country—and be loyal to both.

I protest against this insult to my American citizenship. The American flag is good enough for me and it should be good enough for everybody. Under it we have found material prosperity, freedom, and equality. I am a Hungarian Slovak, and there are some 300,000 of my countrymen in the United States. Most of them work in mines and factories in Pennsylvania, Illinois, New Jersey, Ohio, Connecticut, and New York, and many other States, and they earn wages that they never could have made under that Hungarian flag. Hungary boasts of free press and free speech, and yet Slovak journalists are immured in jails every now and then for defending their
people against Government oppression. Was ever a Slovak newspaper writer sent to prison in the United States for similar reasons? Hungary points with pride to her Parliament in Budapest, and yet the Government has seen fit to close the door of that Parliament to 300,000 of Slovaks till 1902 by manipulations that every lover of freedom would be bound to condemn. Slovaks may speak their mother tongue in their adopted country without restraint and hindrance. They may build churches here, found schools, organize political, literary, and benevolent societies, and provide reading printed in the mother tongue for their enlightenment and education. Most of these things they may not do in their old home, under the very flag which they now send us to revere.

Once more I enter my protest on behalf of my fellow-countrymen against paying homage to this foreign flag. It is un-American. It is disloyal.

A. S. Ambrose.

Mr. Hale to Mr. Hoy.

No. 32.]

United States Embassy,
Vienna, November 4, 1902.

Sir: Referring to the Department’s No. 63 of November 3, 1902, inclosing copy of a letter from Anthony S. Ambrose, esq., supreme president of the National Slavonic Society of the United States of America, alleging that a delegation of Magyars was then on their way to the United States with a costly Hungarian national banner, on which are inscribed the words “Be dauntlessly loyal to your fatherland, oh, Magyars!” that this banner was being sent as the gift of the Hungarian National League to Hungarians living in the United States; that the gift was prompted by the Hungarian Government and partly paid for by official representatives of that Government, and that it was intended to carry this banner through the United States, the object sought being to preserve the Hungarian nationality of Magyars living in the United States, and instructing this embassy to say to the Hungarian Government that such a report had reached the Department and to inquire whether such a flag, so inscribed, had in fact been sent to go on a tour through the United States, I have the honor to inform you that in reply to my note of September 17, 1902, presenting as per instructions said inquiries, the Imperial and Royal ministry for foreign affairs informs this embassy that such a flag has in fact been sent on a tour through the United States; that the sum necessary to defray the expenses in connection therewith was subscribed to by all classes of Hungarian society, including Government officials, but that the Hungarian National League, which first started and carried out this idea, has been actuated in so doing by patriotic, and not political, motives. Referring to the motto inscribed upon the flag in question, which words are a quotation, being the first line of the Hungarian national anthem, the Imperial and Royal ministry for foreign affairs contends that said appeal is solely directed to the Hungarians in the United States who are not citizens thereof, but who have retained their allegiance to their native land and that “no blame can be attached to anyone who exhoirts his countrymen, even when living in a foreign land, to be faithful to their native home and to cherish it, and who appeals to their patriotism.”

For the Department’s fuller information I have further the honor to inclose herewith a copy of said reply, together with a translation thereof in full.

I have, etc.,

Chandler Hale.
FOREIGN RELATIONS.

[Inclosure.—Translation.]

Ministry for foreign affairs to Mr. Hals.

VIENNA, October 31, 1902.

In the esteemed note of September 17 last, numbered F. O. 20, the honorable chargé d'affaires ad interim of the United States was pleased to make inquiry, in compliance with instructions received from the State Department at Washington, as to the meaning and purpose of the donation of a Hungarian flag sent by the Hungarian National League to the Hungarian associations in the United States, and a circular tour proposed in connection therewith through the United States.

In reply to inquiries made to this end the Royal Hungarian minister president now reports as follows:

The Hungarian National League which first started the idea of sending such a flag, and which first collected the necessary sum to defray the expenses from all classes of Hungarian society, including government officials, is a Hungarian association actuated by patriotic motives, without political tendencies.

The impulse in donating a national flag was started by the fact that numerous charitable Hungarian associations, whose principal head office was at Bridgeport, Conn., intended to celebrate the tenth anniversary of their founding in New York.

There are no political motives which prompted this donation; it is simply a manifestation of a sentiment of unity and of sympathy which the Hungarian National League desires to convey to their countrymen living in the United States.

The bearer of the flag, Mr. Josef Zony, is not an official person, but is simply a retired municipal employee who, as a member of the above-mentioned league, has been chosen as a delegate by the latter to present this flag and to convey at the same time the greetings of the league to the Hungarian associations in the United States.

As far as the circular tour is concerned which it is proposed to make with the flag through some of the States of the Union, Mr. Szell observes that the above-mentioned league has not given any special directions to the delegates, and that this proposition in all probability emanates from the leading persons at the head of the Hungarian associations in America.

Official as well as newspaper reports at hand agree in saying that the celebrations connected with this donation of the flag passed off with due decorum. The celebrations reached their height at the unveiling of the Kossuth monument in Cleveland, Ohio, at which such distinguished public men as Senator Mark Hanna and Governor Nash took part, which would not have been the case if the unfolding of the flag on the part of the delegation had been construed as a manifestation directed against the United States.

The words to be read on the flag are the first line of the patriotic poem, "Remember, Hungarians, to be faithful to thy native land."

This quotation shows that the appeal is directed solely to the sons of the country under St. Stefan's Crown and not to the citizens of the United States. No blame can be attached to anyone who exerts his countrymen, even when living in a foreign land, to be faithful to their native home and to cherish it, and who appeals to their patriotism.

For these reasons the Imperial and Royal Government is at a loss to conceive what motives could actuate the State Department to take such steps. It trusts, however, that the explanation here given will remove any doubts which might have been entertained by the leading authorities of the United States.

The undersigned avails himself of this opportunity, etc.

For the minister:

MÉRéY.

ACCIDENT TO PRESIDENT ROOSEVELT.

The Emperor of Austria to the President.

[Telegram.]

VIENNA, SCHOENBRUNN, September 5, 1902.

I have received the news of your dangerous accident with deep sympathy and express to you, Mr. President, my heartiest congratulations upon your escape from this serious danger to life.

FRANZ JOSEPH.
AUSTRIA-HUNGARY.

The President to the Emperor of Austria.

[Telegram.]

WHITE HOUSE,
Washington, September 6, 1902.

I cordially esteem Your Majesty's solicitous sympathy.

THEODORE ROOSEVELT.

STATUS OF NATURALIZED UNITED STATES CITIZENS OF AUSTRO-HUNGARIAN ORIGIN RETURNING TO THEIR NATIVE COUNTRY—RETENTION BY HUNGARIAN OFFICIALS OF PASSPORT AND CERTIFICATE OF NATURALIZATION OF JOSEF JANCO.

Mr. Hill to Mr. McCormick.

No. 19. 1

DEPARTMENT OF STATE,
Washington, November 10, 1901.

Sir: I inclose copy of a letter from Josef Janco, complaining that upon a visit to his father at Styavink, Hungary, in July last, he was arrested and brought before a court on a charge apparently of evasion of military service. He showed to the court that, though he was born in Hungary in 1869, he had become naturalized as an American citizen. He exhibited his certificate of naturalization and his passport. These papers, in spite of his repeated requests for them, have not been returned to him, although he was by the court discharged and set free.

You will investigate this matter and report thereon, and you will ask that the documents of Mr. Janco, referred to above, be returned so that they may be transmitted to him.

I am, etc.,

DAVID J. HILL, Acting Secretary.

[Incluoure.]

Mr. Janco to Mr. Hay.

PITTSBURG, PA., November 13, 1901.

DEAR SIR: I write to lay before you a complaint which I have to make against the Government of Hungary for indignities which I, as an American citizen, received at the hands of that Government during a visit made by me last summer. The facts are as follows:

I am 32 years of age, and was born January 2, 1869, in Styavink, county of Trencsén, Hungary, where my father, John Janco, still lives. I came to this country in August, 1888, and was naturalized about six years ago by the courts of Armstrong County, Pa. I am, and have been for several years, engaged in the grocery business at Natrona, Allegheny County, Pa.; am married, and have a family. I sailed for Hungary on the steamship Kaiser Wilhelm der Grosse on the 23d day of June, 1901, and arrived at Styavink aforesaid on or about July 7, and went to the office of Hahn, a notary at that place, and exhibited my passport, dated and issued some time in June, 1901, and stated to the said authority that I was an American citizen and came as a stranger to visit my father. The said Hahn demanded from me the sum of 60 florins, which he stated was for the use of the military fund. I refused to pay this sum, and three days after was arrested by a gendarme at 4 o'clock in the morning and was taken from my father's house, put under arrest, and compelled to accompany the officer to Velka Bytca. The gendarme insisted at first on my accompanying him over a circuitous route, but on my insisting upon the privilege I was allowed to make the trip direct to the last-named town in a conveyance which I

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engaged and paid for. My treatment by the gendarme was violent, and his language, when I showed him my passport and citizen's papers was to the effect and in substance as follows: The passport is not even good enough to use for a toilet paper. (This was expressed in stronger terms until to write on paper.)

