BRAZIL.

MONROE DOCTRINE AND DIPLOMATIC CLAIMS OF EUROPEAN POWERS—PRESS COMMENTS ON NOTE OF ARGENTINE GOVERNMENT TO THE GOVERNMENT OF THE UNITED STATES.[a]

Mr. Thompson to Mr. Hay.

No. 11.] LEGATION OF THE UNITED STATES,
Petropolis, April 16, 1903.

SIR: Believing that it may be of interest to the Department, I inclose herewith a copy and translation of an editorial appearing in the principal opposition newspaper of Rio, which criticises the action of the Argentine Government in regard to the Monroe doctrine, and elaborates views as to the attitude which ought to be taken by South America toward that doctrine, which are very generally held among certain classes of Brazilians.

I have, etc., D. E. THOMPSON.

[Inclosure.]

Editorial from the Correio da Manha, of Rio de Janeiro, of March 30, 1903.

THE MONROE DOCTRINE.

The note directed by the Argentine chancellery to the United States of America seems to us a very good illustration of the extent to which, in this grave period of our international life, some of the statesmen of Latin America are being misled. It is certain that that error gives us the measure of the way in which, perhaps in all the South American countries, public opinion studies events and judges anomalous situations which in many parts of the continent the mistakes and wrongdoings of the governments are creating. The case of Venezuela, the most recent and of the most positive eloquence as a notice to the nations of South America, caused a kind of chorus of clamoring or of protests to explode that had been lying dormant in certain Americans who, with respect to the great power at the North, live forever midway between fear of the expansionist policy of Washington and the plaintive desire and request for Yankee tutelage.

Unquestionably there has fallen upon the Argentine Republic a great responsibility from now on into the future. The responsibility in diplomatic history for the movement which is operating, or at least for the manifestations which are going on in almost all the Republics of Iberic origin in relation to the United States of America, will devolve upon Argentine statesmen. It is not only now, on the occasion of the original and very deplorable note to the North American Government, that the Argentine Republic has shown itself to be impatient to give proofs that it was not satisfied with any rôle but that of being among the first in the international relations of the continent. When a short time ago England and Germany did not hesitate to use force against the Caracas Government, the Argentine Republic even then, judging from the dispatches from Buenos Aires in the press of the whole world, showed certain veiled desires to intervene in the alarming conflict; upon seeing that the United States crossed their arms before the insolent aggression, the Argentine Government did not hesitate to direct itself to Venezuela, offering it generously resources that would rehabilitate it and cure promptly the evils and afflictions of that terrible emergency. There is evident in that beautiful stroke the insinuation of indirect

[a] See also page 1.

censure of the attitude of the United States, in other respects very correct and perhaps more than ingenious, because they greatly served the Government of Caracas. Not satisfied with the insignificant result obtained, the Argentine Republic now has stirred itself up to provoke the North American Government to a more positive and formal declaration of the Monroe doctrine.

In the first place, the Buenos Aires chancellery commits an infraction of international etiquette in taking the responsibility of such an important initiative without the knowledge of any of the other South American Republics. Nor can the right of the Argentine Republic be recognized to thus present itself to the Washington Government, speaking in the name of collective interests, when it is certain that those interests are not understood by us all as they are being interpreted by the Argentines.

But what really surprises us, because it exceeds everything which might have been expected of the high pretensions which the Plata Republic is revealing is the informality, the audacity with which it did not hesitate to make one more play in the open road of Monroeism. The note directed to the Washington Government suggests or proposes that the colossus of the north shall take the responsibility of affirming definitely the Monroe doctrine and (what is unbelievable as an expression of boldness in the diplomatic field) proceeds to the extent of indicating one of the points which the Argentines would like to see clearly stated and settled—namely, that foreign intervention in South America as a means, or as a coercive measure, for collecting debts should be declared illegitimate and not allowable. It is really astonishing, this courage of the Argentine Government. And what is even more astonishing is that for that very fall from grace it finds applause in two or three capitals of the continent. How is it that one of the noblest of American nations could thus suddenly put aside the traditions of manliness with which its history is full? How can that eclipse of the conscience be explained in a people which has always had a clean record and which has always known how to be dignified and to defend heroically its independence as a sovereign nation? How can we believe, without sharp disillusionment, that the Argentines, like all Americans, so sensitive always on points of national honor; that the Argentines, one of the people who are found to be in the vanguard of American civilization, how are we to believe it was that people who bestirred themselves thus to making a request which was troublesome to the Government addressed and humilitating for all Latin Americans?

We do not believe we are exaggerating the gravity of this thoughtless act. But we admit the Argentine Republic obeyed impulses which are justifiable in view of the not very tranquil disposition that some European governments are revealing. Yes, because it is undeniable that in the minds of Americans, principally those of the South, there is working almost an alarm against the way some of the great powers of the Old World have of interpreting international law. And above all the alarm has grown since the recent events in Venezuela. The Argentine Government should, however, have taken a different road. Its noble action would then, perhaps, have been more effective.

We are not of the number of those who deceive themselves with regard to the great advantages of the often planned alliance of South American nations as a means of resistance to the invasions which would be owed to imperialism. It is easy to understand how, in other respects, such an alliance would give us the means of strengthening the ties of sympathy and moral solidity which already exist between us. As a means, however, of guaranteeing our integrity and common defense that alliance would accomplish nothing, and it is probable would never pass beyond simple utopia. Only those could believe in such a dream (already destroyed at Tecubaya, and in an hour very different from the present) who misunderstand the situation of the nations of the continent. That which simple good sense counsels us is to hope nothing from artificial and illusory agreements. Peoples, like individuals, are judged and do justice to other peoples according to the discreetness with which they conduct themselves; according to the prudence, firmness, and wisdom of the men who lead them; in proportion to the economic progress which gives them strength and independence, and above all as they possess that great virtue born of the sentiment of duty and the consciousness of destiny, worth more perhaps than riches—that heroic moral courage of being dignified on all occasions. There is nothing like being right and being honest. Because, as a matter of fact, whenever we speak of European pretentions we tend to exaggerate and see everything through a false prism. What Europe wants is to open markets. The great problem for her is the economic question, the source of all the pains which afflict that ancient, dying society. Except in Africa, conquests to-day are difficult; and how many European nations are there who would not congratulate themselves on the fortunate day on which they could relieve themselves of some of their possessions, retaining only their commercial advantages. That is to say, what we should do above all is study the most natural means of exchanging interests with Europe. As long as we limit this to obtaining loans in

London and to buying in Hamburg we will not cease to occupy that relationship to her which always exists between debtors and creditors.

