GUATEMALA AND HONDURAS.

RIGHTS OF CONSULAR OFFICERS IN JUDICIAL PROCEEDINGS.

Minister Combs to the Secretary of State.

No. 241.] AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, February 8, 1905.

SIR: I have the honor to inclose copies of the correspondence between the American consul-general and myself respecting a recent unpleasant experience of his in one of the local courts.

As he justly remarks, the question is an important one.

In my reply I sought to advise the most useful attitude on his part that international law and the precedents I could find would justify.

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The minister of foreign affairs, referring to my note of the 6th instant, told me yesterday afternoon his government greatly regretted the occurrence and I could rest assured the judge would be severely reprimanded. I suggested that of course he would inform me officially of so commendable an attitude, and he replied, certainly.

* * * * * * *

I have, etc.,

LESLIE COMBS.

[Inclosure 1.]

Consul-General Winslow to Minister Combs.

AMERICAN CONSULATE-GENERAL,
Guatemala City, February 4, 1905.

SIR: I have the honor to report that on Tuesday, January 31, 1905, I called upon Mr. Eliseo Sòlis, fourth judge of the first instance, in the interest of Mr. Joseph Darling and Mr. Juan Fisher, who had been arrested the day before and who were being examined at the time of my visit.

I first asked the judge if I might be present at the examination, and he replied that I could not, as it was contrary to law. Then I asked him if he would be kind enough to send me a report of the result of the examination, and he said that they were secret documents. I then asked him how long they would be kept secret, and he replied, as long as necessary. He further stated that he was not under obligations to confer with me in these matters, because consuls were only commercial agents. I told him that I was very sorry that he took that stand, for I was obliged to take exception to it, and that I should be compelled to carry the matter up if he insisted, for the citizens of the United States must be protected. His reply was that he insisted upon his position.

I feel this is a very important matter and one that should be definitely settled. I am very much surprised that I should be so very abruptly dismissed when the regulations of the Guatemalan Government to its consular officers require them to take exactly the position I contended for in this case.

Further, in support of my position, I call attention to a somewhat similar case in Foreign Relations of the United States for 1897, pages 395 to 398, where the Department of State held that consular officers were entitled to courteous treatment by the courts and that they

should be given such information regarding American citizens before said courts not forbidden by law, since it was the duty of United States consular officers to protect the persons and interests of American citizens.

I also call attention, in support of my position, to paragraphs 170 and 171 of United States Consular Regulations of 1896, which are certainly very plain and forceful.

Also to Department circular of August 25, 1898, addressed to consular officers of the United States in Mexico, Central America, and South America.

I am, etc.,

ALFRED A. WINSLOW.

[Inclosure 2.]

Consul-General Winslow to Minister Combs.

AMERICAN CONSULATE-GENERAL,
Guatemala City, February 4, 1905.

SIR: I have the honor to report further in regard to my No. 105, of even date with this, in the matter of the position taken by Mr. Eliseo Solis, fourth judge of first instance, that I have no right to appear before the courts or to communicate with the court in behalf of American citizens.

I just sent him two communications by my clerk, who presented them to him, requested him to receipt for them, which he refused, with the remark that they might contain United States gold and he would be responsible for it. At this my clerk requested him to open the envelopes before receipting, but he refused.

I take this as an insinuation, which I most assuredly resent, and I trust you will make a strong representation of the matter to the government, for I have always been very courteous to the judges of all the courts with whom I have had business.

Then, if I am to be turned down by every petty local official, I can be of very little use to American citizens who are in trouble, and there is an outlook for more of it in the future than in the past, from the number of Americans coming to this country.

I am, etc.,

ALFRED A. WINSLOW.

[Inclosure 3.]

Minister Combs to Consul-General Winslow.

AMERICAN LEGATION, GUATEMALA AND HONDURAS,
Guatemala, February 6, 1905.

SIR: I am in receipt of your notes numbered 105 and 107, recounting some experiences you have had with the fourth judge of first instance in this city.

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The Department of State, Mr. Sherman, Secretary, in the correspondence growing out of the Doane arrest, to which you refer in support of your position, used the following language:

"The Department is perfectly aware that the proceedings of first instance under the general code of the countries deriving their procedure from the Roman law are analogous in their nature to the inquest of a grand jury under the common law of Saxon nations and that precise information in respect to and formulation of charges against a prisoner are not communicable in the preliminary stages; but this does not preclude a respectful inquiry from a consul as to the general nature of the offense charged or as to the status of a pending case. To make such an inquiry is deemed by this government to be one of the 'regular good offices which the legitimate interests of their compatriots may demand.' "

In instruction No. 146, dated November 24, 1904, addressed to me, after commending the treatment of a number of typical cases of American citizens imprisoned in Guatemala, the Department goes on to state: "With reference to any action of this kind that might be taken by you, you should of course make no demand inconsistent with the requirements of the constitution and laws of Guatemala regulating the subject of arrest and trial and admission to bail." And again: "In taking action along the lines suggested in your dispatch, you will of course carefully study the constitution and laws of Guatemala in that behalf and make no demand inconsistent with those laws or inconsistent with the actual interests of retributive justice."