At Velka Bytca, I was placed in prison and kept there two hours, then brought before a judge named Domanicky and delivered up my passport and citizen's papers. After some consideration the court discharged me, but my passport and citizen's papers were not returned, although I made frequent demands for them, and as a consequence, when I returned to this country, I was compelled to remain for two days at Ellis Island and put to other expense and inconvenience.

I make this complaint for the purpose of drawing the attention of your Department to the treatment I received, which is but a fair example of that to which many, if not all, of the citizens of this country who return to Hungary under like circumstances are subjected. I would like of course to have my papers returned, if possible, and to have any other action taken by your Department which under the circumstances may seem meet and proper to you. If this conduct of the petty officers of Hungary were properly presented to the Hungarian Government, I believe much, if not all, of the inconvenience and humiliation now endured by citizens of the United States in their travels in Hungary would be done away with.

Yours, most respectfully,

JOSEF JANCO.

Mr. McCormick to Mr. Hay.

No. 53.]

UNITED STATES LEGATION,
Vienna, December 29, 1901.

SIR: Replying to the Department's No. 19, of the 19th ultimo, enclosing a statement from one Josef Janco, complaining of the treatment which he had received at the hands of the local authorities at Styavink (Styavink), Hungary, I have the honor to state that my experience already has demonstrated the importance of informing myself as to the truth of all such statements before presenting to the ministry for foreign affairs the case to which they apply and asking for its intervention.

In many instances these statements are grossly exaggerated if not absolutely untrue, and Janco's case appears to fall within the former if not within the latter category, as will be seen from the report made to me by Mr. Chester, our consul at Budapest, who made a visit of investigation to Styavink at my request.

This report which I have just received, in substance is as follows:

1. That all persons liable or to become liable for military service who leave the country without having performed such service must on their return to this country report immediately to the local authorities that the facts connected with their case, including that of their naturalization in accordance with the terms of the treaty of September 20, 1870, may be established.

This is practically set forth in the Department's circular "Notice to American citizens formerly subjects of Austria-Hungary who contemplate returning to that country" of date February 1, 1901.

2. Janco showed his passport to the town clerk, who informed him that he, the town clerk, would have to report his (Janco's) arrival to the chief sheriff; that otherwise he himself would be liable to a fine of about 50 florins, and that he (Janco) must also report himself to the chief sheriff or be subjected to a similar fine, which statement differs widely from that made by Janco.

3. Although Mr. Chester does not give any reason for, and in his report protests against the sending of gendarmes to take Janco to the
head sheriff, it is clear to me that their presence was, and has been in all similar cases, dictated by the apprehension of the officials in small villages, that the object of their action might endeavor to evade presenting himself before the authorities and proving liable to military service, and, escaping beyond their jurisdiction, bring them into trouble with their superiors, and subject them to the fine above alluded to.

4. As to the rough treatment to which Janco asserts he was subjected, I will quote from Mr. Chester’s report verbatim:

I next took the testimony of the father of Janco, who personally appeared before me in Nagy Bítte. The father solemnly declared that he was present when the gendarmes came for his son in the early morning; that they requested him to go at once to Nagy Bítte; that his son’s feet were sore, and horses were provided by a neighbor; and his son went without making any resistance; that the gendarmes said his son’s passport was of no avail in Hungary (that is, to relieve the holder of the necessity of appearing before the chief sheriff); that he did not hear and does not believe the gendarmes used any such expressions as the legation quotes in its dispatches respecting the American passport held by Janco.

It would seem that if Janco had been roughly treated by the gendarmes after he left his father’s presence, he would have reported it on his return home, and that he would have repeated the language he states was used with reference to his passport.

On Friday, the 20th instant, Janco’s papers were delivered to his father by the town clerk of Styavink, who had just received them through the official channel from Budapest.

I will make representation to his excellency the minister for foreign affairs with reference to the hardship which the delay in returning Janco’s papers worked upon him, and seize the opportunity thus offered to ask for greater expedition in all such cases, and the prompt return of documents the possession of which is of so much importance to their rightful owners.

An abuse of as long standing as the treatment of American passports, and the at times rough treatment of their bearers, can not be summarily done away with, especially when among the latter are found many who are disposed to abuse the protection afforded by these evidences of their American citizenship, and to flaunt their exemption from military service in the eyes of their former fellow-subjects in a manner most offensive to every representative of the Monarchy, allegiance to which the American citizens formerly subjects of Austria-Hungary have forsworn.

I have, etc.,

Robert S. McCormick.

Mr. McCormick to Mr. Hay.

No. 67.]

United States Legation,
Vienna, February 11, 1902.

Sir: With reference to a personal letter which Count Lützow informs me that he wrote to Mr. Hengelmüller a short time ago, asking him to ascertain “unofficially” how the Government of the United States would view the abrogation by the Government of Austria-Hungary of the naturalization treaty between the two Governments of September 20, 1870, I have the honor to report that that letter was the direct result of my efforts, following closely upon those of my predecessor, to arrive at an understanding with the minister for foreign affairs as
to the treatment to be accorded to United States passports and their bearers, on the lines laid down and formulated in your instruction No. 59 to Mr. Harris, and bearing date January 5, 1900, as follows:

(a) The proper Austro-Hungarian officials shall be again instructed to treat United States passports as prima facie evidence of the citizenship of the bearer.

(b) In case reasonable ground appear to suspect fraud in the procurement or use of a United States passport, it may be submitted to the United States legation for examination, with a statement of the ground for suspicion.

(c) If, by reason of unfamiliarity with the English language or otherwise, the local authorities of Austria-Hungary may be uncertain whether a presented American passport is in fact such, they may ask of the nearest United States consul his opinion as to its character and purport. In giving such an opinion no endorsement of any kind will be made by the consular officer upon the passport, and no fee will be charged.

(d) If the ordinary consular visa be desired upon an American passport, it will be affixed by the proper consular officer upon payment of the prescribed fee of $1 or its equivalent.

To the above I added a fifth article as follows—

When for any reason the local authorities shall consider it necessary to take possession of the naturalization certificate or passport, or both, a receipt shall be given for them wherein shall be stated the reason for such action—

in my note to the foreign office alluded to below. Mr. Harris had been unable to arrive at any well-defined understanding on the subject, and Mr. Herdlska, who followed it up while acting as charge d'affaires during my absence last summer, was equally unsuccessful.

I made use of the case of Josef Jance, covered by my No. 53 to the Department, as the ground upon which to raise the question so long at issue, viz, the prima facie evidence of a passport as to the nationality of its bearer and the respect to which that document is entitled, maintaining in a conversation which I had with Count Lützow the position so clearly and well set forth in the instruction above referred to that "it (a passport) must be assumed to be prima facie valid until shown to be otherwise," and that local officials should have such instructions as would lead to a clear knowledge on their part as to the character of this document and of the treatment to be accorded to it and its bearer. Count Lützow frankly acknowledged the first part of my contention, and as frankly stated as to the second part that the attitude of the department of military defense stood in the way of the issuance of instructions on the lines laid down in your No. 59 above referred to, and for the first time formulated and put forward as a basis for the desired instructions to local officials in my note, copy of which I inclose herewith for your information.

In the course of our interview Count Lützow asked if some method could not be devised by which this Government could be officially notified of the naturalization of its former subjects when they availed themselves of the right to take that step accorded by the treaty. My reply was that in my opinion any method that could be devised would prove too cumbersome in practice to be at all satisfactory, which opinion I repeated in a memorandum of January 28, copy of which I also inclose herewith, adding that "in discussing such a method we are getting away from the real issue, viz, the prima facie evidence of the passport as to the citizenship of its bearer, and the rights to which he is entitled thereunder," as well as "leaving a simple method of procedure—the one suggested in my note—which would, if adopted, decrease the number of cases giving rise to correspondence between the ministry for foreign affairs and this legation to a minimum, and in
no way injuriously affect the position of the Imperial and Royal Government in individual cases not falling unquestionably within the terms of the treaty."

I added:

It seems to me also that after the lapse of thirty years local officials should be informed as to the provisions of a treaty which has a direct bearing upon the discharge of their duties, which duties, when they apply to citizens of other countries, cease to be purely local in their nature and must be performed with due respect and consideration for the rights of citizens of other countries whether these rights are obtained by specific treaty enactment or otherwise.

The attitude of the department of military defense is the crux of the situation, and it has stood between this Government and the full and proper execution of the terms of the treaty ever since that document nominally took effect.

This is proven by the "circular," translation of which was sent to the Department by Mr. Herdliška, while acting as chargé d'affaires, in his No. 12 of July 30 last, and which was based upon a law passed July 27, 1871, within one year after the signing of the naturalization treaty.