Another truth which we also forget is the spirit of patience, at times amounting to forbearance, of the European creditor. This is the natural spirit of all sensible creditors. They understand that their interests are bound up with those of their debtors. We might cite many examples of the good will with which European capitalists accede to all the reasonable demands of our governments. Why should we then be always so suspicious toward these men of affairs? Is it not true that they would have the right to say to us, "Why did you then ask of us our money?"

There is nothing like having right on our side. Instead of hatred toward the capitalist after we have got possession of the borrowed money we should have the good judgment either not to borrow at all or scrupulously fulfill our obligations and not give the slighest pretext for disputes and coercive measures by stronger governments. This would be worth much more to us than all the fictitious coalitions we may have planned. If we had only taken home to ourselves the thought that to be in the right is the best thing—better even than possessing cannons—Brazil, for example, would not be to-day in the very complicated position in which she finds herself, due in great measure to the irregularities which exhausted the country, principally, after the Republic. Besides being already burdened with tremendous debts, the twenty former provinces, converted into independent governments with the name of states, were handed over to incapable and selfish men who are devoting themselves to the only certainly profitable business that survived the deluge—borrowing. The instant they hear the European banker jingling the sovereigns they shut their eyes and accept any conditions. When the obligations have to be met, they either make new loans, which each time become more burdensome to the poor country, or they appeal to the federal coffers. And the federal coffers, when once they are opened how are they to be closed? And on the day when they have to be closed, after they are drained to the last cent, what is to be done with the European creditor? And, finally, to complete all this, we will have a "Sorocabana" case, another "Oeste de Minas" case, and yet other cases, each one a more eloquent witness than the last to our sins. But we ask, Would continental alliances perchance possess the miraculous power of remedying the evils that naturally flow from such aberrations and vices?

On the whole, although it is true that false conclusions do not advance the solution of the problem of our defense, nevertheless we can not doubt that some profit would be derived from measures of another kind, founded upon a general understanding among Americans. For example, instead of invoking the Monroe doctrine (clearly a mere fiction in international law), we might establish, by a collective note to the powers of Europe that no case arising out of the rights of subjects of foreign nations shall be discussed diplomatically before being submitted to the courts of the country where it arose. This is possible, as the legal principle involved is a perfectly acceptable one, although Europe has almost forgotten it, partly because she abuses her strength, but also because she has been encouraged by our own negligence. Such an agreement would be of much greater value to us than alliances full of expressions of platonic friendship but devoid of positive significance, or at least without the positive advantages which such an agreement would tend to assure to us.

To appeal, however, to the North American Government, as the Argentine has just done, in the hope that the former will reiterate and accentuate in the form of a definite promise and reduce to a formula of international law a fragment of a note given out eighty years ago by the Washington Government, and up to the present time regarded as a pure eccentricity of the kind for which America has become the classic source, really proves that the Government so doing has no notion of the juridical rules obtaining among modern peoples, that it is not acquainted with the actual conditions surrounding the nations of the world, and, finally, that it has a very superficial view of the nature of the relations that can be maintained between nations without peril to their sovereignty and without injury to their honor or even to their simple national dignity.

The Monroe doctrine as such has no value whatever. At best it is simply another document for the benefit of those who would determine the characteristic psychology of the North American. Such a doctrine passes not only for a work very original and very Yankee, but also as being without substance as a whole. The Government of the United States can invoke it and put it into force when it is to its advantage to do so and whenever it is able to give to the formula the unanswerable validity and strength of cannons. And even for this purpose it might well be dispensed with. Without the support of Monroeism the great powers of Europe exercise the same "rights" (those of force) whenever they can and on all the seas of the world.

Further, it can not help being detrimental to the peoples of South America to invoke that doctrine, even outside the cases which the Argentine chancellery wished to see specified—those with regard to the collection of debts. Such a principle

becomes for us South Americans somewhat paternal, and for that very reason incompatible with the sovereignty of each of us, whenever it does not express an explicit agreement, validated by all the countries in whose favor it pretends to operate. By no means does it possess the breadth which it claims nor has it the force of a rule of this continent, since a government, by itself, can not arrogate to itself the right of assuming obligations in relation to foreign peoples whose existence, destiny, and interests, as a consequence of their sovereignty, does not depend upon any other power. The Government of the United States, consequently, is not competent to impose bases of international policy, and much less to institute principles of law capable of coming into force in all America without the accord of all the nations interested. What value then in the diplomatic world can a phrase known by the name of President Monroe have?

If the United States, as the strongest nation on the continent, believe, as a matter of fact, that it would be to the interests of all the American peoples to effectively prevent the intrusions of Europe; if the Government of the United States is sincere, as we believe it is, then let it do with all the American republics what one government may do with another; let it celebrate with us any treaties which it considers would be useful, with the idea of preserving forever interests which it recognizes as peculiar to the nations of America. Thus, if the protest of Monroe were reduced to a diplomatic formula, and consequently to a form having the character of reciprocity, the conceit or protest of Monroe would be that of us all, it would be in its fullness a regulating principle of our common action in given emergencies, and this notwithstanding it would not be incorporated in the law ruling our international relations with the old world; that is to say, to the extent that the great powers of Europe would not recognize it.

But as a North American doctrine, created and interpreted exclusively by the Government at Washington, and by that Government—through its sovereign criterion—exclusively applied, what we, nations of South America, should do is not admit any such doctrine and treat it, moreover, as if it did not exist, as the statesmen of the Plata, as a matter of fact, and others principally wish. We ought not to talk any more about that doctrine. Our feelings of delicacy as a nation, our juridic conscience, our perception of our sovereignty repel that doctrine thus disfigured and converted into an easy means for complications; that doctrine in whose circle in this part of the world live so many leaders and so many Chauvinistic patriots.

TREATY AND PROTOCOL BETWEEN THE UNITED STATES AND BRAZIL FOR THE EXTRADITION OF CRIMINALS.

Signed respectively at Rio de Janeiro, May 14, 1897, and May 28, 1898.
Ratification with amendments advised by the Senate, February 28, 1899.
Ratified by the President, February 13, 1903.
Ratified by Brazil, April 14, 1903.
Ratifications exchanged at Rio de Janeiro, April 18, 1903.
Proclaimed, April 30, 1903.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a treaty between the United States of America and the United States of Brazil providing for the extradition of criminals was concluded and signed by their respective Plenipotentiaries at Rio de Janeiro on the 14th day of May, one thousand eight hundred and ninety-seven, the original of which treaty, being in the English and Portuguese languages is, as amended by the Senate of the United States of America, word for word as follows:

TREATY OF EXTRADITION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED STATES OF BRAZIL.