These expressions from the State Department seem to me to clearly state the limits of action on your part which can, under international law, be maintained.

I do not think it wise to bring this question to an issue with the Guatemalan Government.

I advise you to continue the efficient course you have heretofore followed and which is marked by the consular instructions you quote, feeling sure that with tact and courtesy you

can accomplish more for American interests in these cases than would result from a strict demarcation of your rights under international law applied to the laws and constitution of Guatemala. From your oral communication respecting the same facts I understood that the judge used polite language in stating his position. In your No. 107, however, you recite an incident which to my mind can be taken up in its concrete form for representation to this government.

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In the conduct complained of Mr. Eliseo Solis seemed to be lacking alike in official duty and social courtesy. You I have, I take it, an unquestionable right, and it is your unquestionable obligation, to investigate any arrest of an American citizen, to information as to the general cause of arrest, and to courteous treatment and replies in the discharge of such duties.

I am, etc.,

LESLIE COMBS.

[Inclosure 4.]

Minister Combs to the Minister for Foreign Affairs.

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, February 6, 1905.

MR. MINISTER: I have the honor to forward a complaint of the American consul-general against the conduct of Mr. Eliseo Solis, the fourth judge of the first instance of the city of Guatemala.

In the course of an investigation, conducted by the American consul-general at my request, he had occasion to address two communications to this judge. The treatment they received is described by the American consul-general as follows: "I just sent him two communications by my clerk, who presented them to him, requesting him to receipt for them, which he refused, with the remark that they might contain United States gold and he would be responsible for it. At this my clerk requested him to open the envelopes before receipting, but he refused."

I submit to your excellency that such conduct was in violation of official duty and social courtesy and requires prompt and efficacious treatment at the hands of your excellency's government.

I avail, etc.,

LESLIE COMBS.

Minister Combs to the Secretary of State.

No. 245.]

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, February 15, 1905.

SIR: I have the honor to submit the remainder of the correspondence between the American consul-general and myself regarding a difference between him and a local judge as to the extent of the rights and duties of his official position.

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I have, etc.,

LESLIE COMBS.

[Inclosure 1.—Translation.]

The Minister for Foreign Affairs to Minister Combs.

DEPARTMENT OF STATE,
REPUBLIC OF GUATEMALA, CENTRAL AMERICA,
Guatemala, February 10, 1905.

MR. MINISTER: I have the honor to reply to your excellency's esteemed note of the 6th instant, in which you were pleased to make known to me that the fourth judge of the first instance had violated official and social courtesy in the course of an investigation that at the request of your excellency the American consul-general was making before that functionary.

In reply, I make known to your excellency that I have the satisfaction of considering this incident terminated with the apology given by Judge Solis—an explanation that repairs the infraction of the courtesy referred to by the consul.

Taking the liberty of believing that your excellency will think likewise,

I renew, etc.,

JUAN BARRIOS M.

[Inclosure 2.]

Minister Combs to the Minister for Foreign Affairs.

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, February 13, 1905.

MR. MINISTER: I acknowledge the receipt of your excellency's note of the 10th instant expressing your excellency's pleasure that a satisfactory conclusion of the complaint preferred by this legation against Mr. Eliseo Solis, fourth judge of the first instance, for discourtesy shown by him to the American consul-general had been reached.

I regret I can not regard either the note sent by Judge Solis to the American consul-general or the one I now acknowledge as satisfactory, conclusive, or in accord with what I understood to be the purpose of your excellency's government when we parted Friday afternoon, the 10th instant, after a full discussion of the points involved, in which no material difference of opinion appeared.

I avail, etc.,

LESLIE COMBS.

[Inclosure 3.—Translation.]

The Fourth Judge of the First Instance to the American Consul-General.

FOURTH COURT OF FIRST INSTANCE,
Guatemala, February 9, 1905.

MR. CONSUL-GENERAL OF THE UNITED STATES OF THE NORTH: I had the honor to receive your two dispatches and two extracts of the regulations issued by the Government of North America, regarding both the duties of the consuls of that country toward North American citizens when these are under the jurisdiction of the local authorities on account of criminal matters.

I feel very sorry to be unable to satisfy your wishes—that is to say, to give you the details you ask in one of your dispatches—regarding the suit against Messrs. Joseph F. Darling and Juan Fisher. This is not possible, because, as I told you verbally and courteously, the summary proceedings are always secret and because the regulations already mentioned bind the consuls of North America but have nothing to do with the duties of the authorities of other countries; and as the laws of Guatemala do not authorize the intervention of consuls in judicial proceedings on criminal matters my court must consider your action in the case of Darling and Fisher as that of a private individual, chiefly because it is notorious that there is in this capital a minister of North America to the Government of Guatemala, and, finally, because if you have any special commission either from the minister of North America or from the Government of Washington, my court is not informed of it, and your action has not been taken through the corresponding way.

