NICARAGUA.

ESTABLISHMENT OF A TRIBUNAL OR MIXED COMMISSION TO SETTLE CLAIMS OF ALIENS AGAINST NICARAGUA.[1]

File No. 817.00/1484.

The Nicaraguan Minister for Foreign Affairs to the Amrican Special Agent.[2]

[Translation.]

MANAGUA, NICARAGUA, *November 5, 1910.*

Hon. THOMAS C. DAWSON, *City.*

SIR: After a period of 11 months of war, the Provisional Government of the Republic, presided over by Gen. Juan J. Estrada, by establishing itself in this capital achieved the triumph of the just cause it sustained. This country, however, having been operated by unfortunate administrations for 17 years, had reached such disorganization in all branches that it was impossible to reestablish at once the administrative order which we so much need in order to raise the nation from the horrible decadence which it has suffered.

The chief obstacle to this work of reconstruction has been encountered in the public finance, weakened by the abuses committed against it by the governments of Gen. Zelaya and Dr. Madriz. The illegal concessions granted to private parties for their profit, much to the detriment of the nation, have been a principal party to this ruin. Foreigners have participated in these contracts, and the Government that will have to destroy all these illegalities may also encounter hindrances through a lack of confidence that the Governments of these foreigners might have in the proceedings of my Government, which is in the category of a government created originally out of a revolution.

My Government, in order to overcome these obstacles, has thought of the moral support of the United States, and in order that we may agree in this respect with the Department of State, His Excellency President Estrada, in a telegram dated September 10 last, solicited the sending of a commissioner who would come to learn, near at hand, the difficulties that confront us and the plans that have been formed by my Government, and thereupon present a plan to overcome them.

The Department of State had the good judgment to choose your excellency for this purpose, and your excellency, with the time you have had to observe the country, must have acquired the conviction that our promises as revolutionaries, which were in entire sympathy with the noble American people, are to-day our firm purposes of government.

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[1] See Foreign Relations 1910, p. 766; telegram of Nov. 6.

[2] Mr. Dawson, American Minister to Panama, had been designated special agent of the United States near the Provisional Government of Nicaragua. See For. Rel. 1910, p. 764.

Wishing to strengthen the esteem of which the American Government has already given us so many proofs, and which my Government requires for its political redemption, I desire to manifest through your worthy medium to the Department of State in Washington the political and economic program that will be put in force by my Government during its administration, relying on the support of all the chiefs of the revolution, both those that occupy office and those not now actually members of my Government.

The following are the bases of this program:

The convocation, by decree, which was published at the time, of a constituent assembly, whose deputies will be elected by unrestricted popular vote, which my Government guarantees to the Nicaraguan people, to the end that the said assembly, being a true and popular representation, may reestablish in a democratic constitution the principles of liberty and the guaranties fallen into disuse during the administrations of Zelaya and Madriz, and which Gen. Estrada promised to restore in his proclamation of October 11 of the past year. In this constitution, with the amplitude of modern rights, there will be equal guaranties to nationals and foreigners and, in expressed form, a proscribing of commercial monopolies.

This assembly will be called also to legalize the provisional status of the Government of the Republic; and the chiefs of the revolution, in order to give time for their program to develop and to insure the establishment of their principles, have agreed to use all their influence in favor of the deputies elect, in order that the presidency of Gen. Juan J. Estrada be ratified for a period of two years; creating at the same time the post of vice president, to fill which Don Adolfo Diaz, identified with Gen. Estrada, will be a candidate; and which will secure, in case of vacancy, the continuation of the President's policy. This policy, the principles of which were contained in the above-mentioned telegram of September 10 of this year, will also guarantee a free election, in order that the people may choose the successor of Gen. Estrada. The constituent assembly will enact laws that will guarantee this liberty; and the Government will maintain the liberty of the press, in order that its adversaries may have voice in the direction of the destinies of the country; will abolish the monopolies, concessions, leases, and other illegal contracts relative to national revenue and properties which were created during the administrations of Zelaya and Madriz.