The United States of America and the United States of Brazil, desiring to strengthen their friendly relations and to facilitate the adminis-

tration of justice by the repression of crimes and offences committed in their respective territories and jurisdictions, have agreed to celebrate a treaty of extradition and have nominated for that purpose the following plenipotentiaries:

The President of the United States of America, Mr. Thomas L. Thompson, Envoy Extraordinary and Minister Plenipotentiary near the Government of the United States of Brazil;

and the President of the United States of Brazil, General Dionisio Evangelista de Castro Cerqueira, Minister of State for Foreign Relations;

who having made known their respective full powers, which have been found in good form, agree upon the following articles:

ARTICLE I.

The Government of the United States of America and the Government of the United States of Brazil mutually agree to deliver up the persons who, having been charged or convicted, as the authors of or accomplices in any of the crimes enumerated in the following article, committed in the jurisdiction of one of the contracting parties, seeks an asylum or be found within the territories of the other; provided, this shall only take place after such evidence of criminality as, according to the laws of the place where the person or fugitive so charged shall be found, would justify his or her apprehension and commitment for trial, if the crime had there been committed.

ARTICLE II.

Extradition shall be granted for the following crimes and offences:

1. Voluntary homicide, when such act is punishable in the United States of America, comprehending the crimes of poisoning and infanticide; murder; manslaughter.
2. Abortion.
3. Rape and other offences against chastity committed with violence.
4. Bigamy.
5. Abduction, willfully and wrongfully depriving any person of natural liberty.
6. Kidnapping or child stealing.
7. Arson.
8. Piracy, by statute or by the law of nations when the state in which the offender is found has no jurisdiction; revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas, against the authority of the master; to willfully and wrongfully cause shipwreck; to wrongfully and willfully collide with a vessel; to wrongfully and willfully scuttle a vessel for the purpose of sinking it; to wrongfully and willfully destroy a vessel on the high seas.
9. Wrongful and willful destruction or obstruction of railroads which endangers human life.
10. Counterfeiting, falsifying or altering money of any kind, or of legally authorized bank notes which circulate as money; to utter or to give circulation to any such counterfeited, falsified or altered money; the falsification of instruments of debt created by national, state or municipal governments, or of the coupons thereof; counterfeiting, falsifying or altering seals of the federal or state governments; to knowingly use any such instruments or papers.

11. Forgery, the utterance of forged papers; forgery or falsification of official acts of government, of public authorities, or of courts of justice, of public or private instruments; the use or the utterance of the thing forged or falsified.

12. Perjury, or to bear false witness; to suborn or bribe a witness.

13. Fraud committed by a depositor, banker, agent, broker, treasurer, director, member or employe of any company or corporation.

14. Embezzlement, consisting in the misappropriation or theft of public moneys, committed in the jurisdiction of one of the contracting parties, by a public officer or depositary.

15. Embezzlement, or theft of moneys, committed by persons salaried or employed, to the detriment of those who employ them.

16. Burglary, defined to be the act of entering during the night, by breaking or climbing, the dwelling-house of another, with intent to commit a felony; robbery, defined to be the act of feloniously and forcibly taking from another money or goods of any value, by violence, or putting in fear, and known in the Brazilian Penal Code as *roubo*.

17. Complicity in or attempts at the commission of any of the crimes specified in the preceding sections, provided that such complicity or attempt be punishable by the laws of the country from whence the extradition is demanded.

Article III.

Extradition shall not be granted if the offence on which the surrender is demanded be of a political character, or if the fugitive prove that there is an intention to try or punish him for a political crime; nor if the circumstances on which extradition is demanded are connected with political crimes.

The Government from which extradition is demanded will examine the circumstances, to ascertain whether the crime be of a political character, and its decision shall be definite.

The following shall not be considered political crimes when they are unconnected with political movements, and are such as constitute murder or willful and illegal homicide, as provided for in section 1 of the preceding article:

1. An attempt against the life of the President of the United States of America, or against the life of the Governor of any of the States; an attempt against the life of the President of the United States of Brazil, or against the life of the President or Governor of any of the States thereof;

2. An attempt against the life of the Vice-President of the United States of America, or against the life of the Lieutenant-Governor of any of the States; an attempt against the life of the Vice-President of the United States of Brazil, or against the life of the Vice President or Vice Governor of any of the States thereof.

Article IV.

The person surrendered cannot be tried nor punished in the country which has obtained the extradition, nor be surrendered to a third country, for trial or punishment therein, for any crime or offence not mentioned in this treaty, nor for one committed previous to extradition, other than the crime or offence for which he was extradited,

unless such person has been in either case at liberty to leave the country which has obtained the extradition for a month subsequent to trial therein.

Furthermore, such person shall not be tried nor punished for an offence or crime mentioned in this treaty committed previous to the extradition, other than the offence or crime for which he was extradited, without the consent of the Government which has surrendered such person, and the said Government shall be able to demand an exhibition of any of the documents mentioned in Article X of the present treaty.

In like manner the consent of the said Government shall be solicited if the extradition of the offender is requested by a third Government; although this shall not be necessary when the offender voluntarily requests trial or consents to punishment; or if he fails to leave the territory of the country to which he has been surrendered within the period above fixed.

ARTICLE V.

The contracting parties shall in no case be obliged to surrender their own citizens in virtue of the stipulations of the present treaty.

ARTICLE VI.

If the person shall be in course of trial, or shall have been convicted of an offence other than that for which the surrender is demanded, extradition shall only take place after the trial shall have been concluded and the sentence fullfilled.

ARTICLE VII.

When the person demanded by one of the contracting parties is also demanded by one or more powers on account of crimes and offences committed within their respective jurisdictions, extradition shall be conceded to the one whose request is first received, unless the Government to which the request is made has before agreed by treaty in case of the concurrence of requests to give preference to the country of the person's origin, to the gravity of the crime, or to the request which is of oldest date; in whichsoever of these cases the usual rule shall be followed.

ARTICLE VIII.

Extradition shall be refused when the action or sentence for which the offender is demanded shall have been extinguished by prescription, according to the law of the country to which the request is made, or when such person shall have been already tried and sentenced for the same crime.

ARTICLE IX.

All articles found in the possession of the person accused and obtained through the commission of the act with which such person is charged, and may be used as evidence of the crime for which such person is demanded, shall be seized and surrendered with the person. Nevertheless, the rights of third persons to the articles so found shall be respected.

FOREIGN MISSIONS LIBRARY,
156 Fifth Avenue, New York.

ARTICLE X.

Requisitions for the surrender of fugitives from justice accused or convicted of any of the crimes or offences hereinbefore mentioned shall be made by the diplomatic agent of the demanding Government. In case of the absence of such agent either from the country or from the seat of Government such requisition shall be made by a superior consular officer.