I have also the pleasure to explain to you that the closed envelopes you sent with your clerk, requesting a receipt, were not received because at that time the clerk of the court, who is appointed by law to receive written petitions, was not present in his office and the undersigned was attending other urgent business, which circumstance I regret deeply, because it could interfere with the friendly wishes of Mr. Consul.

I am, etc.,

ELISEO SOLIS.

The Secretary of State to Minister Combs.

No. 171.] DEPARTMENT OF STATE,
Washington, March 3, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 241, of the 8th ultimo, inclosing a copy of correspondence between you and Consul-General Winslow regarding the refusal of Mr. Eliseo Solis,

fourth judge of the first instance, of Guatemala City, to permit Mr. Winslow to be present at the examination of Messrs. Joseph Darling and Juan Fisher or to give him certain information regarding the proceedings against those gentlemen.

In reply, I have to inform you that your course in the matter appears to have been prudent and is approved by the Department.

I am, etc.,

JOHN HAY.

The Acting Secretary of State to Minister Combs.

No. 179.] DEPARTMENT OF STATE,
Washington, March 24, 1905.

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I inclose herewith copy of a dispatch from Consul-General Winslow,[a] in which he complains that his requests to the local judge have been ignored and his right to intervene for the protection of American citizens denied. The Department can not think that the Guatemalan Government will uphold the judge in this attitude. A consul-general, in the exercise of his consular functions, has the right to approach the court for the purpose of obtaining information and for the purpose of preferring courteous requests in behalf of American citizens, and you will request the Guatemalan Government to take such action as it may find necessary to secure to the representative of the United States Government the treatment which is due from one government to a representative of another.

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I am, etc.,

ALVEY A. ADEE.

The Acting Secretary of State to Minister Combs.

No. 190.] DEPARTMENT OF STATE,
Washington, May 11, 1905.

SIR: Answering your No. 266, of April 18 last,[a] with reference to the case of Mr. Darling, I have to say that the Department did not contemplate any change in your attitude, which appears to have been correct throughout.

While a consul-general or consul in the exercise of his consular functions has a right to approach a local court for the purpose of obtaining information or of preferring courteous requests in behalf of American citizens, the Department is decidedly of the opinion that where an American minister and consul are accredited to the same place the functions of the latter should be subordinated to the judgment of the minister; and the Department is further of the opinion that after the minister has taken in hand the interests of American citizens before the local courts he should have the exclusive right of representation and that the consul-general or consul should submit himself to the direction of the minister with respect to any representations or action which may be taken by him, unless the Department

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[a] Not printed.

should give express instructions to the consul-general or consul to the contrary. This has not been contemplated in this case by the Department, which has accordingly instructed Consul-General Winslow in this sense.

You are aware, of course, that frequently the Department is compelled to deal directly with consuls residing at places remote from the capital of the country to which a minister is accredited in order to obtain information and sometimes to direct their action; but whenever it is convenient and practicable for the American minister to deal with the cases of American citizens the Department usually communicates directly to the minister its instructions, who, in turn, will give such directions to the consul as he finds useful and necessary to accomplish the desired proper results.

I am, etc.,

FRANCIS B. LOOMIS.

Chargé Brown to the Secretary of State.

No. 285.] AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, June 27, 1905.

SIR: Referring to Mr. Combs's Nos. 241 and 245 of February 8 and 15 last concerning the rights of Consul-General Winslow before the courts of Guatemala, as involved in his complaint against Judge Solis, I have the honor to submit herewith copies of further correspondence on the same subject.

This second discourtesy of Judge Solis in ignoring Mr. Winslow's inquiry concerning the imprisonment of the American citizen Raymond I interpret as deliberate and intended.

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While I have therefore felt obliged to regard the attitude of Judge Solis as purely individual, I considered the dignity and rights of our consular representatives required an assurance from this government that his attitude is discountenanced and that American officials shall receive the recognition due them from the judicial authorities.

Though no definite statement has as yet been received from this government I desire to inform the Department of what has taken place in case a different line of action should be thought advisable.

I have, etc.,

PHILIP BROWN.

[Inclosure 1.]

Chargé Brown to the Minister for Foreign Affairs.

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, June 7, 1905.

MR. MINISTER: I have the honor to transmit herewith a copy of a note addressed by the United States consul-general to the fourth judge of the first instance, requesting information concerning an American named Joseph M. Raymond, who is under arrest in the penitentiary. This note, as your excellency will observe, was sent May 27 last and as yet, after the lapse of ten days, no reply has been received by the consul-general.