In order to give full guarantee of impartiality to foreigners in these acts, the Government desires to place itself in accord with the Department of State in the formation of a tribunal to investigate the claims which might originate from such acts and to this effect submits for the approval of the Department of State the project of appointing a commission composed of one Nicaraguan and one American citizen recommended by the Government of the United States. This commission in case of disagreement between its members will submit its judgments to the decision of a third, whom they will appoint by mutual accord.

It is understood that this tribunal will investigate only unliquidated claims. Regarding those which are now liquidated, my Government will respect whatever has been agreed upon between the former Governments of Nicaragua and other nations, paying such amounts as by virtue of those settlements this Republic may owe.

In order to reestablish the public finance, consolidate the foreign and internal debt and pay the legitimate claims of nationals as well as foreigners, my Government desires to obtain a loan in the United States the payment of which will be guaranteed by a certain per cent of the customs fees of the Republic, collected in conformity with the terms of a contract satisfactory to both Governments.

The minister of hacienda having indicated to me that he has been informed that the Washington Government would lend us its good offices to this end, we solicit, through the worthy medium of your excellency, of the American Government the sending of a financial expert in its confidence, for the purpose of agreeing with the minister of hacienda upon the plan of a loan on terms satisfactory to creditor and debtor.

My Government, having the best disposition to strengthen the ties of friendship that bind us to the United States, and hoping fully to remove the causes that severed the relations between the American Government and those of Zelaya and Madriz, has the firm purpose to prosecute and punish those responsible for the death of Cannon and Groce, and to pay a reasonable indemnity to the families of those good servants of the cause of the redemption of Nicaragua. The amount of this indemnity will be agreed upon between my Government and the United States after being duly informed of the results of these proceedings.

My Government requests of your excellency to manifest to the Department of State all these purposes and desires.

I am, etc.,

TOMÁS MARTÍNEZ.

File No. 417.00.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *February 27, 1911.*

The Department is convinced of the wisdom of establishing the tribunal proposed in general terms by Martínez in his note to Dawson November 5, 1910. Further consideration suggests the following specific plan.

A commission of three persons acting as one tribunal, one to be a Nicaraguan, one a citizen of the United States recommended by this Government, both appointed by the Government of Nicaragua; and an umpire appointed by the Department of State.

The initial presentation of each case to be before the tribunal so constituted and heard in its entirety by the tribunal.

A majority vote of the tribunal to be sufficient for a decision in all cases presented.

Inasmuch as claims of other aliens than Americans may go before the commission, the Department is convinced that such a constitution would disarm criticism, as all parties would be better satisfied if the Department should appoint the umpire than if he were appointed by accord of the two appointees of the Nicaraguan Government.

You will at once begin to arrange with the foreign office for the creation of a tribunal, according to the plan above outlined, and will inform the Department what compensation the Nicaraguan Government propose to allow the commissioners.

KNOX.

File No. 417.00/1.

The American Minister to the Secretary of State.

[Telegrams—Paraphrase.]

MANAGUA, *March 2, 1911.*

I am informed that the commissioners will be allowed $8,000 per year with $2,000 additional for expenses.

Moffat wishes to resign consulship and serve as commissioner.

President Estrada is pleased with details of proposed constitution of the commission. I have formally presented the specific plan to the foreign office. Unless limited in some way, I believe the commission might prolong duration of session indefinitely.

NORTHCOTT.

File No. 417.00/40.

MANAGUA, *March 9, 1911.*

The Nicaraguan Government has agreed to the Department's proposed constitution of the commission as per telegram of February 27. The President intends to establish the commission at once, by decree; but opinion is expressed here that under the Zelaya constitution he can not do so without the ratification of the Assembly, which it seems will be impossible to secure.

NORTHCOTT.

File No. 417.00/21.

The American Minister to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Managua, March 7, 1911.

SIR: I have the honor to inform your excellency that I am instructed to present to your excellency's Government for its consideration the following specific plan for the constituting of the tribunal proposed in general terms by Dr. Tomás Martínez, former minister for foreign affairs of your excellency's Government, in his note to the Hon. Thomas C. Dawson of November 5, 1910.