When the person whose surrender is requested shall have already been convicted of the crime or offence for which his extradition is demanded, the demand therefor shall be accompanied by a copy of the judgment of the court or tribunal which has pronounced it, duly signed by the judge of the court or president of the tribunal; and the signature of the judge of the court or president of the tribunal shall be authenticated by the proper executive officer, whose official character shall in turn be attested by the diplomatic agent or a superior consular officer of the Government on which the demand is made.

When the person whose surrender is asked is merely charged with the commission of any of the crimes mentioned in the present treaty, the application for extradition shall be accompanied by an authenticated copy of the warrant of arrest issued against such person by the officer duly authorized to do so; and likewise by an authenticated copy of the depositions or declarations made before such officer and setting forth the acts with which the fugitive is charged.

The extradition of fugitives under the provisions of the present treaty shall be carried out in conformity with the laws and practice for the time being in force in the state on which the demand is made, without, however, denying recourse to the writ of *habeas-corpus*.

ARTICLE XI.

When the arrest and detention of a person are desired on telegraphic or other information in advance of the presentation of the formal proofs provided for in the preceding article of the present treaty, the following practice shall be observed: In the United States of America application shall be made by the diplomatic agent of Brazil, or in his absence by a superior consular officer, to the Secretary of State, for a certificate stating that request has been made by the Government of the United States of Brazil for the provisional arrest of a person convicted or accused of the commission within the jurisdiction thereof, of a crime or offence extraditable under the terms of the present treaty, which, upon presentation to any competent judicial officer and upon complaint duly made that such a crime or offence has been so committed, it shall be lawful for such judicial officer to issue a warrant for the apprehension of such person; And in the United States of Brazil upon request of the Government of the United States of America, duly made through its diplomatic agent, or in his absence by a superior consular officer to the Minister for Foreign Relations; the provisional arrest shall be made of any person convicted or accused of the commission of a crime or offence extraditable under this treaty.

But if the formal requisition for surrender with the formal proofs hereinbefore mentioned, be not made as aforesaid by the diplomatic agent of the demanding government, or in his absence by a superior consular officer, within sixty days from the date of the arrest of the fugitive, the prisoner shall be discharged from custody.

ARTICLE XII.

The expenses incurred in the arrest, detention, examination and delivery of fugitives under this treaty shall be borne by the State in whose name the extradition is sought.

ARTICLE XIII.

The present treaty shall take effect six weeks after the exchange of ratifications, and shall continue in force six months after one of the contracting parties shall have notified the other of an intention to terminate it.

It shall be ratified and the ratifications exchanged at Rio de Janeiro as soon as possible.

In witness whereof, the respective plenipotentiaries sign the above articles written in the English and Portuguese languages and hereunto affix their seals.

Done and signed in duplicate in the city of Rio de Janeiro, this 14th day of May 1897.

[SEAL.] THOMAS L. THOMPSON.
[SEAL.] DIONISIO E. DE CASTRO CERQUEIRA.

And whereas a protocol amending the said treaty in certain particulars was concluded and signed by the respective plenipotentiaries of the United States of America and the United States of Brazil, at Rio de Janeiro, on the 28th day of May, one thousand eight hundred and ninety-eight, the original of which protocol, being in the English and Portuguese languages, is word for word as follows:

PROTOCOL.

The undersigned, the Envoy Extraordinary and Minister Plenipotentiary of the United States of America and the Minister for Foreign Affairs of the Republic of the United States of Brazil, met together to-day in the Department of Foreign Affairs and being duly authorized, have agreed to modify in the manner hereinafter indicated the provisions of No. 13 of Article II, of the end of § 2 of Article III, and of the first two paragraphs of Article IV, and the wording of Article IX of the Extradition Treaty signed May 14th, 1897, for the purpose of preventing questions in the execution thereof.

ARTICLE II, NO. 13.

To add in the English text after "broker" the word "manager", corresponding in the Portuguese text to the term "administrador".

ARTICLE III, § 2.

To substitute in the English text for the word "definite" the word "final".

ARTICLE IV.

To change the wording of the first paragraph of the Portuguese text to read as follows: O individuo entregue não poderá ser processado

nem punido no paiz que tiver obtido a extradição nem entregue a terceiro paiz por crime ou infracção não prevista no presente tratado nem por crime ou infracção anterior á extradição, etc., etc.

To substitute in the second paragraph of the English text the expression "may demand" for "shall be able to demand."

ARTICLE IX.

Substitue for the wording of the English text the following: "All articles found in the possession of the person accused, whether obtained through the commission of the act with which such person is charged, or whether they may be used etc., etc."

This protocol shall be submitted for approval to the Congresses of the two countries.

Done at the city of Rio de Janeiro this twenty-eighth day of May A. D. 1898.

[SEAL.] CHARLES PAGE BRYAN
[SEAL.] DIONISIO E. DE CASTRO CERQUEIRA.

And whereas the said treaty, as amended by the Senate of the United States of America, and the said protocol have been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the City of Rio de Janeiro, on the 18th day of April, one thousand nine hundred and three;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said treaty, as amended by the Senate of the United States of America, and the said protocol to be made public, to the end that they and their every article, and clause may be observed and fulfilled with good faith by the United States of America and the citizens thereof.

In testimony whereof, I have caused the Seal of the United States of America to be hereto affixed.

Given under my hand at the City of Washington the thirtieth day of April, in the year of our Lord one thousand nine hundred and three, and of the Independence of the United States of America the one hundred and twenty-seventh.

[SEAL] THEODORE ROOSEVELT

By the President:

JOHN HAY *Secretary of State.*

MESSAGE OF PRESIDENT OF BRAZIL TO BRAZILIAN CONGRESS.

Mr. Thompson to Mr. Hay.

No. 20.] LEGATION OF THE UNITED STATES,
Petropolis, May 8, 1903.

SIR: Inclosed herewith I send you a copy of the first annual message to Congress of President Rodrigues Alves, with a translation of certain portions, which will be of particular interest to the Department.

The part devoted to the discussion of the proposed public improvements in Rio de Janeiro has created the greatest satisfaction, as the

vigorous language used and the steps already taken by the Government indicate a firm purpose on the part of the administration to initiate and carry through the approved plans for, first, a splendid wharf system; second, a modern sewerage system, and, third, the complete stamping out of yellow fever, of which there has been a great deal during the past year. With regard to the latter I may say in passing that the work accomplished in Cuba by our army of occupation is being frequently cited as an example to be followed and as proof that Rio de Janeiro, in the same latitude south as Habana is north, can be freed from the yearly reappearance of that disease.

In that part of the message devoted to foreign relations you will note that the United States is mentioned first in the list of those countries who sent war ships to the inauguration last November. The graceful words about Cuba may perhaps also be taken as a friendly remark for our Government. The discussion of the Acre question is clear and is perhaps the best presentation of the Brazilian point of view and contention that has yet appeared.