In other words this "law" contravening the terms of the treaty has been in existence throughout the life of the treaty, and stands between the ministry for foreign affairs and any agreement on the lines of the Department's instructions and of my note and memorandum.

In my opinion this is a favorable time to gain at least a radical modification of the procedure of local officials and the abandonment of actual banishment except in extreme cases which present good ground for that action in themselves should it prove wise, after further discussion, not to insist upon the letter of the treaty and the issuance of instructions in full accordance therewith.

This is a favorable time because it follows closely upon the newspaper discussion of the attitude of the various European Governments just previous to and immediately following the outbreak of the Spanish-American war, and this Government does not now wish to be behind its neighbors in its manifestation of friendship, as it has already proven in a way which I had the honor to formerly make known to you a short time ago.

I have, etc.,

Robert S. McCormick.

[Enclosure 1.]

Mr. McCormick to Count Czolgosz.

United States Legation, Vienna, January 7, 1902.

Your Excellency: I have the honor to call your excellency's attention to the case of Joseph Janco, a naturalized American citizen, of Austro-Hungarian birth, the long detention of whose certificate of naturalization and passport taken from him by the authorities at Staryvink, Hungary, resulted in great hardship to him and narrowly escaped having more serious consequences.

Mr. Janco arrived at Staryvink on a visit to his parents on or about July 7, 1901. He immediately reported his arrival to the local authorities, thus evincing a desire to conform to all that the law required, and to establish the fact that his naturalization had been secured in conformity with the terms of the treaty of September 20, 1870. He claims that one Hahn, a notary, to whom he exhibited his papers, demanded the sum of 50 florins, which he, Hahn, stated was for the use of the military fund. This sum he refused to pay, and three days later was arrested at his father's house at 4 o'clock in the morning and compelled to accompany the gendarme
to Velka Bytka; the gendarme insisting upon his going on foot by a circuitous route, but finally allowing him, Jance, to hire a conveyance and take the direct road.

Mr. Jance states that his treatment by the gendarme was violent, and the language used by the latter with reference to his passport and certificate of naturalization of a character which made it impossible for him to write it.

At Velka Bytka he was placed in prison and kept there for two hours, and then brought before a judge by the name of "Domanicky," to whom he delivered up his passport and certificate of naturalization. After some consideration the court discharged him, but retained his passport and naturalization papers, and although he made several requests that they be returned during his sojourn in Styavink, he was finally compelled to return to the United States without them.

The result of this failure to return his papers before his departure for the United States was that he was held at Ellis Island as an immigrant at considerable expense and great inconvenience until he could establish the fact that he had been naturalized, and was entitled to enter the United States as a citizen. The want of his papers in the absence of other evidence of his naturalization might have resulted in his being refused admittance to the United States.

I have caused some investigations to be made at Styavink through which I have learned that such evidence as could be obtained there is in denial of Jance's statement as to his treatment, but sufficient remains to demonstrate the ignorance of many local officials as to the character of, and the respect to which, a passport is itself entitled, and the consideration to which it entitles its bearer unless he has forfeited that consideration by some act of his own.

I am therefore, sir, your excellency, to ask if the understanding as to the acceptance of American passports as prima facie evidence of the citizenship of their bearers without distinction between native and naturalized citizens, which has been arrived at in part, can not be made more complete and formulated in terms mutually acceptable.

With the understanding thus completed and formulated it will open the way for the issuance of instructions in conformity thereto to the local officials in the realms of His Imperial and Royal Majesty, on the one hand, and to the consular officers of the United States within its borders on the other, who working together in harmony will be able to relieve this legation and His Imperial and Royal Majesty's ministry for foreign affairs of much detail work which at times is of an excessively annoying character.

This understanding might be briefly formulated as follows:

(a) A passport shall be accepted as prima facie evidence of the citizenship of the bearer.

(b) In case reasonable ground appear to suspect fraud in the procurement or use of a passport it is to be submitted to this legation for examination, with a statement of the grounds for suspicion.

(c) If, by reason of unfamiliarity with the English language or otherwise, the local authorities of Austria-Hungary may be uncertain whether a presented American passport is in fact such, they may ask of the nearest United States consul his opinion as to its character and purport. In giving such an opinion no indorsement of any kind will be made upon the passport and no fee will be charged.

(d) If the ordinary consular visit be desired, it will be affixed by the proper consular officer, upon payment of the prescribed fee of $1 or its equivalent 5 crowns.

(e) When, for any reason, the local authorities shall consider it necessary to take possession of the naturalization certificate or passport, or both, a receipt shall be given for them, wherein shall be stated the reason for such action.

Had such a receipt been given to Mr. Josef Jance he would not have suffered the detention on Ellis Island, in New York harbor, above alluded to.

I beg your excellency's leave to say that I am unable to see the necessity for retaining documents of so great value to their holders, as their certificates of naturalization and passports, for so long a time as in a number of cases which have come under my observation; none more notably than the case under discussion, viz, that of Mr. Josef Jance, whose passport was taken from him in the first half of the month of June and returned to his father near the end of December, after over seven months had elapsed. Nor can I see wherein any good purpose can be served by placing a man under arrest on the suspicion of having violated a law when he places himself voluntarily within that law's jurisdiction, which fact should be sufficient to establish a presumption in his favor.

Under such circumstances it seems superfluous to say that without specific grounds the local authorities have absolutely no reason to fear that having voluntarily come within their jurisdiction, an object of their suspicion will flee from its boundary before they have time to satisfy themselves as to whether or not he has violated the military or any other law. When in addition to this presumption in his favor he is
the bearer of a certificate of naturalization as an American citizen or of an American passport, or both, no ground is left for his being deprived of his freedom, or the evidence of his American citizenship, unless that ground can be found in the civil or criminal records of the district whence he emigrated, or in charges preferred against him in proper and legal form, no matter from what quarter.

My Government would be greatly pleased if the understanding, which has practically been reached on the lines above indicated, could be formulated in terms mutually acceptable, and such instructions issued to the local authorities as would lead to the cessation of the annoying incidents which form the subject of so large a part of the official correspondence between the two Governments.

I avail myself, etc.

Robert S. McCormick,

[Enclosure 2]

Memorandum from United States legation to Austro-Hungarian Foreign Office.

With reference to my note of the 7th instant on the subject of the acceptance by the local authorities of Austria-Hungary of American passports as prima facie evidence of the citizenship of their bearers, when presented by former subjects of this Monarchy on returning hither for any purpose, and the suggestions contained therein as to the method to be pursued by the local authorities should they not be fully informed as to the character of this document or entertain any doubt as to the bearer being the person described therein and entitled to the protection afforded thereby; and with reference to the conversation which I had with Count Lützow on this subject and the suggestion made by him tentatively to the effect that the difficulties constantly arising between local officials and the naturalized citizens, above referred to, might be avoided if some method were devised whereby notice could be sent, through an official channel, of the naturalization of all former Austro-Hungarian subjects under the terms of the treaty of September 20, 1870, and their names stricken from the rolls of those liable for military service in advance of their possible return here for any purpose: I now have to say that after careful consideration I do not believe that any method could be devised on the lines which Count Lützow suggested, which would not be found too cumbersome in actual practice to make its adoption desirable.

Moreover, in discussing such a method we are getting away from the real issue, viz, the prima facie evidence of the passport as to the citizenship of its bearer, and the rights to which he is entitled thereunder.

We are also having a simple method of procedure, the one suggested in my note first abovesaid, to, which would, if adopted, decrease the number of cases giving rise to correspondence between the ministry for foreign affairs and this legation to a minimum, and in no way injuriously affect the position of the Imperial and Royal Government in individual cases not falling unquestionably within the terms of the treaty.

Speaking from my own short experience and from an examination of the records of this legation, I would say that cases of the character last above referred to are of such rare occurrence that they are hardly worthy of consideration in the discussion of a modus operandi, the adoption of which is so desirable for the reasons already set forth.

It seems to me, also, that after the lapse of thirty years, local officials should be informed as to the provisions of a treaty which has a direct bearing upon the discharge of their duties, which duties, when they apply to citizens of other countries, cease to be purely local in their nature, and must be performed with due respect and consideration for the rights of the citizens of other countries, whether these rights are accorded by general international agreement or principle, or by specific treaty enactment.

I would therefore beg to suggest that all local officials—civil and military—and courts, having jurisdiction in such cases as those under discussion, be furnished with copies of the treaty of September 20, 1870, between the Government of the United States of America and His Imperial and Royal Majesty, the Emperor of Austria, Apostolic King of Hungary, King of Bohemia, etc., with instructions to respect its provisions in all cases where there is not evidence tending to prove that its stipulations have not been complied with.

When, for reasons set forth in my note first above referred to, local officials may deem it necessary to take up a passport, or to question the right of its bearer to its possession, the proceeding to be as outlined in that note.

United States legation at Vienna, January 28, 1902.
Mr. Hay to Mr. McCormick.

No. 35.]  

Department of State,  
Washington, March 6, 1902.  