The proposed commission to be composed, for all cases, of three persons acting as one tribunal; the three persons to be one Nicaraguan and one American citizen, the latter recommended by the Government of the United States, both of whom are to be appointed by your excellency's Government, and an umpire to be appointed by the Department of State of my Government; every case to be initially presented before the tribunal so constituted and to be heard in its entirety and decided by the tribunal, a majority vote of the tribunal being sufficient for a decision upon all matters coming before it; the two commissioners and the umpire all sitting as a court on all cases presented for adjudication, and all voting on each case.

Permit me to add that I would appreciate very much a statement of the opinion of your excellency's Government as to these proposed details at your excellency's convenience.

I avail, etc.,

ELLIOTT NORTHCOTT.

File No. 417.00/21.

The Minister for Foreign Affairs to the American Minister.

[Translation.]

MANAGUA, *March 14, 1911.*

Mr. MINISTER: Referring to your excellency's courteous communication of the 7th of this March, relative to the constitution of the tribunal proposed by Mr. Tomás Martínez, former minister of Nicaragua, in his note of November 5, 1910, addressed to the Hon. Thomas C. Dawson, I have the honor to reply to your excellency that I have received instructions from my Government to say to your excellency that, after a careful examination of the reforms or modifications which your excellency was pleased to propose acting under instructions from the Government of the United States of America, the Nicaraguan Government accepts these modifications, which may be interpreted to mean the guaranteeing of the solidity of the tribunal, the validity of its acts, the efficacy of its decisions, and the avoidance of all difficulty for Nicaragua which may arise from decisions rendered in matters in which foreigners may be interested.

In regard to this matter it is my honor to inform your excellency that my Government would be very much obliged to your excellency if you would please acquaint us, in so far as you may deem appropriate, with your opinion on this point.

I avail, etc.,

JOAQUIN GOMEZ.

File No. 417.00/4.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *March 14, 1911.*

You will exchange notes with the Nicaraguan Government making final arrangements for the constitution and establishment of the proposed claims commission under the plan set forth in the Department's February 27, and recommending Moffat as the second commissioner.

The Department regards it as futile to establish a commission the legality of which may later be questioned. The Nicaraguan Government should take measures to insure the legality, and you will in this connection invoke the note of the minister for foreign affairs of November 5, 1910, to Mr. Dawson, and also the agreement of various party leaders, of which you have received copies marked "Inclosure 1" and "Inclosure 2" in the Department's instructions to you dated January 20, 1911. You will be especially careful to cause the scope of the jurisdiction of the proposed claims commission to be clearly identical with that indicated in paragraph 4 of the Department's instruction to you of January 20, 1911.[1]

WILSON.

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[1] For the text of the agreement and instructions, see "Political affairs."

File 417.00/21.

The American Minister to the Minister for Foreign Affairs.

AMERICAN LEGATION,
Managua, March 21, 1911.

SIR: I have the honor to inform your excellency that I am directed by my Government to inform the Government of your excellency that pursuant to the desire heretofore expressed by the Government of Nicaragua to place itself in accord with the Department of State of the Government of the United States in the formation of a tribunal to investigate and pass upon all unliquidated claims against the Government of Nicaragua, including such as may arise out of the abolition or discontinuance of the monopolies, concessions, leases, and other contracts created during prior Nicaraguan administrations, so that there may be given a guaranty of impartiality to foreigners in the adjustment of these matters, the Government of the United States has assented to the proposal made by your excellency's Government to form such a tribunal, and agrees to join the Nicaraguan Government in the constitution and establishment thereof.

It is understood by my Government that the said tribunal or claims commission shall be composed, for all cases, of three persons acting as one tribunal; the three persons being: One Nicaraguan, and one citizen of the United States, the latter recommended by the Government of the United States, both to be appointed by the Government of Nicaragua, and an umpire to be appointed by the Department of State of the United States; every case in which the above-mentioned claims are involved to be initially presented before the tribunal so constituted and to be heard in its entirety and decided by the tribunal, a majority vote of the three members being sufficient for a decision upon all matters coming before it; the two commissioners and the umpire all sitting as a court on all cases presented and all voting on each case.

I have the honor further to inform your excellency that I am directed to say that my Government recommends Thomas P. Moffat, Esq., to your excellency's Government for appointment as the second member of said commission.