As the case would seem to be one of the instances recognized by your excellency in your interview with Minister Combs on February 10 last as proper ones for courteous inquiry on

the part of the United States consul-general and for a courteous reply from the judge concerned, I feel confident that upon investigation by your excellency the desired reply will be furnished in due form with an adequate explanation of the incident.

With renewed assurances, etc.,

PHILIP BROWN.

[Subinclosure.—Translation.]

Consul-General Winslow to the Fourth Judge of First Instance.

AMERICAN CONSULATE-GENERAL,
Guatemala City, May 27, 1905.

SIR: I am informed that an American, by name Joseph M. Raymond, has been taken to the penitentiary and is under your jurisdiction.

Please have the kindess to inform me, as soon as possible, what is the charge made against said prisoner and when he will be tried.

I am, etc.,

ALFRED A. WINSLOW.

[Inclosure 2.—Translation.]

The Minister for Foreign Affairs to Chargé Brown.

GUATEMALA, *June 9, 1905.*

HONORABLE SIR: I have the honor of making known to you that I have communicated to the minister of government, soliciting that he obtain from the proper authority the information about the imprisonment of the American Joseph M. Raymond, which you asked for in your esteemed note of the 7th instant.

Renewing, etc.,

JUAN BARRIOS M.

[Inclosure 3.]

Chargé Brown to the Minister for Foreign Affairs.

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, June 22, 1905.

MR. MINISTER: Referring to my note of the 7th instant, concerning the failure of Judge Solis to reply to the inquiry of Consul-General Winslow in regard to the imprisonment of an American citizen, J. M. Raymond, I beg to express my sincere regrets that no reply in satisfaction of the incident has as yet been received. Neither has Mr. Winslow, after a lapse of nearly four weeks, received even an acknowledgement from Judge Solis.

The question here involved seems to me too important to admit of delay. At any moment the consul-general in the performance of his duties may be called upon to make inquiries concerning Americans in prison.

I do not understand that Judge Solis is authorized to define or modify the attitude of your excellency's government in such matters. In view of the satisfactory understanding reached between yourself and Minister Combs in the conferences of February 10 and 18 last over a similar incident with Judge Solis it is difficult to understand his failure to reply to Mr. Winslow's courteous inquiry in any other light than as an intended discourtesy, to express it mildly. The question, therefore, of obtaining the information desired, though of vital importance, is overshadowed at present by the nonrecognition by Judge Solis of the right claimed by my government for its representatives to make courteous inquiries of the courts and to receive replies in a similar spirit.

I earnestly request of your excellency's government the early assurance that the attitude of Judge Solis is discountenanced and that in the future consular representatives of the United States shall not fail to receive the recognition due them from the judicial authorities.

With renewed assurances, etc.,

PHILIP BROWN.

Chargé Brown to the Secretary of State.

No. 290.] AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, July 10, 1905.

SIR: Referring to my No. 285 of June 22 ultimo, in regard to the discourtesy of Judge Solis toward Consul-General Winslow, I have the honor to transmit herewith a copy with translation of the reply received from Minister Barrios expressing profound regret for the incident.

As the government has in no way denied the right of consuls to make inquiries of the courts it appears to me that this reply, taken in connection with the verbal assurance mentioned in my note above referred to, may be accepted as satisfactory and I trust the Department will regard it in the same light.

I should perhaps add here that the American citizen, J. M. Raymond, concerning whom Mr. Winslow originally made inquiry, has been granted bail by order of the appellate court.

I have, etc.,

PHILIP BROWN.

[Inclosure.—Translation.]

The Minister for Foreign Affairs to Chargé Brown.

DEPARTMENT OF STATE,
REPUBLIC OF GUATEMALA, CENTRAL AMERICA,
Guatemala, June 29, 1905.

HONORABLE SIR: Replying to your esteemed communication of the 22d instant, concerning information relative to the imprisonment of the American citizen J. M. Raymond, I have the honor to inform you that my government is profoundly sorry for what has happened, and your esteemed note has been transmitted to the minister for government and justice, requesting a prompt reply upon an investigation of the facts, which I shall have the honor to transcribe to your honor as soon as the reports are received by this department under my charge.

I renew, etc.,

JUAN BARRIOS M.

The Acting Secretary of State to Chargé Brown.

DEPARTMENT OF STATE,
Washington, August 2, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 290 of the 12th ultimo, transmitting a copy of a note of the Guatemalan foreign office expressing regret for the conduct of Judge Solis towards Consul-General Winslow.

The Department desires to express its satisfaction with your management of the case and results secured.

I am, etc.,

ALVEY A. ADEE.

ILL TREATMENT OF AL STEBBINS AND WIFE BY GUATEMALAN SOLDIERS.

Minister Combs to the Secretary of State.

No. 270.] AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, April 26, 1905.

SIR: I have the honor to forward to the Department copies of the various communications received and transmitted in connection with the complaint filed with the legation by Mr. Al Stebbins, an American citizen, in behalf of himself and his wife, on August 4, 1904.