Sir: I have to acknowledge the receipt of your No. 67 of the 11th ultimo, in regard to the treatment to be accorded to United States passports and their bearers in Austria-Hungary.  

Your conduct of the matter, as reported in your despatch, has the Department’s approval, as has the fifth article of the proposed instruction to the Austro-Hungarian local authorities, requiring a receipt from them in every case in which they deem it necessary temporarily to take from an American citizen his passport.  

* * * * * * *  

I am, etc.,  

John Hay.

Mr. Hale to Mr. Hay.

No. 26.]  

United States Embassy,  
Vienna, October 17, 1902.  

Sir: For the information of the Department, I have the honor to inclose herewith a copy of Mr. McCormick’s note, a No. 44, of January 7, 1902, to the ministry for foreign affairs, and translation of a note of the 14th instant in reply thereto.  

Mr. McCormick in the above note made use of the case of one Josef Jancek (brought to the notice of this embassy in the Department’s No. 19 of November 19, 1901, and upon which he reported in his No. 53 of December 29, 1901,) as demonstrating the ignorance of many local officials as to the character of a passport and the respect to which such a document and its bearer are thereby entitled.  

Mr. McCormick then submits the following suggestions to the consideration of Count Goluchowski, concerning the prima facie evidence of the citizenship of a bearer of an American passport:  

1. A passport shall be accepted as prima facie evidence of the citizenship of the bearer.  
2. In case reasonable ground appear to suspect fraud in the procurement or use of a passport it is to be submitted to this legation for examination, with a statement of the grounds for suspicion.  
3. If, by reason of unfamiliarity with the English language or otherwise, the local authorities of Austria-Hungary may be uncertain whether a presented American passport is in fact such, they may ask of the nearest United States consular officer as to its character and purport. In giving such an opinion no indorsement of any kind will be made upon the passport and no fee will be charged.  
4. If the ordinary consular visa be desired, it will be affixed by the proper consular officer upon payment of the prescribed fee of $1, or its equivalent, 5 crowns.  
5. When for any reason the local authorities shall consider it necessary to take possession of the naturalization certificate or passport, or both, a receipt shall be given for them, wherein shall be stated the reason for such action.  

And closes by saying that if an understanding formulated upon the above lines could be reached, and adequate instructions issued to the local authorities, the annoying incidents, occasioned by the latter’s ignorance, which form the subject of so large a part of the official correspondence between the two Governments, would cease.

a Printed, ante, page 53.
The ministry for foreign affairs, in reply to the above, and after denying the truthfulness of many of Mr. Jance’s allegations, informs the embassy that the Royal Hungarian ministry of the interior, in compliance with the proposition of article 5 in Mr. McCormick’s note above quoted, has seen fit to instruct the proper authorities within its jurisdiction to furnish the bearer of an American certificate of naturalization or of a passport, whenever these documents may be taken from him by said authorities, with a certificate or receipt setting forth the reasons which render such seizure necessary.

This regulation, if properly complied with upon the part of the local authorities, will certainly greatly lessen the number of complaints from naturalized American citizens formerly subjects of this Monarchy, as the majority of emigrants to the United States from this Empire are natives of Hungary.

I have, etc.,

CHANDLER HALE.

[Inclosure.—Translation.]

Minister for foreign affairs to United States Embassy.

66326/7]

IMPERIAL AND ROYAL MINISTRY FOR FOREIGN AFFAIRS.

Relative to the esteemed note of January 7, 1902, No. 44, concerning the complaint made by the United States citizen Josef Jance, on account of the inexcusably long detention of the naturalization papers taken from him by the Royal Hungarian authorities at Styavnik, the ministry for foreign affairs has not failed to make proper inquiries, requesting at the same time that investigation be made to ascertain the cause of such delay and with whom the fault lay.

The Royal Hungarian ministry of the interior now makes known that the accusations made by Josef Jance are not correct.

The judge of the superior court of the district of Bitše has justified his conduct and his proceedings in this case, and official investigations have shown that the statement made by Josef Jance against the notary of the community of Styavnik is not in accordance with the truth.

As far as the part in this above-mentioned esteemed note is concerned which treats of the principles which should be observed by the Austro-Hungarian authorities when examining American documents which prove the identity of citizenship, the Royal Hungarian ministry of the interior, in compliance with the proposition made under article 5, has thought proper to instruct the authorities within its jurisdiction to furnish to the holder of an American naturalization paper or passport, when these latter have been taken away from him by the authorities, a certificate setting forth the reason which rendered such seizure necessary. In connection with this the Royal Hungarian ministry points to the fact that when American naturalization papers are being examined the rules adopted on former occasions are strictly adhered to, as already explained in the note of September 29, 1900, No. 55461/7.

The ministry of foreign affairs has the honor of bringing the foregoing to the knowledge of the embassy of the United States of America.

Vienna, October 14, 1902.

For the minister:

MÉREY.

[Inclosure in dispatch No. 139, October 15, 1900, from Austria-Hungary, printed in connection with the foregoing.—Translation.]

Count Listzow to Mr. Herdliska.

55461/7]

IMPERIAL AND ROYAL MINISTRY OF THE IMPERIAL AND ROYAL HOUSE AND OF FOREIGN AFFAIRS.

In the esteemed note of date the 17th of September last, F. O., No. 105, the honorable chargé d'affaires of the United States of America, Mr. Charles V. Herdliska,  

*The note referred to follows the above note.
has thought it fit to draw attention to an apparent contradiction, contained in the note of this ministry of the 14th of August, of the current year, No. 46561/7, insasuch as, although in the first place the prima facie validity of American passports and documents of naturalization (as far as these papers do not bear the external signs of forgeries or other invalidating characteristics) is in principle therein acknowledged, the right is nevertheless claimed—as regards those American citizens who having formerly been Austrian or Hungarian subjects emigrate to America without having fully discharged their military duties and after the acquisition of American citizenship return to this country (even when the papers of legitimation with which they are furnished are perfectly regular)—for the competent authorities of this land to institute inquiries as to whether the acquisition of American citizenship by the individuals in question has been made in accordance with the provisions of the treaty of the 20th of September, 1870; that is to say, whether in the circumstances of these individuals all the conditions of Article I of said treaty are complied with.

In answer to this the Imperial and Royal ministry of foreign affairs has the honor most respectfully to draw the attention of the honorable chargé d'affaires of the United States of America to the fact that the note of this ministry, above referred to, does not go beyond the simple assertion of the following position: The Governments in Vienna and Budapest find themselves, in principle, in perfect agreement with the Government of the United States of America in that they, on their side, recognize the prima facie validity of American papers of legitimation as proof that the status of American citizenship asserted by such papers for their owner is in fact his due and legal status; with this declaration of principle must, however, be associated the clear and emphatic statement that, as regards persons who have emigrated from the Monarchy and acquired American citizenship before the discharge of their military duties, both the Governments of the Monarchy must reserve to themselves the right to examine into the circumstances under which the persons in question have become citizens of the United States of America.

This recognition in principle (as expressed in the above-mentioned note of this ministry) of the prima facie validity of American papers of legitimation is, according to the view taken by this ministry, by no means confined to the documents of such persons as have been American citizens from their birth, but includes also those of naturalized citizens of the Union, persons of originally foreign nationality—therefore of Austrian or Hungarian origin among others—whose American citizenship is without doubt prima facie proved by properly executed documents of this sort.

The simple fact, however, that a person originally of Austrian or Hungarian nationality, who has become naturalized in the United States of America, is in possession of a regular and therefore prima facie valid American passport and papers of legitimation, can by no means be regarded as affording an absolute, incontestable, and undoubted guaranty that the person in question, in acquiring naturalization in the United States, has proceeded in accordance with the provisions and assumptions of the treaty of 1870.

For in this convention certain positive and exactly defined conditions are set forth, upon the fulfillment of which is made to depend whether a former subject of the Monarchy, who has been naturalized in America, is to be recognized as an American citizen within the meaning of the treaty, and whether the rights secured by treaty to American citizens are to be accorded to such a person. Further, it is also in this very treaty expressly provided that in some specified cases a former subject of Austria or Hungary—even though his naturalization in America be perfectly regular and in order—shall, by the authorities of his original domicile, continue to be held answerable before the competent court of criminal jurisprudence for certain military offenses committed in the time prior to his emigration.

It is therefore clear that the authorities of this country must of necessity have the right, in a special case such as one of those above referred to, by means of an official inquiry into the special circumstances attending thereto, to inform themselves with certainty (and in this matter the simple possession of American papers of legitimation, whether passport or certificate of citizenship, does not of course afford even prima facie evidence) as to whether the material conditions, which the Treaty of 1870 attaches to the recognition by the authorities of this country of the American citizenship, acquired by naturalization, of a former subject of the Monarchy have in fact been complied with, such compliance constituting the condition upon which, alone, the enjoyment of the rights guaranteed by treaty can be conceded to the naturalized person in question.