I avail, etc.,

ELLIOTT NORTHCOTT.

File No. 417.00/21.

The Minister for Foreign Affairs to the American Minister.

[Translation.]

MANAGUA, *March 24, 1911.*

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's courteous communication of the 21st instant in which your excellency is pleased to inform me that, in accordance with the wishes previously expressed by the Government of Nicaragua to place itself in accord with the Department of State of the United States with regard to the organization of a tribunal to examine and

pass upon all unliquidated claims pending against my Government including such as may originate from the cancellation or suspension of monopolies, concessions, leases, and other contracts entered into by prior Governments of this Republic for the purpose of guaranteeing the necessary impartiality to foreigners in the adjustment of these questions, the Government of the United States assents and accedes to the proposal of my Government to form such a tribunal and agrees to act with the Government of Nicaragua in constituting and composing the tribunal referred to above.

Your excellency then goes on to explain what is in your opinion the composition, procedure, and practice of the tribunal, and you conclude by informing me that your excellency's Government recommends that Thomas P. Moffat be nominated as the second member of the commission.

I have received instructions from my Government to reply to your excellency that, as the Governments of Nicaragua and the United States are in accord on these points, it will proceed to take the necessary steps leading to the creation, the organization, and the constitution of the tribunal, keeping before it the fact that Mr. Moffat has been recommended, and assuring your excellency that the name of the Nicaraguan member will very soon be made known.

I avail, etc.,

JOAQUÍN GÓMEZ.

File No. 417.00/13 and 56.

Act of April 4–May 17, 1911, of the Nicaraguan Constitutional[1] *Assembly approving the presidential decree of March 29, 1911, establishing the tribunal or mixed commission.*[2]

[Translation.]

The National Constituent Assembly decrees that the presidential decree of March 29, 1911, is approved in the following terms:

The President of the Republic, having agreed with the Government of the United States of America as to the manner of jointly giving a just and equitable solution with regard to the validity or invalidity of all pending claims against the Government of Nicaragua, including those originating in the abolition or discontinuance of the monopolies, leases, concessions, or contracts granted or entered into by former Governments of Nicaragua, and in order to secure equally to both citizens and aliens their lawful rights by the power invested in him and in ministerial council, decrees:

ARTICLE 1. The establishment in this capital of a tribunal or mixed commission which shall examine and finally adjudge all unliquidated pending claims against the Government of Nicaragua, including those originating in the abolition or discontinuance of monopolies, concessions, leases, or any other forms of contracts made by former Governments of the Republic.

ARTICLE 2. The tribunal or mixed commission shall be composed of three persons, to wit: One of its members shall be a citizen of Nica-

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[1] The terms "Constituent" and "Constitutional" are both applied to this assembly in the course of the correspondence. See the comment in the minister's dispatch 152, under "Political affairs."

[2] Enacted Apr. 4, 1911, by the first assembly. Reenacted May 17, 1911, by the second assembly, which convened May 1, 1911; President Estrada dissolved the first assembly on Apr. 5, 1911; he resigned the presidency May 9, 1911, and the reenactment was under the presidency of Adolfo Diaz.

ragua, appointed by the Government of Nicaragua; another member whom this Government shall also appoint, but upon the recommendation of the Government of the United States of America; and a third member who shall be appointed by the Department of State of the American Government.

ARTICLE 3. All proceedings relating to claims of the character mentioned in article 1 shall begin before said tribunal or mixed commission, which shall hear, try, and judge them in all their phases; and a majority of the votes of the members shall suffice for final judgment in all cases, and in pronouncing said judgment every member of the tribunal shall vote.

ARTICLE 4. The tribunal or mixed commission shall begin to sit for a hearing of claims within 15 days after the publication of this decree, and shall draw up such rules of practice and procedure as shall give to each party to the cases before it due hearing and adequate time for the presentation of evidence.

ARTICLE 5. The individuals or companies referred to in article 1, or their assigns, who shall not have brought their claims before the tribunal or mixed commission within six months, shall by such default be held to have lost said claims, together with all claims to indemnities; and upon the request of the Government of Nicaragua, and without the necessity for any further proceedings, the tribunal shall adjudge their concessions, leases, or contracts to be forfeited.