In the complaint which Mr. Brown submitted under the same date to the minister of foreign affairs of Guatemala, Mr. Stebbins alleged:

(1) Willful and continued trespass on the rubber lands of himself and partners.

(2) Forcibly entering his domicile.

(3) Seizing and carrying off rubber belonging to Mr. Stebbins.

(4) Menacing his wife with a rifle.

No reply having been made to this note, I again, on December 16, 1904, called the attention of the government to the subject, and again, on January 10, 1905, I pressed the government for a reply to the complaint.

Under date of February 3, 1905, the government forwarded their statement of the case and requested that I advise Mr. Stebbins to present himself and his witnesses to the court at Escuintla for a further investigation. I thereupon wrote Mr. and Mrs. Stebbins to come to the legation. Mr. Stebbins had left the country, but Mrs. Stebbins came and made an affidavit. After a conversation with Mrs. Stebbins and replying to the note of the minister of foreign affairs under date of February 21, 1905, inclosing Mrs. Stebbins's affidavit, I stated I regarded that the incidents alleged removed the question from one for local adjudication to one for our respective governments to consider; declined to ask Stebbins to present himself to the court at Escuintla and requested an oral discussion of the facts at issue. In the interview which followed Mr. Barrios renewed his request that I would have the Stebbins submit themselves to the local authorities in the matter, saying it was not a diplomatic question. I replied I could not follow such a course; its effect would be the local officials would try themselves. The testimony substantiating the complaint had been submitted to his government; that I was free to say the statements of Stebbins and his wife carried conviction to my mind; that the question, *so far*, was not a diplomatic one, and I trusted his government would not allow it to become so; that I hoped they would make a careful examination for their part into the truth of the charges and, if they reached the conclusion I had, would themselves furnish a satisfactory remedy without any demand upon our part. That from conversation with Mrs. Stebbins I was sure she would accept 5,000 pesos as a full settlement, but if the matter progressed to the diplomatic field and my views were sustained it would cost their government much more financially and would create that unwholesome friction always aroused in the settlement of such claims in spite of the best purposes to the contrary.

Mr. Barrios declared they desired to treat the question upon its merits and, if warranted, make proper reparation.

After a further delay I informed the minister last week that Mrs. Stebbins desired to go to the United States and had written asking if it would interfere with the conduct of her case. That in reply I would advise her to go, unless he wished her to remain for a settlement, and again advised they make an immediate and direct adjustment with her. Mr. Barrios said he would like her to remain as there was no doubt of an agreement on the lines I had suggested, and asked in case the rubber was returned if its value would be credited on the 5,000 pesos. I replied it would be.

In consequence of this interview I wrote Mrs. Stebbins informing her of its purport and advising she remain for a few weeks, and sent a copy of my letter to Mr. Barrios to notify him of my course and to confirm our conversation.

Though the Stebbins did not originally claim *damages*, I considered a small amount due Mrs. Stebbins under the circumstances and I also felt the requirement of a sum, the payment of which would probably fall upon the local and responsible authorities, would have a salutary effect. A prompt payment in such cases, obtained from those committing the offense, is much more efficacious in curing such evils than many times the amount exacted after years of delay from the national government.

I desire to acknowledge the purpose displayed by this government to maintain, by deserving, our good will.

I have, etc.,

LESLIE COMBS.

[Inclosure 1.]

Mr. Stebbins to Chargé Brown.

GUATEMALA, *August 4, 1904.*

SIR: I, Al Stebbins, an American citizen, temporarily residing with my wife in the Republic of Guatemala, finca "Los Angelos," department of Escuintla, beg to respectfully depose the following: That I, in company with several other Americans, own the above-mentioned finca, consisting of about 24 caballerias of land, with valuable timber and rubber growing thereon, aside from its value as pasture land; that on Saturday last, July 30, 1904, I found a number of men taking rubber from the trees on our land at a place called "Las Garsis," which men were under a caporal named Pedro Ariza, employed by Meleton Agreda, commandante of La Gomera. I ordered the men off our land and took possession of the rubber they had extracted, about 75 pounds, offering to pay the men for their work. The men refused pay for their work, alleging fear of Agreda, to whom they went to tell of the occurrence. I took the rubber to my house at "La Polonia" with the intention of taking it to the commandante at La Democracia the next day and asking his protection against further aggressions in the way of rubber hunting on our lands without permission. On Sunday morning, the 31st ultimo, at about 11 o'clock, Capt. Meleton Agreda, of La Gomera, with a squad of 12 men, 10 of whom were armed, came to my house, forced an entrance, ill-treated my wife, and carried away not only the rubber taken from the thieves the previous day, but a pair of spurs and a shotgun as well. They attempted to capture me, but I escaped to the upper part of the house and refused to go to La Gomera, as I was in the jurisdiction of La Democracia. I protested all this time against the violent invasion of my domicile without authority, the ill treatment of my wife, who was struck with a rifle by one of the invaders, and requested to be shown Agreda's authority for his violent and outrageous conduct toward a law-abiding foreigner. Agreda replied by asserting his authority to do what he pleased without further approval than his own caprice; that he was in command and would not receive orders or instructions from anywhere nor from anyone, he alone being responsible to himself. I refrained, though sorely tempted, when my wife was struck, from taking summary action, with the assurance that Agreda's acts would receive the approval of his superior. After making various and general threats against us, he finally left and forcibly carried off my rubber, spurs, and shotgun.