I have, etc.,

DAVID E. THOMPSON.

[Inclosure.]

Translation of extracts from the President of Brazil's annual message to Congress.

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In previous documents I have alluded to the public service of making this capital sanitary, and each time I feel more convinced that in this act will be found the necessary element for the revival of the economic life of the country.

Such an undertaking undoubtedly involves doing a great many things difficult and costly of execution, but the benefits expected are of such a kind as to make the undertaking necessary.

The defects of the capital affect and disturb the whole national development. Its restoration in the opinion of everybody would be the beginning of new life, an incitement to development in the extensive area of a country which has lands for any crops, climates for all peoples, and fields for exploitation by all kinds of capitalists.

The general health conditions of the capital, besides demanding urgent material improvements, depend on a good water supply, regular sewage system, soil drainage, public cleanliness, and cleanliness of private houses.

It seems to me that this great work should, however, be initiated by carrying out the plans for the improvement of the part which will constitute the base of the system, and will tend not only toward bringing about the desirable end mentioned, but also and evidently to the improvement of the conditions of labor, commerce, and, what must not be forgotten, the increase of our revenues.

Our duty, which the Government is going to perform, is to initiate this great public service and never abandon it, even though it will cost us great sacrifices.

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FOREIGN RELATIONS.

I take pleasure in and note with great pride the act of courtesy of the United States, England, Portugal, France, and Argentine, in sending war ships of their navies to bring us good wishes on the 15th of November last.

Our foreign affairs have involved us in very delicate situations for nearly a year, as a result of the happenings in the Acre, but happily Brazil continues to enjoy the benefits of peace, and I have the great happiness of being able to say that our relations with most of the powers are very friendly. Among these is now included the Cuban Republic, recognized by us, and for whose prosperity I have the sincerest good wishes.

Our various boundary questions, so carefully studied by passed administrations, are being resolved amicably and honorably. Shortly after the end of our dispute with France over the Guiana territory the treaty of London of November 6, 1901, by which the litigation of our frontiers with British Guiana was submitted to the arbitration

of His Majesty the King of Italy, went into execution. Mr. Joaquim Nabuco, accredited as envoy extraordinary and minister plenipotentiary, on special mission to the august arbiter, already has had the honor of delivering, in defense of our cause, the first of the three memorials authorized by the compromise.

The demarcation of our boundaries with the Argentine Republic is almost concluded, in accordance with the terms of the agreement of February 5, 1895, and of the treaty of October 6, 1898.

Our former relations of such cordial friendship with Bolivia have suffered a not insignificant strain since the time when the Government of that sister Republic, unable to maintain its authority in the Acre region, inhabited exclusively, as you know, by Brazilians who, many years previously, had established themselves there in good faith, saw fit to deliver it over to a foreign syndicate upon whom it conferred powers almost sovereign. That concession, as dangerous for the neighboring nations as for Bolivia itself, encountered general disapproval in South America. As the most immediately interested, Brazil, already in the time of my illustrious predecessor, protested against the contract to which I refer, and entered upon the policy of reprisals, prohibiting the free transit by the Amazon of merchandise between Bolivia and abroad.

Neither that protest nor the counsels of friendship produced at that time the desired effect in La Paz, and, far from rescinding the contract or making the hoped-for modifications therein, the Bolivian Government concluded an especial arrangement for the purpose of hurrying the entrance of the syndicate into the possession of the territory.

When I assumed the government that was the situation, and in addition the inhabitants of the Acre, who had again proclaimed their independence, were masters of the whole country, excepting Puerto Acre, of which they did not get possession until the end of January.

Although since January negotiations have been initiated by us for the purpose of removing amicably the cause of the disorders and complications which have had their seat of action in the Acre ever since the time when for the first time the Bolivian authorities penetrated thither, in 1899, yet the Government of La Paz has nevertheless thought proper that its President and his minister of war should march against that territory at the head of armed forces with the end in view of crushing its inhabitants and then establishing the agents of the syndicate.

I thereupon resolved to intervene to protect our fellow-citizens and prevent further and unnecessary bloodshed, whereupon we could, with the proper intent, arrive in a short time at a definite arrangement, honorable and satisfactory for both parties. From the 18th of January on, instructions were sent to our legation in La Paz to the effect that in spite of the very broad interpretation which, as a favor to Bolivia, the Brazilian Government had given through so many years to article 2 of the treaty of 1867, it would now defend as its boundary the parallel of 10° 20′ south, which is the dividing line indicated by both the letter and the spirit of that pact. After the departure of the expeditions against the Acreans our legation was instructed to repeat that declaration and to inform the Bolivian Government that Brazil was going to take military occupation of a part of the contested territory until the settlement of the dispute by diplomatic channels. Upon the Bolivian Government agreeing to this we promptly reestablished freedom of transit for its foreign commerce by Brazilian waters.

Shortly after this the syndicate, by reason of the indemnity which we paid it, renounced the concession which had been made it, eliminating thus this disturbing element.

The negotiations for the modus vivendi necessitated by the new situation proceeded and there resulted the preliminary agreement signed at La Paz on March 21. In accordance with its terms the troops of General Olympie da Silveira already occupy the contested territory to the east of the Purus between the so-called Cunha Gomes line and the parallel of 10° 20′, and a Brazilian detachment of troops is already supposed to have passed to the south of that parallel to take up their position between the armed Acreans and the Bolivian forces. These latter, commanded by General Pando, are supposed to have stopped at the river Orton, sending their advanced posts as far as the Abunan. If in the period of four months, counting from March 21, the two Governments can not arrive at a direct and definite agreement, the said Brazilian detachment of troops will return to the north of that parallel and the negotiations will commence for a treaty of arbitration.

It is much to be regretted that the discussion of the definite agreement has been interrupted when it had scarcely begun, in January, and that the period of four months from March 21 will, as a matter of fact, be reduced to two, since the Bolivian minister on special mission can not be expected to arrive here until the end of this month.

I sincerely wish and hope that the two Republics may be able to arrive at an understanding, settling, as soon as possible, in the most honorable manner these irritating and too much prolonged questions. Brazil does not desire an agreement in opposition to the interests of Bolivia, and holds in the highest appreciation her friendship.

To the Peruvian Government we have announced, very willingly, since January that we will examine, with attention, the claims which in due time they may be pleased to make upon the subject of the territories now in dispute between Brazil and Bolivia.

Near the mouth of the Amonea, in Alte Jurua, conflicts have unhappily taken place between the Brazilians there for a long period of time established and a detachment of Peruvian troops whom the prefect of Iquitos had sent there in October. With the imperfections of the maps in existence it is, however, impossible to say whether that point is within the Brazilian boundary or in territory indisputably Peruvian, as our neighbors allege. I am convinced that the questions relative to these incidents on the frontier will be solved by the two Governments in the most amicable spirit.