To the reservation contained in the note of this ministry of the 14th of August last, no significance beyond that here explained is therefore to be attached, it being simply an assertion of the right of the authorities of this land (a right which they have also invariably asserted), in individual cases, in which it is in their opinion necessary to assure themselves by inquiry as to whether in the naturalization of a
subject of the Monarchy in the United States of America the provisions of the treaty have in fact been duly and fully complied with.

The claiming of this right for the authorities of this land does not, according to the view taken by this ministry, in any degree derogate from the general recognition in principle of the prima facie validity of American documents of legitimation, seeing that these latter assert nothing more than that their possessor is, from the point of view of the legislation of the United States of America, to be regarded as an American citizen. Such papers can not, on the other hand, be regarded as incontrovertible documentary evidence proving that in each and every case naturalization has proceeded in conformity with all the treaty provisions bearing on this subject.

An inquiry of this sort, instituted by the authorities of this land, can not therefore, as has been shown, be held to involve—as the honorable chargé d'affaires of the United States of America seems to imply—anything approaching an examination or verification by these authorities of papers of legitimation emanating from the competent American authorities, in respect of their legality or validity, from the standpoint of American legislation.

Such an inquiry has, on the contrary, no other object than the attainment of certainty as to whether, in some special case, the provisions of the treaty between the Monarchy and the United States of America have been duly observed.

That the instituting of such an inquiry, which is, as has been shown, confined to ascertaining whether those treaty provisions have been complied with, upon which the recognition of an act of naturalization has been made dependent, can not be prohibited to the authorities of this land would seem to be beyond all doubt, in view of the fact that the matter dealt with is the fulfillment of the stipulations of treaty; it being undeniably within the competence of either party to a treaty to assure itself, in every separate instance as it arises, as to the due observance of the provisions of that treaty by the other party thereto.

That in cases such as those in question circumstances may occur in which an inquiry of this sort can not be regarded as superfluous, may be illustrated by quite a recent example in which the Imperial and Royal ministry for foreign affairs in its note of the 16th of June last, No. 34101, basing its proceeding upon information furnished by the United States legation itself, had the honor to draw attention to the case of a certain Franz Rath, to whom American citizenship had apparently been accorded (by means of a certificate of naturalization issued by the city court of Utica) after a shorter period of residence in the United States of America than that stipulated for, namely, five years, by the terms of the treaty.

Further, in the esteemed note of the 26th of February last, No. F. O. 52, the envoy extraordinary and minister plenipotentiary, Mr. Addison C. Harris, stated that he had himself occasionally had to cancel American passports, as having been illegally issued.

While the Imperial and Royal ministry for foreign affairs believes that it has on the one hand succeeded in showing in the course of the above observations that its note of the 14th of August last is in no degree open to the charge of adopting mutually contradictory positions, it regards it, on the other hand, as a matter of course and self-evident, and not needing the support of such arguments and special considerations as have been adduced in this connection, that the right must of necessity be conceded to the authorities of this country when instituting an inquiry such as has been treated of in the above, and for the purposes of such inquiry not only to examine the documents of naturalized American citizens who have returned to the Monarchy, but also when necessary to retain temporary possession of the same, in order that they may have in hand such concrete data as are likely to prove essential to the prosecution of any further examination that may be desirable, as well as a positive documentary basis for the due eliciting of the actual facts of the case occupying their attention; and this necessity is specially likely to arise when the matter in hand includes the removal of such a person's name from the army lists of Austria-Hungary.

This declaration of the true reasons and objects by which the authorities of this country are influenced, when, as occasionally happens, they retain for a time possession of the American papers of legitimation of naturalized citizens of the Union before returning them to their owners, should certainly be sufficient to prove that such temporary retention can not fairly be regarded either as an infringement of the naturalization treaty or as inconsistent with the general attitude to this subject, lately adopted by the Imperial and Royal ministry for foreign affairs.

It having, however, been pointed out by the honorable chargé d'affaires of the United States of America that in the return to their owners of passports and other documents of legitimation taken from naturalized American citizens very considerable delay not infrequently occurs, the Imperial and Royal ministry for foreign affairs is by no means disposed to call in question the inconveniences that may, under some circumstances, result for the naturalized American citizen in question from the
unduly prolonged retention of these documents. The Imperial and Royal ministry for foreign affairs has accordingly, in connection with the four cases particularized in the esteemed note of the 10th of September last, No. F. O. 101, in which it is asserted that the papers of legitimation of American citizens were retained for an unreasonably long period before being returned to their owners, drawn the attention of the ministers of the interior in Vienna and in Budapest to this administrative shortcoming, with an earnest representation that whatever is possible be done with a view to its correction.

In compliance with this representation, the Imperial and Royal ministry of the interior has already taken occasion to address to the administrative authorities within the sphere of its jurisdiction an injunction, impressing upon them as an imperative duty, in all cases in which it appears necessary for the attainment of the ends above intimated, to retain temporary possession of papers of legitimation belonging to naturalized American citizens who return to the Monarchy, to withhold such documents from their owners only so long as may be absolutely necessary; and, further, that in all dealings with cases of this sort the utmost possible dispatch shall at all times be used.

With reference to the desire expressed in connection with this question by the honorable chargé d'affaires of the United States of America to be put in possession of copies of the orders issued to the authorities of this country, and to which reference was made in the note of this ministry of the 14th of August last, No. 4560/7, the Imperial and Royal ministry for foreign affairs regrets not to be in a position to comply therewith, it being a general principle of universal application here that the orders and instructions issued to the administrative authorities of this country, and intended for their use exclusively in the discharge of their official duties, are not communicated to foreign governments.

At the same time, the Imperial and Royal ministry for foreign affairs does not hesitate to characterize as inconsistent with these very orders the proceeding—commented upon by the honorable chargé d'affaires of the United States of America—of the sheriff (bezirkshauptmann) of Ráczpécze, who, citing in justification of his action a ministerial edict which had been addressed to him, requested in his letter of the 7th of September last, No. 1209/3, to the United States legation, to be supplied with translations of an American passport and of a certificate of naturalization belonging to a certain Beni Balamut, the orders in question being those issued by the Imperial and Royal ministry of the interior to the administrative authorities under its control defining the procedure to be adopted in cases in which doubt might occur as to the contents or the authenticity of North American passports or as to the identity of the owner of such documents.

In complete accordance with the suggestions on this subject contained in the esteemed note of the 26th of February last, No. F. O. 52, the administrative authorities—including, of course, those in Galicia—under the control of the Imperial and Royal ministry of the interior, have received instructions that such American passports can not, for lack of knowledge of the English language, be duly examined by the office in question may, in case of need, be forwarded to the nearest American consular officer with an appropriate inquiry, but certainly not with a request that they be translated. On the other hand, however, in all cases in which a well-founded suspicion is present that an American passport is a forgery, or is being used by a person who is not identical with the person whose name it bears, these facts, with all available proof in support of them, are to be reported direct to the Imperial and Royal ministry for foreign affairs, in order that this latter may associate itself with the legation of the United States in the prosecution of a searching inquiry into the facts of the case.

It having thus been shown that the standing orders in question are in complete accordance with the wishes expressed by the minister, Mr. Addison C. Harris, the Imperial and Royal ministry for foreign affairs regards it as its duty to approach the honorable chargé d'affaires of the United States of America with the most respectful request that the general instructions (hitherto held back) to the consular officers of the United States of America established in the Monarchy, dealing with the above-mentioned modus procedendi, may now kindly be issued with as little delay as possible, to the end that new complications may not in future arise for lack of such instructions to the American consular offices concerned.

From what precedes it must be self-evident that, in addressing the above-mentioned request to the legation of the United States of America, the Imperial and Royal sheriff (bezirkshauptmann) of Ráczpécze was simply acting under a certainly most regrettable misapprehension, as will be represented with appropriate comment to that officer.

Finally, with reference to the cases of Danislowicz, Kreswirth, Turek, and Schesny, to which the attention of this ministry was directed by the esteemed note of the 10th
AUSTRIA-HUNGARY.

of September last, No. F. O. 101, in which cases the return of the American papers of
elegation taken from the persons named by the Austrian and Hungarian author-
ties has been unduly long delayed, the Imperial and Royal ministry for foreign
affairs lost no time, immediately on receipt of the above esteemed communication,
in informing the ministries in Vienna and Budapest as to the circumstances
described, with the request that the necessary steps might be taken without delay,
unless some insuperable obstacle should really stand in the way to hinder this from
being done, to secure the immediate return of the papers in question to the persons
named.

According to a preliminary communication from the Imperial and Royal ministry of
the interior, it also on its part immediately addressed a telegram to the Imperial
and Royal governor (statthalter) at Lemberg, directing his attention to the com-
plaints made by Alexander Danilewicz and Ignatz Kreswirth, and hopes very
shortly to be in a position, as the result of this proceeding, to make a further and
detailed communication on this subject.

The Imperial and Royal ministry for foreign affairs has also, in the interim,
received a preliminary telegraphic communication from the Royal Hungarian min-
istry of the interior, containing the information that his American certificate of
naturalization has already been returned to Michael Turck, and that, in the matter
of Rudolf Schényi, the deputy sheriff (vicegespan) of the comitat of Saros has been
requested to send in his report upon the case with all possible dispatch.