I went before the jefe politico of Escuintla with my complaint written out, recounting the above outrageous abuse, who told me simply that he would take note of the occurrence.

I respectfully request you to bring this matter to the attention of the proper authority, asking for a correction of the abuse, the return of the stolen articles, the punishment of the offending official, and some assurance that there will not be a repetition of this abuse and that proper protection will be given us in our property rights against rubber stealing with official connivance.

Our purpose is to be peaceable, industrious, law-abiding residents, avoiding all difficulties with officials and neighbors by means of the law. We know our rights and only ask to be protected therein.

I have, etc., AL STEBBINS.

[Inclosure 2.]

Chargé Brown to the Minister for Foreign Affairs.

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, August 4, 1904.

EXCELLENCY: I have the honor to transmit herewith the complaint of one Al Stebbins, an American citizen, against Señor Meleton Agreda, commandante of La Gomera, in the department of Escuintla.

(1) Willful and continued trespass on the rubber lands of Mr. Stebbins.
(2) Forcibly entering house of same.
(3) For seizing and carrying off rubber belonging to Mr. Stebbins.
(4) For menacing his wife with a rifle.

I would earnestly recommend the statement of charges to the consideration of your excellency in the confidence that if the allegations are maintained your excellency will be pleased to take the necessary steps for the punishment of the offender and the guaranteeing of security to the property and persons of Mr. and Mrs. Stebbins.

With renewed assurances, etc., PHILIP M. BROWN.

[Inclosure 3.]

Minister Combs to the Minister for Foreign Affairs.

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, December 16, 1904.

MR. MINISTER: I have the honor to call your excellency's attention to the fact that no response has been received by this legation to the complaints submitted in behalf of Benjamin Dillingham, of Livingston, nor Al Stebbins, of La Democracia, the former having been submitted on September 23 last and the latter on August 4 last.

Availing myself, etc., LESLIE COMBS.

[Inclosure 4.]

Memorandum.

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, January 10, 1905.

The American minister has the honor to again call the attention of his excellency the minister for foreign affairs to the legation's note of August 4, 1904, transmitting the complaint of the American citizen Al Stebbins for the violation of his domicile, the confiscation of his property, and the menaces to his wife on the part of the comandante of La Gomera.

This request was renewed December 16, 1904, and in view of the fact that daily communication exists between the capital and Escuintla the American minister trusts that he may expect the reply of the Government of Guatemala to the complaint at an early date.

Mr. Combs embraces, etc.,

[Inclosure 5.—Translation.]

The Minister for Foreign Affairs to Minister Combs.

DEPARTMENT OF STATE,
REPUBLIC OF GUATEMALA, CENTRAL AMERICA,
February 3, 1905.

MR. MINISTER: I have the honor to transcribe to your excellency the note I have received from the department of government and justice. It says as follows: "Mr. Minister: From the supreme court of justice a note has been received saying: 'Guatemala, January 28, 1905. Sir: In view of your esteemed note of the 14th instant, I have the honor to transcribe to you the report that the judge of the first instance of Escuintla issued, which literally says: "Honorable Supreme Court of Justice: Complying with the orders of that superiority, I have the high honor of submitting a report concerning the complaint of the citizen Al Stebbins. On August 3, 1904, Mr. Stebbins appeared for himself and in the name of his companions at the office of the political chief of this department, making known, among other things, that some persons, whose names he did not know, had gone on his lands to gather rubber; that he, Stebbins, had kept the rubber to the amount of 75 pounds and taken it to his habitation; that an escort, headed by Meleton Agreda, first prevented the construction of a country house and afterwards took from his house the aforementioned rubber, after which said Stebbins with his wife were threatened by said Agreda. Stebbins wound up by asking for a correction of these abuses and that the rubber be retnrned. These proceedings were turned over to this court from the office of the political chief of this department for the corresponding investigation. Mr. Stebbins offered no proof in support of his complaint and this court followed up the investigation by gathering all the data that it could collect, and as the evidence obtained from witnesses was to the contrary of what Stebbins alleged, an order was issued, of a temporary character, declaring that there was no motive for issuing a warrant for the arrest of Agreda. From this report that honorable superiority will observe that the court under me has proceeded with the strictest impartiality, everything being in accordance with the law and in obedience to the dictates of justice. I have the pleasure of renewing to that superiority the expression of my respect. Escuintla, January 20, 1905. Leon de Leon Flores." With assurances of high esteem and consideration, etc., J. Pinto.' Upon transcribing this to you I have the pleasure, etc., Juan J. Argueta."