FREE NAVIGATION OF THE AMAZON RIVER.

Mr. Bryan to Mr. Hay.

No. 441.] LEGATION OF THE UNITED STATES,
Petropolis, August 14, 1902.

SIR: I have the honor to inclose herewith a copy and translation of an official order of the minister of finance, recently promulgated, by which he closes or attempts to close the free navigation of the Amazon, subjecting all goods in transit to Brazilian export and import duties.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure.—Translation.]

Extract from Diario Official.

Ministry of finance. Federal capital. Circular No. 43, August 8, 1902.

Let the honorable heads of departments of finance take notice for their information, that by means of telegrams of this date sent to the collecting agents of the federal treasury in the States of Para and Amazonas, this ministry has provided for the keeping of the free navigation of the Amazon for import and export in suspense, except as applied to merchants who have cargoes in ships which have left the ports of loading before this same date, collecting, except in this case, the duties they shall owe.

Mr. Bryan to Mr. Hay.

No. 444.] LEGATION OF THE UNITED STATES.
Petropolis, August 19, 1902.

SIR: In reference to my No. 441, of August 14, 1902, I have the honor to report that the minister of finance on August 13, 1902, modified and corrected the official order closing the navigation of the Amazon by confining its effect to importation and exportation to and from the single country of Bolivia. I inclose a copy and translation of the corrected order.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure.—Translation.]

MINISTRY OF FINANCE.

Circular No. 43, ministry of finance, federal capital, August 8, 1902, is republished on account of having been previously printed with mistakes.

I hereby notify the heads of departments of finance, for their information, that the ministry has, through telegrams of this date to the collecting agents of the federal treasury in the States of Para and Amazonas, suspended the free navigation of the Amazon for importation and exportation to and from Bolivia, except for that merchandise in vessels that left the ports of shipment before this same date, all other except the above paying the regular duties.

JOAQUIM MURLINHO.

Mr. Bryan to Mr. Hay.

No. 464.] LEGATION OF THE UNITED STATES,
Petropolis, October 31, 1902.

SIR: Referring to my Nos. 441 and 444 of the 14th and 19th of August, respectively, relating to the ministerial decree which, in order to injure Bolivian commerce, imposes transit duties, I have the honor to report that the Governments of France and Germany have instructed their ministers to protest against this proceeding on Brazil's part. The British minister, also under telegraphic instructions, has called on me several times to inquire whether I had been directed to notify the foreign office here of displeasure on our part at this Government's unwarranted action. The French minister informs me that the minister for foreign affairs has reasserted to him with emphasis, both verbally and in a long note, his belief in the right of Brazil to impose transit duties. My colleagues, however, agree with me in the belief that Baron Rio Branco, an experienced diplomat who will become minister for foreign affairs on November 15, will not sustain his predecessor's contentions or attitude with regard to the commercial rights of Bolivia and of other nations. It is our separate conviction that long before January, when the rubber shipments begin, the new Government of Brazil will have solved the pending difficulties with regard to free transit on the Amazon River. Nevertheless, as I may be in error in this opinion, I deem the matter of sufficient importance to lay the facts before the Department as they present themselves to me, so that my successor may be thoroughly informed regarding every phase of this question, and so that the Department understandingly may be prepared to take such action in the premises as it may deem proper.

I have, etc.,

CHARLES PAGE BRYAN.

Mr. Bryan to Mr. Hay.

No. 466.] LEGATION OF THE UNITED STATES,
Petropolis, November 7, 1902.

SIR: Continuing the subject of my No. 464, of October 31, I have the honor to report that the French minister informs me that the legal adviser of the foreign office at Paris, in a lengthy opinion, has sustained his position regarding the illegality of the imposition of duties on merchandise in transit by the Amazon.

I have, etc.,

CHARLES PAGE BRYAN.

Mr. Hay to Mr. Seeger.

No. 302.] DEPARTMENT OF STATE,
Washington, December 9, 1902.

SIR: The Department has given consideration to Mr. Bryan's Nos. 441, 444, 464, and 466, of the respective dates of August 14, August 19, October 31, and November 7, 1902.

No. 441 transmits a copy of an official order of the minister of finance by which he attempts to close the free navigation of the Amazon by subjecting all goods in transit to Brazilian export and import duties.

No. 444 reports a correction of the order so as to make it apply only to goods going to and coming from Bolivia.

No. 464 reports the protests of the French and German ministers against the order.

No. 466 reports the French Government's approval of its minister's protest.

The Department notes by Mr. Bryan's No. 464 that it is the common belief of the diplomatic corps that the order would be rescinded by Baron Rio Branco upon his assumption of the office of minister for foreign affairs. It is hoped that by the time this instruction reaches you this expected action will have been taken. If not, you will make proper and temperate remonstrance against the measure, which, if persisted in, could not fail to injure United States commerce with the Amazon region.

I am, etc., JOHN HAY.

Mr. Seeger to Mr. Hay.

LEGATION OF THE UNITED STATES,
Petropolis, January 20, 1903.

SIR: The optimistic prediction of Mr. Bryan, that "long before January, when the rubber shipments begin, the new Government of Brazil will have solved the pending difficulties with regard to free transit on the Amazon River," is far from being fulfilled.

I have, consequently, in obedience to your No. 302, of December 9, made "proper and temperate remonstrance" against Brazil's obstruction to the commerce on the Amazon.

* * * * * * *

Inclosed are copies of memoranda on the subject, shown me by Doctor Pinilla, and of my note of to-day to the foreign office.

I have, etc.,

EUGENE SEEGER,
Consul-General in Charge of Legation.

[Inclosure 1.—Translation.]

Opinion on the question of transit by the Amazon, by Mr. Louis Renault, professor of international law of the faculty of Paris, member of the Hague conference, legal adviser of the minister of foreign affairs, etc.

I am of the opinion that the remonstrance made by Mr. Decrais to the Brazilian Government is well founded.

There can be no doubt that in the absence of constitutional provisions a State is free to regulate as it sees fit the passage across its territory or on its waters. We

would have had no right to complain if Brazil, not having a commercial treaty with us, had subjected the transit on Brazilian waters to transit taxes. But this is not what she has done in the exercise of her sovereignty. She has by an act of legislation, even by her constitution, established free transit. We therefore confine ourselves to invoking against Brazil the rules which she herself has established and upon the upholding of which foreigners have a right to rely as long as they are not modified in accordance with legal forms. There would be no sort of security if a condition of things created by so solemn an act as the constitution could, by a simple ministerial decree, arbitrarily be modified to the detriment of the foreigners. That would be a genuine surprise which the governments charged with the protection of their own nationalities could not accept.