While doing itself the honor most respectfully to acquaint the honorable chargé
d'affaires of the United States of America of the foregoing, the Imperial and Royal
ministry for foreign affairs reserves for a future occasion the further separate consid-
eration of the special cases in question.

The undersigned avails himself at the same time of this opportunity to renew to
the honorable chargé d'affaires, etc.

Vienna, September 29, 1900.

For the minister:

Lützow.

MILITARY SERVICE CASE OF JOSEPH KRISTOF.

Mr. Hay to Mr. McCormick.

No. 26.] DEPARTMENT OF STATE,

Washington, January 3, 1903.

Sir: I inclose for investigation and appropriate action a copy of a
letter from which it appears that a man named Kristof, an American
citizen, is being compelled to perform military service in the army of
Austria-Hungary.

His certificate of naturalization is also inclosed, and it has been
suggested to Mr. Klein to advise Kristof to address you.

I am, etc.,

JOHN HAY.

[Incluse,]

Mr. Klein to the Secretary of State.

YONKERS, N. Y., December 28, 1903.

Sir: Your obedient servant requests kindly to be informed what steps to take to
have an American citizen of the United States released who went to Hungary to be
cured, and was taken as soldier by the Government of Hungary, and is still serving.
Herewith I respectfully beg to inclose his naturalization papers. He has failed to
have a passport issued, being that he was so sick that the doctor advised him
to leave with the first steamer sailing from this port. The name of the citizen is
Kristof, but, as shown in the naturalization papers, his name was misspelled
(Kristof). His present address, where he camps, is Joseph Kristof, Company 4,
Sixty-seventh Regiment, Eperjes, Hungary, Co. Saros.

Awaiting your kind instructions, I am, etc.,

ADOLF KLEIN.
Mr. McCormick to Mr. Hay.

No. 81.] United States Legation, Vienna, May 7, 1902.

Sir: With reference to the Department's No. 25 of January 23, 1902, inclosing a letter from which it appears that a man named Kristof, an American citizen, is being compelled to perform military service in the army of Austria-Hungary, I have the honor to report that I transmitted the information contained in your inclosure to his excellency the minister for foreign affairs, stating that the name of the citizen in question was Kristof, but, as shown in the naturalization certificate, was misspelled Kistof. In reply I have received a note from the ministry for foreign affairs, translation of which I herewith inclose, setting forth that the Imperial and Royal ministry of war has now given its opinion [in the Kistof case] and states that in consideration of the fact that the accompanying certificate of naturalization bears the name of Joseph Kistof and that there is nothing to show that the person named in this document is identical with Joseph Kristof now serving as a private in the regiment of infantry No. 67, etc., the discharge of the latter from military service can not take place until proof has been produced that Joseph Kristof is the identical Joseph Kistof who was naturalized, according to the accompanying certificate, as a citizen of the United States in the year 1896.

* * * * * * * * * * * * *

I will endeavor to secure favorable action without furnishing the required proof, but technically the Imperial and Royal ministry of war may claim that it is acting within its rightful prerogative in demanding the proof above referred to.

In order to save time, I have written to Mr. Klein, who addressed the Department in Kristof's behalf, to furnish such proof as he can as to the alleged error in the spelling of the name, which has given rise to the difficulty in obtaining Kristof's release.

I have, etc.,

Robert S. McCormick.

[Inclosure.]

Count Lützow to Mr. McCormick.

The Imperial and Royal ministry for foreign affairs has not failed to inform the imperial and royal ministry of war of the contents of the note of January 29 last, No. 45, touching the enrollment of the naturalized United States citizen, Joseph Kristof, into the ranks of the Austrian army, with a view of making the necessary investigations and to make such further dispositions as the result may warrant.

The Imperial and Royal ministry of war has now given its opinion and states that in consideration of the fact that the accompanying naturalization certificate bears the name of Joseph Kistof and that there is nothing to show that the person named in this document is identical with Joseph Kristof, now serving as a private in the regiment of infantry No. 67, the discharge of the latter from military service can not take place until authentic proof has been produced that Joseph Kristof is the identical Joseph Kistof who was naturalized according to the accompanying certificate as United States citizen in the year 1893.

While the undersigned has the honor of leaving it to the judgment of the honorable envoy extraordinary and minister plenipotentiary of the United States of America to take such steps as may be deemed proper by him to lead to the removal of any doubts in this matter, he avails himself, etc.

Vienna, May 4, 1902.

For the minister:

Count Lützow.
Mr. McCormick to Mr. Hay.

No. 5.]

United States Embassy,
Vienna, August 11, 1902.

Sir: With reference to the Department's No. 25 of January 3, 1902, and to my No. 81 of May 7, 1902, regarding the case of a man named Kristof, who was being compelled to perform military service in the army of Austria-Hungary, I now have the honor to inform you that on the presentation of a duplicate certificate of naturalization, in which the spelling of the name was corrected to Josef Kristof instead of Joseph Kistof, I succeeded in obtaining the release of the party in question.

I have caused Mr. Klein, who first brought the case to attention of the Department, to be informed of Kristof's release.

As said in my No. 81, above referred to, the department of military defense seizes upon every technicality to evade that full and hearty recognition of the naturalization treaty of September 20, 1870, which the relations between the two countries would seem to demand, and the foreign office is apparently unable to take the decision in cases of this kind into its own hands, where it seems to me to belong. I represented to His Excellency Count Lützow personally, as well as to His Excellency Count Goluchowski through an official note, that everything pointed to the truth of Mr. Klein's statement that Kristof's name had been misspelled in his original certificate of naturalization; that whereas Kristof was a common name, and this fact gave color and substance to the claim that Kristof's name, as above indicated, was misspelled, the name of Kristof was absolutely unknown and appeared in no directory or other publication where it would have been found had it existed at all. I cite this fact simply to show the attitude of the department of military defense as practically sustained by the foreign office in treating the cases of naturalized American citizens who have returned here.

I will have occasion to again refer to this attitude in another case upon which I will shortly report to the Department, as bearing upon the desirability of a revision of the treaty above referred to, which is now a source of constant irritation to this Government through its flagrant abuse by young men who emigrate with the sole purpose of evading military service and of returning here to reside as soon as they have acquired American citizenship.

I have, etc.,

Robert S. McCormick.

MILITARY SERVICE CASES OF JOSEPH KNOFF, JACOB FRIEDBERG, HARRY SCHMIERIE, MICHAEL TENZER, AND FRANK HOWRKA.

Mr. McCormick to Mr. Hay.

No. 63.]

United States Legation,
Vienna, January 22, 1902.

Sir: For the information of the Department and in order that there may be on its files a complete record of the cases of naturalized American citizens of Austro-Hungarian origin who have become involved
with the military authorities on return to their native land, to visit or otherwise, I have the honor to make the following brief summary of each case, which summary can be amplified at any time in the future should occasion demand.

Joseph Knopp, a naturalized American citizen of Austro-Hungarian origin, emigrated to the United States in March, 1892, while a member of the Austro-Hungarian army reserve, but subsequent to the performance of his full military service. He became naturalized at San Antonio, Tex., in November, 1897, and is now a sergeant in Company A, Eighteenth Regiment of the United States Army. He left the United States in March, 1901, on a six-months' furlough, returning to visit his parents at Stizburg, and was arrested one month after his arrival and imprisoned on the charge of evasion of military service by the local authorities, despite of the fact that he was the bearer of documents proving his American citizenship. Through the intervention of this legation Knopp was finally released and the case satisfactorily settled.

Jacob Friedberg, a naturalized American citizen of Austro-Hungarian origin, emigrated to the United States in 1888, at 12 years of age, before being summoned for military service. He was naturalized in New York City, on May 15, 1899; returned to his former home on a visit in May, 1901, and on the 22d day of that month was arrested by the local authorities for the nonperformance of military service, notwithstanding that he was the bearer of documents proving his American citizenship. Upon Friedberg's appeal to this legation, and through its intervention, he was released and immediately quitted the country without further reporting to the legation.

Harry Schmierie, a naturalized American citizen of Austro-Hungarian origin, emigrated to the United States in 1886, at 12 years of age, before being summoned for military service. He was naturalized at Denver, Colo., on October 16, 1896, and returned to his former home in May, 1901. The circumstances in Schmierie's case are nearly identical with those in the Friedberg case, given above, so that for the sake of brevity I refrain from giving them.

Michael Tenzer, a naturalized American citizen of Austro-Hungarian origin, emigrated to the United States in 1885, at 16 years of age, before reaching the age of conscription. He was naturalized in New York City in 1890; returned to his former home on a visit to his parents on May 3, 1901; was arrested shortly after his arrival by the local authorities, who immediately released him upon his establishing his American citizenship, but banished him from the district within twenty-four hours thereafter. Tenzer at once came to Vienna and appealed to this legation, through whose intervention the order of banishment against him was set aside.