Upon having the honor to transcribe the foregoing to your excellency, I have the pleasure of making known that the authorities of Escuintla have received new instructions to continue the investigation.

I trust, Mr. Minister, that you will kindly indicate to Mr. Stebbins that he should present to the court of Escuintla the witnesses he may have for the defense of his rights and to facilitate the termination of the case.

Renewing, etc., JUAN BARRIOS M.

[Inclosure 6.]

Minister Combs to the Minister for Foreign Affairs.

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, February 21, 1905.

MR. MINISTER: I have the honor to acknowledge your excellency's note of February 3, 1905, in answer to this legation's note of August 4, 1904, respecting the alleged forcible entry into the domicile of Stebbins, the threatening and abusive treatment of him and his wife, and the theft of several articles by a body of soldiers under command of Meleton Agreda the latter part of July last.

The facts alleged by Mr. Stebbins and his wife remove this question from one for local adjudication to one for our respective governments to consider. I therefore can not ask him to present himself to the judge at Escuintla.

In this legation's note of August 4 last a statement was inclosed from Stebbins respecting the circumstances complained of and I now have the honor of inclosing a copy of the affidavit of his wife.

Stebbins has an honorable discharge as a noncommissioned officer in the American Army, which is a substantial certificate of good character and intelligence. His statement and that of his wife are consistent, simple, and to my mind convincing, and I hoped when the complaint was transmitted your excellency's government would be pleased to make such reasonable reparation as the facts would seem to warrant.

Whenever it would suit your excellency's convenience I would like to discuss orally the questions involved, that we may adjust them, if possible, unofficially.

With renewed, etc., LESLIE COMBS.

[Subinclosure.]

Mrs. Stebbins's affidavit.

I, Mrs. Al Stebbins, hereby certify that on Saturday, July 30, 1904, while sitting in company with my husband, Mr. Stebbins, in our shanty, situated on our place called La Polonia, in the department of Escuintla, I saw a number of men approaching under command of Meleton Agreda, captain of the soldiers at La Gomera, and as my husband suspected their intentions were not friendly he told me to go upstairs, which I did. Said Agreda approached my husband and asked him to return the rubber my husband had taken from Agreda's men the day before, which rubber my husband refused to return, at the same time asking for Agreda's authority to come and recover it. Agreda pulled a paper, with writing on it, from his pocket and held it aloft, but refused to allow either my husband or myself to read it; neither would he himself read it to us. Agreda then forced his way into our house and my husband came into the loft to get his gun. All this time the soldiers accompanying Agreda were there with cocked rifles and Agreda had his revolver in his hand, also cocked. When my husband came into the loft I entreated him not to shoot, and I myself descended to the floor of the shanty where Agreda and his men were, at the same time getting between his men and the rubber that was on the same floor. The soldiers were ordered to seize the rubber, but were apparently afraid to do so while I was in front of them, though repeatedly ordered to do so by Agreda. At last one of the soldiers, while his rifle was still cocked, placed the end of his rifle barrel against my body and pushed me to one side, upon which my husband ordered me to offer no further resistance, but let them take it, as they were too many for us. Before leaving, in addition to the rubber the men took possession of almost everything they could lay their hands on, including a saddle, spurs, shotgun, and other articles. While we still lived there some of the same men returned and partly burned our house down. Since leaving there it has been completely reduced to ashes.

MRS. AL STEBBINS.

The Acting Secretary of State to Chargé Brown.

DEPARTMENT OF STATE,
Washington, May 13, 1905.

SIR: I have to acknowledge the receipt ot Mr. Combs's dispatch No. 270, of the 26th ultimo, inclosing a copy of correspondence relating to the complaint of Mr. Al. Stebbins and his wife that a squad of soldiers, by the orders of Meleton Agreda, commandante of La Gomera, forcibly entered his premises on July 30 and 31, 1904, took therefrom certain property, and assaulted Mrs. Stebbins.

In reply I have to say that Mr. Combs's efforts to bring about an unofficial adjustment of the matter by the payment to the injured parties of a small sum is approved by the Department.

I am, etc.,

F. B. LOOMIS.

Chargé Brown to the Secretary of State.

No. 274.] AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, May 20, 1905.

SIR: Referring to Mr. Combs's dispatch No. 270, dated the 26th ultimo, concerning the adjustment of a complaint lodged against the Government of Guatemala for abuses by government officials, I now have the honor of transmitting herewith a copy of a communication, dated the 3d instant, from Mrs. Al. Stebbins, informing the legation that the matter had been adjusted to her entire satisfaction.

Mrs. Stebbins received five promissory notes from one of the leading commercial houses of this city, Fed. Koper & Co., for 1,000 pesos each.