L. RENAULT.

[Inclosure 2.]

(This was presented to the London foreign office by the Bolivian minister at that capital.)

Memorandum on the suspension by Brazil of free transit to Bolivia through the Amazon.

The treaty of 1867, Article 6, declares that "the communication between the two States by the common frontier shall be free and the transit by it exempt from all national and municipal duties." Article 28: "All the conditions of this treaty which do not refer to frontiers shall be in force for the term of six years, after which they shall continue in force until one of the contracting parties shall notify the other of his desire to put an end to them and they will cease to exist twelve months after the date of this notification." Article 29: "The contracting parties undertake to negotiate before the expiration of the fixed term of six years a new treaty with the alterations and provisions which experience and the interests of both countries may render necessary."

The treaty of 1867 was denounced by Brazil on the 6th of September, 1884, and if there had existed any right on the part of Brazil to suspend the free transit of merchandise along the natural waterways, a right which Bolivia had exercised ab initio, it would have been done at the expiration of the agreed term, i. e., on the 6th of September, 1885; but it was not done, and the transit of Bolivian exports down the river Madera, the only commercial route through Brazil from Bolivia existing at that time, continued as before.

Negotiations went on, and a new treaty was concluded on the 31st of July, 1896, and ratified by the Bolivian Government on the 15th of August of the same year, but the Brazilian Government kept it in suspense.

The treaty of 1896 was finally withdrawn from Congress by the Brazilian Government in July, 1902.

On the 19th of July, 1902, the Brazilian minister of foreign affairs, under pretext of this act of withdrawal, declared that "in future no free transit along the Amazon would be granted to produce coming from its affluents." Soon after he explained that this resolution referred only to Bolivian traffic. At the same time he declared that "article 6 of the protocol of October 30, 1899, remained without effect." This article reads as follows: "As long as there is no Brazilian consul at Puerto Alonso the custom-houses of Manaos and Belem shall accept as valid, from the 15th of November next, all customs notes and other documents issued by the administrator of the custom-house of Puerto Alonso, provided they are accompanied by a certificate from the captain of the ship which receives the cargo."

Now, the Brazilian minister, in a recent explanation given to the Bolivian minister at Rio, propounded that "the Federal Government, in anticipation of a favorable vote of Congress accepting the treaty of 1896, had consented on the 23d of October, 1898, as an act of friendship toward Bolivia, to the recognition of the custom-house of Puerto Alonso, the commerce of that region receiving the provisional enjoyment of the advantage which would be granted in a permanent and definite form when the said treaty should be approved and come into operation."

This theory is utterly untenable because the protocol of October 13, 1899, says: "Article 4. Until the mixed commission shall have completed the definite demarcation of the frontier, there shall be adopted as provisional boundary a line which, departing from the Madera at latitude 10° 20′, runs to latitude 70° 11′ 48″, fixed by Captain Lieutenant Augusto da Cunha Gomes at the point of the source of the river Javary." And article 5: "The Bolivian custom-house of Acre shall continue established at Puerto Alonso until by the demarcation of the frontier in its neighborhood

the statement that it is in Bolivian territory has been confirmed, the Bolivian Government undertaking in the contrary case to remove it to a suitable place."

Therefore the establishment of the custom-house of Puerto Alonso was not consented to by Brazil in anticipation of the approval of the treaty of 1896, as the minister propounds, but as a natural consequence of the delimitation of the frontier on the river Acre, Bolivia having the right to fix her own custom-house at any point within her frontier.

Brazil pretends that because the treaty of 1896 has been withdrawn from Congress the Federal custom-house of Manaos has the right of charging duties on merchandise imported to Bolivia (which is being done), and that the governor of Amazonas has the right of collecting duty on the rubber exported from Bolivia as if it came from its own territory.

But the treaty of 1896 did not create any rights, because it was never in force, and its withdrawal does not in any way change the situation. The relations between the two countries were fixed by the treaty of 1867, and the commercial conditions established by it have continued to exist without interruption, as the rights acquired under a treaty can not be altered capriciously, nor can two neighboring countries exist without some kind of understanding in their commercial relations, and until a new treaty is signed the normal relations established by the previous one continue to exist. The only rights which Bolivia could not claim were those which she did not previously exercise, such as the navigation of the Brazilian rivers under her own flag.

The position created becomes still more delicate when it affects the rights of third parties. Under the conditions of existing treaties foreign settlers established themselves in Bolivian territory, and during the last forty years have been trading through the Amazon. English companies were formed, such as the Orton Rubber Company. English and other merchants advanced considerable sums of money to the merchants of that territory.

Without any warning, at a moment's notice, Brazil now begins to collect a prohibitory duty on all merchandise going to Bolivia and 22½ per cent ad valorem on rubber exported, besides 15 per cent charged by Bolivia, which inflicts a deathblow on all the trade of that region. It is to be remembered that the traffic through the Madera was not subject to the same conditions as that from the Acre. In the former there was never any dispute about boundaries, and free transit has existed ab initio, but now the State of Matto Grosso, seeing that Amazonas is allowed to collect duty on rubber coming from Acre, claims a similar right on all rubber coming from the Bolivian province of Beni.

This conduct of Brazil, being simply an abuse of her topographical position at the mouth of the great waterways of the Amazon, and being contrary to the law of nations, does not only affect the revenue and prosperity of Bolivia, but also and most injuriously all foreign settlers and people interested in the commerce of that part of the world. Bolivia is unable to protect them on account of her disadvantageous geographical position, and they have applied to the foreign offices of England, Germany, and France for protection. Their claim seems to be reasonable and worthy of prompt attention before they are ruined by the wanton action of Brazil.

[Inclosure 3.]

Mr. Seeger to the Brazilian minister for foreign affairs.

LEGATION OF THE UNITED STATES,
Petropolis, January 20, 1903.

MR. MINISTER: Pursuant to instructions from my Government, I have the honor to submit to your excellency's kind consideration the following facts and conditions:

Your excellency knows that important commercial relations exist between the United States of America and that portion of the Republic of Bolivia whose only outlet is the Amazon River.

Through the decree of the honorable minister of fazenda of Brazil, of August, 1902, issued without a moment's warning and imposing prohibitory transit duties on all merchandise to and from Bolivia by way of the Amazon River, a great injury is done to the material interests of my country.

The Government of the United States of America has always considered the navigation of the Amazon through Brazil as being free to all nations, and it has consequently regarded the above-mentioned ministerial decree as only temporary and transient in its nature. For this reason it has refrained, until now, from submitting to your excellency the deep grievances of our merchants doing business in the Amazon region.

I beg your excellency to kindly consider that a continuance of the policy as applied in the ministerial decree above mentioned would be a death blow to our vast interests in eastern Bolivia.