Frank Howinka, a naturalized American citizen of Austro-Hungarian origin, emigrated to the United States in 1882 and became an American citizen through the naturalization of his father in 1887, being at that time under age and then residing in the United States. He returned with his father to his former home in 1893 to look after property in this country, and on April 27, 1901, was enrolled as a recruit in the Austro-Hungarian army, but was finally released through the intervention of this legation.

I have no means of knowing, without making direct inquiry, which
I could do at any time, whether order of banishment was issued in any case in which the fact is not stated in this summary. In many cases those who appeal to this legation leave the Monarchy while their cases are in process of adjustment, and without again communicating with us, so that we have no means of finding out whether an order of banishment has been transmitted to the local authorities without making specific inquiry at the foreign office. It has not been the custom to make such inquiry, as the object of this legation's intervention has been considered to be attained in most cases on the simple erasure of the names of those who appealed to it from the military rolls.

I have, etc.,

ROBERT S. McCORMICK.

PASSPORT APPLICATION OF MOSES LILIENTHAL.

Mr. McCormick to Mr. Hay.

No. 38.] UNITED STATES LEGATION, Vienna, November 12, 1901.

SIR: I have the honor to present to you for your consideration the case of Moses Lilienthal, who has applied to this legation through the United States consul at Budapest, for a passport, and I respectfully ask for the instructions of the Department in this connection.

The facts of the case are as follows:

1. Moses Lilienthal was born at Jerusalem, Palestine, on the 10th of January, 1856, and has resided there since the day of his birth.

2. His father was born in the United States, at Louisville, Ky. (how long the father resided in the United States is not mentioned in application), and Lilienthal claims citizenship through native citizenship of parent.

3. He is the bearer of certificate, Form 179, No. 11, issued by the United States consul at Jerusalem on the 29th of January, 1901, and of Turkish passport, which I have the honor to inclose herewith, and respectfully request that they may be returned.

4. He is now temporarily residing at Budapest, Hungary, and declares that he intends to return to the United States (where he has never been) within two years, with the purpose of residing and performing the duties of citizenship therein; and yet in the same application he declares, "I desire the passport for the purpose of traveling in Europe and Asia."

In this declaration I have no confidence, circumstantial evidence being entirely against it.

It seems to me that the consul at Jerusalem is responsible for issuing Form 179 to Mr. Lilienthal, to be used by him as a passport, contrary to sec. 169 (and 149) of Consular Regulations.

For which reasons, pending instructions from the Department, I have declined to issue passport to applicant.

I have, etc.,

ROBERT S. McCORMICK.
Mr. Hay to Mr. McCormick.

No. 30.]

DEPARTMENT OF STATE,
Washington, January 18, 1902.

Sir: Your dispatch, No. 38 of the 12th of November, ultimo, asking instructions with regard to issuing a passport upon the application of Moses Lilienthal, has been received.

You report, that the applicant was born at Jerusalem, Palestine, on January 10, 1856, where he has since resided; that his father was born in the United States (but for what length of time he resided in the United States the application does not state), and that Lilienthal claims citizenship through the native citizenship of his father. You add that Lilienthal is the bearer of a certificate, Form 179, No. 11, issued by the United States consul at Jerusalem, January 29, 1901, which, with Turkish passports, you inclose. You state your belief that the consul at Jerusalem issued the certificate contrary to sections 169 and 149 of the Consular Regulations, and that for this reason, and because you are not convinced of the bona fide intention of the applicant to return to the United States (where he has never been) within two years, you have, pending instructions, declined to issue him a passport.

The Department's instruction of August 15, 1894, to Mr. Buchanan, minister at Buenos Aires (Foreign Relations, 1894, p. 19), authorizes a certificate of deposit of a passport. Such a certificate may properly be issued. But in the certificate submitted in this case, and to which you invite attention, the words "deposit of passport and" are struck out in the caption and it reads: "Certificate of registry of a citizen of the United States." As the document contains a description of the holder, and describes him as a son of a citizen who held a passport, it has doubtless served the purpose of a passport for him. It would seem, therefore, to be an improper document. It should have been based upon the deposit of the applicant's passport. It could not properly be based upon the deposit of the passport of the father of the applicant. It is presumed the consul acted upon the theory that the father's citizenship in this case descended to the son, and that the proof of the citizenship was tantamount to the holding of a passport; but the Department may, on occasion, refuse a passport to a person without denying that he may be a citizen of the United States. Your supposition concerning the impropriety of the issuance of the document by the consul at Jerusalem seems to be correct, and an explanation will be invited from him.

Your question whether this certificate of registry is not a violation of paragraph 169 of the Consular Regulations, which authorizes withholding a passport from one who has practically abandoned his country, and of paragraph 149, which prohibits the granting of a passport to anyone who is not a citizen of the United States, may be answered in the negative, as the document issued was not a passport.

The right of the applicant to receive a passport is another matter. If the father was a citizen of the United States when the son was born, the son was himself born a citizen of the United States. He was, moreover, as it would seem, born in a country in which the United States exercises extra territorial jurisdiction, and where the general principle concerning indefinite residence abroad is not so rigidly applied. Nevertheless, the circumstances of the present case do not seem to entitle the applicant to such exceptional consideration.

Born in Jerusalem
nearly fifty years ago, Mr. Lilienthal has never been in the United States, and while he declares his intention to come hither within two years, this statement, in your opinion, and in that of the Department so far it is advised, is negatived by the circumstances. Citizenship involves duties on the part of the citizen as well as obligations on the part of the Government. There has been an entire absence of performance of duties of citizenship on the part of the applicant. The fact that he does not become a subject of Turkey does not alter the fact that he is not performing, and never has performed, the duties pertaining to American citizenship. Your action in withholding a passport is approved.

Returning the original papers communicated with your despatch, as requested, I am, etc.,

John Hay.

PASSPORT APPLICATION OF THEODOR F. ALEXANDER.

Mr. McCormick to Mr. Hay.

No. 82.]

United States Legation,
Vienna, May 7, 1902.

Sir: I have the honor to report the following case of application for a passport and to ask the Department’s instructions with reference to same.

Although of the opinion that I should grant the application in view of an instruction, No. 52, by Mr. Sherman to Mr. Storer, minister at Brussels, and dated November 8, 1897, I ask for the Department’s instructions, as it is not a case in which immediate action is necessary.

A. M. Alexander, the father of the applicant, Theodor F. Alexander, emigrated to the United States from Prussia, sailing from Hamburg on the 15th day of May, 1854, and resided eighteen years uninterruptedly in the United States to 1872, and was naturalized as a citizen of the United States before the superior court of the city of New York, at New York, on October 1, 1860, as shown by certificate of naturalization presented at this legation. In 1872 he, A. M. Alexander, left the United States and has since that time resided in Europe, having been, until about six years ago, the junior partner in the firm of Alexander Brothers, of New York City, and representing that firm as buyer in Europe, and residing in Dresden until 1876, when he removed to Vienna, which city has been since then and is now his home. He has visited the United States but once since 1872. His son, Theodor F. Alexander, who now applies for a passport, was born in Vienna on April 22, 1881, and has just become of age and declares that it is his intention to go to the United States within two years with the purpose of residing and performing the duties of citizenship therein. He is a student at the University of Vienna and will take his degree in the month of June, 1904, a little over the two years within which he declares that it is his intention to go to the United States, but as I construe the purpose of this declaration and considering the object of the young man’s remaining here until June, 1904, it is within the spirit of the regulations. Moreover, A. M. Alexander states that he has three sons who were born in the United States, are now residing, have spent most of their
lives there, and who have undertaken to secure employment for the youngest son, Theodor, on the completion of his studies at the university. I have stated to Mr. A. M. Alexander that, subject to the approval of the Department, I will issue a passport to the son. For the further information of the Department and in support of the above I have the honor to inclose here with a statement of Mr. A. M. Alexander over his signature.

I have the honor, etc.,

ROBERT S. McCORMICK.

[Inclosure.]

Statement of A. M. Alexander with reference to his son's application for a passport.

With reference to my long residence in Europe, beginning with the year 1872, I have to make the following statement: I was junior partner in the firm of Alexander Brothers, of New York, and I came over to buy goods for that firm, going to Dresden, where I remained for four years, visiting America once in the meantime. In 1876 I removed to Vienna, where I have represented the above firm until about six years ago, when I retired from business, and have not been in America since 1876. My son, Theodor F. Alexander, who was born here in Vienna in 1881, is a student at the Vienna University and will complete his studies and take his degree in June, 1904, when it is his intention, as well as mine, that he shall go to the United States, where his brothers, who were born in the United States and who have spent most of their lives there, have undertaken to secure employment for him. I solemnly declare the above statement to be true, and make it for the purpose of assisting my son to secure a passport.

A. M. ALEXANDER.

Mr. Hay to Mr. McCormick.

No. 45.]

DEPARTMENT OF STATE,
Washington, May 28, 1902.

Sir: Your No. 82 of the 7th instant has been received.