One note is payable each month from May to September of the current year. In the notes it is stated that Fed. Koper & Co. pay Mrs. Al. Stebbins the amount stipulated for account of Meleton Agreda, the offending official.

I have, etc.,

PHILIP BROWN.

[Inclosure.]

Mrs. Stebbins to Minister Combs.

GUATEMALA, *May 3, 1905.*

SIR: Referring to the complaint of my husband, Mr. Al. Stebbins, against ill-treatment and robbery at the hands of one Meleton Agreda, commandante of La Gomera, and my affidavit of February 20 last, confirming same, I beg to inform you that the matter has just been adjusted to my entire satisfaction. As indicated to me in your letter to me of the 18th ultimo, I was called to the office of the minister for foreign affairs yesterday, where I received five promissory notes, each for 1,000 pesos, one payable the 20th instant and one each succeeding month for four months. The notes are signed by Federico Koper & Co., of this city.

Embracing this opportunity to thank you for your good offices in my behalf,

I beg, etc.,

MRS. AL. STEBBINS.

ARREST OF CHARLEY MACMORLEY.

Minister Combs to the Secretary of State.

No. 305.]

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, September 21, 1905.

SIR: I have the honor to report the recent arrest of an American negro, Charley Macmorley, by mistake for a Jamaican fugitive wanted for extradition.

Prompt measures were taken in his behalf, but he was already on his way to this city under guard before I had the information upon which action could be taken. Immediately upon his arrival here he was released and presented with 100 pesos by the British chargé in behalf of the Jamaican authorities and with a small sum by himself.

I waived the reimbursement suggested in my note of the 19th instant to the Guatemalan Government, a copy of which, with other inclosures, is hereto attached, since the British authorities desired to assume the expense mentioned.

I have, etc.,

LESLIE COMBS.

[Inclosure.]

Minister Combs to the Minister for Foreign Affairs.

AMERICAN LEGATION, GUATEMALA AND HONDURAS,
Guatemala, September 21, 1905.

MR. MINISTER: I have the honor to inform your excellency that I am in receipt of a telegram stating that the negro, Charley Macmorley, arrested at Chichicastenango under the supposition that he was a Jamaican defaulter, is an American negro from Alabama, brought here by Mr. Fred. Prescott, the contractor, years ago as a cook, and that he has been sent forward to this capital.

I request that I may be informed of his arrival and where he may be seen. If the facts are as represented to me I am sure your excellency's government will recognize the propriety of treating this man with consideration and supplying him with the means of a comfortable return to the place of his arrest.

With renewed assurance, etc.,

LESLIE COMBS.

[Inclosure 2.]

The Minister for Foreign Affairs to Minister Combs.

DEPARTMENT OF STATE,
REPUBLIC OF GUATEMALA, CENTRAL AMERICA,
Guatemala, September 19, 1905.

MR. MINISTER: In reply to the kind note your excellency was pleased to address me to-day concerning the detention in Chichicastenango of an American citizen, Charley Macmorley, in the supposition that he was a criminal from Jamaica, I have the honor to make known the following: His Britannic Majesty's legation having asked, by means of a petition for extradition from the government of Jamaica, for the capture of a criminal, and unfortunately the facial description of that individual coincided in some points with that of Macmorley, hence the mistake. But as soon as the mistake was discovered Macmorley was put at liberty, as I had the honor to make known to your excellency by telephone, and even before the conclusion of the translation of the note I have the honor to reply to.

Your excellency will be pleased to see the lively desire that animates my government to avoid every difficulty that may arise with the citizens of the Republic you so worthily represent out of consideration for the cordial frank harmony that unites Guatemala with the United States of America.

I renew, etc.,

JUAN BARRIOS M.

[Inclosure 3.]

Minister Combs to the British Chargé.

AMERICAN LEGATION, GUATEMALA AND HONDURAS,
Guatemala, September 21, 1905.

DEAR MR. HARRISON: The bearer of this is the American who was arrested by mistake for the Jamaican fugitive you are seeking. As the proper procedure would have been for the Jamaican officers to go to Chichicastenango instead of having him brought here, I think it quite right that they should bear the expense of his maintenance coming and going. I am therefore pleased to accept for him your kind offer of 100 pesos for that purpose, with the distinct understanding, however, that it is a governmental and not a personal contribution.

Yours, sincerely,

LESLIE COMBS.

The Secretary of State to Minister Combs.

DEPARTMENT OF STATE,
Washington, October 18, 1905.

SIR: I have to acknowledge the receipt of your dispatch No. 305, of the 21st ultimo, reporting the arrest of an American negro, Charley Macmorley, by mistake for a criminal fugitive from Jamaica.

The Department approves your action which resulted in the speedy release of Macmorley and his indemnification for the expense to which he was put.

I am, etc.,

ELIHU ROOT.