I have taken the liberty to call your excellency's attention to these facts and conditions, feeling confident that you will exercise your great influence to bring about such changes in the premises as our important commercial relations with Brazil and the strong ties of close friendship that bind us to your glorious country give us reason to hope for.

I would be particularly grateful to your excellency if you would enable me to transmit your answer to our Department of State before my leave of absence takes effect, on February 1, next.

I have, etc.,

EUGENE SEEGER,
Consul-General, in Charge of Legation.

Mr. Hay to Mr. Seeger.

No. 316.] DEPARTMENT OF STATE,
Washington, February 17, 1903.

SIR: The Department has received your unnumbered dispatch of January 20 in relation to the obstruction to commerce on the Amazon River by the decree of the Brazilian Government, with which you inclose copy of your note to the Brazilian minister for foreign affairs, representing the injury to American commerce; copy of an opinion on the question of transit by Mr. Louis Renault, legal adviser of the minister of foreign affairs, etc.

The Department notes Mr. Renault's opinion that the Brazilian Government has, by its own constitution, established free navigation on the Amazon. There would seem to be foundation for this opinion in the provisions of the Brazilian Federal constitution of 1890, articles 6, 7, and 13, and especially in the first section of article 10, which reads as follows:

Article 10. It is forbidden to the States as well as to the Union—

1. To impose duties on the products of the other States, or of foreign countries, in transit through the territory of any State, or from one State to another, as also on the vehicles, whether by land or water, by which they are transported.

In view of your recent report of the signing of the agreement between the Governments of Brazil and Bolivia and the removal of transit restrictions, present discussion of this point is of merely academical interest.

I am, etc.,

JOHN HAY.

Mr. Seeger to Mr. Hay.

LEGATION OF THE UNITED STATES,
Petropolis, February 22, 1903.

SIR: I have the honor to refer to my unnumbered dispatch of January 20 and to transmit herewith a copy and translation of the ministerial decree of February 20, abolishing the transit duties recently levied by Brazil against Bolivian commerce on the Amazon.

While this decree does away with the very obnoxious and unjustifiable measure, it does not satisfy the Bolivian Government. I was informed by Doctor Pinilla, the Bolivian minister here, that he intends to formally protest against the phraseology of the document, especially against the word "tolerance." His contention is that as the

Amazon and the Madeira are free rivers the Bolivians have the same right as any other nation to carry on freely and unimpeded their commerce on those rivers.

Since this question has now found its solution the minister for foreign affairs will probably have no longer any reason to hesitate about answering my protest dated January 20, a copy of which I had the honor to transmit to the Department in the above-mentioned dispatch.

* * * * * * *

I have, etc.,

EUGENE SEEGER,
Consul-General, in Charge of Legation.

[Inclosure.—Translation.]

Ministerial decree abolishing transit duties on Bolivian commerce by way of the Amazon.

MINISTRY OF FINANCE, CIRCULAR No. 6,
Rio de Janeiro, February 20, 1903.

I hereby announce to the chiefs of department of finance for their information that this ministry has, by means of telegrams of this date to the collecting agents of the Federal treasury in the States of Para and Amazonas, declared that, although there is no treaty or convention in force relative to commerce and navigation between Brazil and Bolivia, the tolerance of free transit by the Amazon of merchandise destined for Bolivia and of shipments from the river ports of that Republic destined for foreign countries, which formerly prevailed, is reestablished; the prohibition of the importation of war material to Bolivia through Brazilian rivers is, however, continued until further orders.

The circular of this ministry, No. 43, of August 8, 1902, is thus revoked.

LEOPOLDO DE BULHOES.

Mr. Seeger to Mr. Hay.

LEGATION OF THE UNITED STATES,
Petropolis, March 3, 1903.

SIR: Referring to my unnumbered dispatch to the Department of February 22 and to my note to the foreign office of January 20, a copy of which was transmitted with my unnumbered dispatch of January 20, I have the honor to transmit herewith a copy and translation of a note from Baron Rio Branco, received yesterday, in reference to the reestablishment of free transit on the Amazon.

I have, etc.,

EUGENE SEEGER,
Consul-General, in Charge of the Legation.

[Inclosure—Translation.]

MINISTRY FOR FOREIGN AFFAIRS,
Rio de Janeiro, February 20, 1903.

I had the honor to receive the letter which Mr. Eugene Seeger, consul-general in charge of the legation of the United States of America, wrote me on January 20, in reference to the decision the Federal Government took on August 8, 1902, of suspending on the Amazon free transit to Bolivian import and export trade.

It was in 1866 that the Brazilian Government opened the Amazon to the merchant ships of all friendly nations; but of the affluents of that river which have their source in Bolivian territory or pass through it the only one to which it extended this liberty, and in fact the only one in Brazil which can serve Bolivian foreign commerce, was the Madeira from its confluence to the port of Santo Antonio. The Purus, and therefore its tributary, the Aquiry, or Acre, never were open to international navigation. Brazil has always maintained that when a river passes through the territory of two or more States the freedom of navigation or of transit through the country of the main river depends on a prior agreement thereto with the country of the tributary river, an agreement which in its nature implies reciprocity.

There has not been and there is not in force any treaty of commerce and navigation between Brazil and Bolivia, and free transit by Brazilian rivers for Bolivian foreign commerce was only a matter of tolerance on the part of Brazil. But since the Bolivian Government has thought to be able to transfer rights of a quasi-sovereign nature to a syndicate of foreigners of different nationalities, Americans and Europeans, a syndicate without international capacity, and which, by the way it is constituted and by the means it undertook to employ in Europe, clearly showed that it was conspiring against the so-called Monroe doctrine, and inasmuch as the same Government has besides this conferred upon that syndicate the power of disposing at will of the navigation of the river Acre and its affluents, Brazil concluded it was her duty to make reprisals, and for that reason, in the absence of conventional law between the two parties, suspended the tolerance which has existed for some years.

The situation which obligated the adoption of that expedient has now changed, and, therefore, since the Federal Government is desirous of attending as promptly as possible to the interests of commerce, it has by a decision of this date reestablished free transit on the Amazon for merchandise between Bolivia and the foreign countries; it has continued, however, to prohibit the importation to that country of war material by Brazilian rivers.

In thus informing Mr. Seeger that the resolution has now been taken, which I announced to him verbally was near, I thank him for the terms in which he asked for it in the name of the American Government, and the earnestness with which he referred to the strong bonds of tried friendship which unite our two countries. It will ever be the endeavor of Brazil to do her full share to strengthen and stimulate on every occasion the time-honored relations of mutual good will which bind her to her great and glorious sister of the north, and for this reason I take particular pleasure in announcing an act which will be agreeable to his Government.

I avail, etc.,

RIO BRANCO.