It appears that Mr. A. M. Alexander, the father of the applicant for a passport, was born in Prussia, was naturalized as a citizen of the United States, and has lived for some years in Europe. His son, Theodor F. Alexander, was born in Vienna in 1881, when his father was receiving the protection of a passport as a citizen of the United States. Section 1993 of the Revised Statutes of the United States says:

All children ** born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States.

As there seems to be no doubt that A. M. Alexander was a citizen of the United States when his son was born, his residence and status after that event need not concern us, as the son would be entitled by reason of his birth to the protection of this Government during his minority and until he can elect another nationality. He has, apparently, elected to remain an American citizen by applying for a passport and demonstrating that it is bona fide his intention to come to the United States to live. There is, as this Department explained in its circular instruction of September 28, 1899, entitled "Passports—Intent to return to the United States," no definite period of time beyond which the protection of a passport is to be refused to a citizen of the United States. Upon the information submitted, therefore, it would appear that Mr. T. F. Alexander is entitled to receive a passport.

I am, etc.,

JOHN HAY.
PASSPORT APPLICATION OF ARMIN FREIMAN.

Mr. McCormick to Mr. Hay.

No. 84.]

UNITED STATES LEGATION,
Vienna, May 23, 1902.

SIR: I have the honor to lay before the Department of State and ask its instructions in the case of one Armin Freiman, the facts in which are as follows:

Freiman was born at Kis Szeben, Sáros County, Hungary, on or about the 23d day of March, 1877, emigrated to the United States on board the *Mascot*, sailing from Rotterdam on or about the 28th June, 1893, and resided uninterruptedly at Pittsburg, in the state of Pennsylvania, from that time until the year 1900, and was naturalized as a citizen of the United States before the district court of the United States of America in and for the western district of Pennsylvania, as shown by his certificate of naturalization issued to him by that court on the 23d day of March, 1900. On the 28th July following he left the United States, having remained long enough to become naturalized and so escape the military service required by the laws of the country of his birth. He is now sojourning at the place of his birth and has been for the past two years, and, like many others, in my judgment, having accomplished the purpose of becoming naturalized as an American citizen, namely, escaped liability to military service as above indicated, has no fixed intention of ever returning to the United States.

Technically Freiman may be entitled to a passport, but it seems to me that one should not be issued to him unless he can show evidence of a bona fide intention to return there within two years, as he states in his application.

I ask for instructions, not only for my guidance in this case, but in other similar ones where circumstantial evidence justifies the belief that the applicant has gone to the United States and become naturalized as a citizen thereof only with the purpose of escaping military service in the land of his birth, whither he returns as soon as this object can be accomplished, thus evading his duties as a citizen of the country of his birth and the country of his adoption.

I have, etc.,

ROBERT S. McCORMICK.

Mr. Hay to Mr. McCormick.

No. 50.]

DEPARTMENT OF STATE,
Washington, June 21, 1902.

SIR: Your No. 84 of the 23d ultimo, relative to the application of Armin Freiman for a passport, has been received.

The case does not, as it appears to the Department, call for special instructions, being adequately covered by the general principles laid down in previous instructions and especially in the circular instruction of March 27, 1899, wherein it was stated:

This Government does not discriminate between native-born and naturalized citizens in according them protection while they are abroad, equality of treatment being
required by the laws of the United States (secs. 1999 and 2000, Rev. Stat.). But in
determining the question of conservation of American citizenship and the right to
receive a passport it is only reasonable to take into account the purpose for which the
citizenship is obtained. A naturalized citizen who returns to the country of his
origin and there resides without any tangible manifestation of an intention to return
to the United States may therefore generally be assumed to have lost the right to
receive the protection of the United States. * * * It is not to be understood by
this that naturalized American citizens returning to the country of their origin are
to be refused the protection of a passport. On the contrary, full protection should
be accorded them until they manifest an effectual abandonment of their residence
and domicile in the United States.

The treatment of the individual cases as they arise must depend largely upon
attendant circumstances. When an applicant has completely severed his relations
with the United States, has neither kindred nor property here, has married and
established a home in a foreign land, has engaged in business or professional
pursuits wholly in foreign countries, has so shaped his plans as to make it impossible or
improbable that they will ever include a domicile in this country, these and similar
circumstances should exercise an adverse influence in determining the question
whether or not a passport should issue.

It appears that Freiman lived in the United States seven years and
that he returned to Austria less than two years ago. Whether he has
manifested in this brief period an effectual abandonment of his home
in the United States is a matter which the legation must decide,
weighing all the circumstances of the case with great care.

I am, etc.,

JOHN HAY.

PASSPORT APPLICATION OF HARRY FROMMER.

Mr. Hale to Mr. Hay.

No. 39.]

UNITED STATES EMBASSY,

Vienna, October 30, 1902.

SIR: I have the honor to submit to the Department the case of one
Mr. Harry Frommer, a native citizen of the United States, who has
applied to this embassy for a renewal of his passport. The facts are
as follows:

1. Harry Frommer, whose father was a naturalized citizen of the
United States of Austro-Hungarian origin, was born at New York
City, in the State of New York, on the 29th day of May, 1890. He
last left the United States in June, 1892, the bearer of passport No.
36444, issued by the Secretary of State on the 2d day of April, 1892.

2. On the 3d day of April, 1894, Mr. Frommer applied to and was
granted by this mission a new passport, No. 449, stating in his appli-
cation for same that he intended "to return to the United States within
six months."

3. On the 8th day of May, 1896, Mr. Frommer was granted a new
passport, No. 668, by this mission, for himself and his wife, Thekla,
born at Krakau, Galicia, where the said Frommer has continued to live
for the past ten years.

4. On the 28th day of July, 1898, a third passport, No. 952, was
issued to Mr. Frommer by this mission.

5. On the 28th day of September, 1900, Mr. Frommer was granted
a fourth passport, No. 232, by this mission, he then declaring in his
application for same that he intended to return to the United States
within one and one-half years, or as soon as he had disposed of his hat
business in Krakau.
AUSTRIA-HUNGARY.

Yesterday, for the fifth time, Mr. Frommer presented himself at this mission, requesting a renewal of his passport. Upon being questioned in regard to his intention of returning to the United States with the purpose of residing and performing the duties of citizenship therein, he practically stated that his business as a hatter at Krakau being in better shape he had no intention of ever leaving this Empire. Pending instructions from the Department of State I therefore refused to renew his passport in accordance with the latter part of paragraph 150 of "Instructions to diplomatic officers of the United States," which reads as follows:

The granting of a passport should also be witheld pending the instructions of the Department where the applicant, whether native or naturalized, has resided without the United States for a long period of time under such circumstances as to warrant the inference that he has practically abandoned his country. In all such cases the facts should be fully reported to the Department for further instructions.

Mr. Frommer's original passport, No. 36444, issued by the Secretary of State on the 2d day of April, 1892, and first above referred to, is inclosed herewith, having been found with the duplicate of his first application to this mission for renewal of same on the 3d day of April, 1894.

I have, etc.,

CHANDLER HALE,
Chargé d'Affaires ad interim.

Mr. Hay to Mr. Hale.

No. 75.]

DEPARTMENT OF STATE,
Washington, November 19, 1902.

Sir: I have to acknowledge the receipt of your No. 30, of October 30, 1902, reporting your refusal to renew passport in the case of Harry Frommer, a native-born citizen of the United States.

It appears that Mr. Frommer, whose father was a naturalized citizen of the United States of Austro-Hungarian origin, was born in the city of New York; that he left the United States in June, 1892, the bearer of passport No. 36444, issued by the Department April 2, 1892; that in 1894 he applied to the United States mission in Vienna for a renewal of his passport, which was granted, he stating in his application that he intended "to return to the United States in six months." It appears further that in 1896 he was granted a new passport by the United States legation for himself and his wife, born at Krakau, Galicia, where the said Frommer has continued to live for the past ten years; that on July 28, 1898, a third passport from the same source was issued to Mr. Frommer, and that in 1900 he was granted a fourth passport, "he declaring on this occasion that he intended to return to the United States within one and a half years," or "as soon as he had disposed of his hat business." Finally, you report, for the fifth time Mr. Frommer presented himself at the embassy, requesting a renewal of his passport, and that upon being questioned in regard to his intention of returning to the United States with the purpose of residing and performing the duties of citizenship therein, he stated practically that his business as a hatter at Krakau being in better shape he had no intention of ever leaving Europe.

Your course in withholding a passport in this case is approved by
the Department. Mr. Frommer comes within the category of those of whom the Department's circular instruction of March 27, 1899, said:

When an applicant (for a passport) has completely severed his relations with the United States, has neither kindred nor property here, has married and established a home in a foreign land, has engaged in business or professional pursuits wholly in foreign countries; has so shaped his plans as to make it impossible or improbable that they will ever include a domicile in this country—these and similar circumstances should exercise an adverse influence in determining the question whether or not a passport should issue.

I am, etc.,

JOHN HAY.