ARTICLE 6. The President shall cancel by special decrees such contracts or concessions as are referred to in article 1.

ARTICLE 7. The present decree is also applicable to cases already begun by the Government before the courts of the country.

ARTICLE 8. The authorities of Nicaragua shall give to the tribunal or mixed commission the same support as to the courts of Nicaragua.

ARTICLE 9. Each member of the tribunal shall receive an annual salary of $8,000 gold and $2,000 gold for expenses, which shall be paid by the general treasury of the Republic.

ARTICLE 10. To represent the Government of Nicaragua upon said tribunal Dr. Carlos Cuadra Pasos is hereby appointed, and upon recommendation of the Government of the United States of America the Hon. Thomas P. Moffat; as the third member, the person who shall be designated by the Secretary of State of the American Government shall be recognized.

ARTICLE 11. The previous Governments mentioned in article 1 are hereby understood to be those presided over by Gen. J. Santos Zelaya and Dr. José Madriz.

ARTICLE 12. The mixed commission shall also have jurisdiction over such claims as the Government of Nicaragua may have to make for the reasons expressed in article 1 or because of infractions committed by concessionaires or parties to contracts.

ARTICLE 13. The President shall proceed to the cancellation directed to be made in article 6 hereof within the term of one year from the promulgation of the present decree.

ARTICLE 14. The term of six months fixed in article 5 shall begin to run from the day on which the decree of cancellation shall have been promulgated when such decree is the basis of the claim, and in other cases it shall run from the day of the promulgation of this decree.

File No. 417.00/18.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

MANAGUA, *April 17, 1911.*

By virtue of the decree of the Government of Nicaragua the Department on April 11 appointed Otto Schoenrich, formerly judge of the district court of Mayaguez, Porto Rico, to be a member of the mixed commission. You will so inform the Nicaraguan Government.

KNOX.

File 417.00/27. 28.

The American Minister to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *May 9, 1911.*

Judge Schoenrich arrived at Corinto May 5. Moffat left Managua last Monday for the United States.

NORTHCLIFF.

File 417.00/42.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 26, 1911.

The Department, having very carefully considered the wording of the decree establishing the claims commission, is convinced that certain modifications should be made therein. The department in this connection desires to inspect the Spanish text of proposed amendments, numbered to correspond with the articles which they are designed to amend. Following are the modifications proposed:

The preamble changed to read:

The President of the Republic, having conferred with the Government of the United States as to the best mode of affording a just and equitable solution, etc.

Article 1 should have this addition:

ARTICLE 1. * * * The claims referred to in this article are all those claims which from any cause whatsoever may arise or may have arisen against the Government of Nicaragua from the beginning of the administration of President Zelaya until the commission closes its work, including claims which may arise out of the belligerent operations of either faction during the recent civil war. To facilitate the better examination of these claims, the commisson is empowered to meet in its discretion in places other than Managua, and it shall give due and appropriate notice of such meetings to the parties interested. The commission shall in its consideration of claims give precedence to claims arising out of military loans, requisitions, or exactions by either faction during the recent civil war.

To article 2 there should be added:

ARTICLE 2. * * * The commissioner appointed by the Department of State shall act as president of the tribunal, and no meeting at which he or

his duly appointed successor is not present shall be held. All vacancies arising from whatever cause shall be filled within 30 days from the beginning of such vacancies in the same manner in which the original appointment was made.

Article 3, as follows:

ARTICLE 3. All matters coming before the tribunal shall be decided by a majority vote. If any member of the commission is persistently absent without just cause, or for any reason is incapacitated for the performance of his duties, the attending members shall notify the Government of Nicaragua, which shall thereupon declare the commissionership vacant, which vacancy shall immediately thereupon be filled as provided in article 2. The commission is empowered to employ the clerical force necessary for the conduct of its work, which clerical force shall be compensated by the Nicaraguan Government.

To Article 4 should be added:

ARTICLE 4. * * * No rule or regulation shall be put into effect until the president of the commission shall have recorded his opinion thereon.

To article 5 should be added:

ARTICLE 5. * * * *Provided, however*, That the right to question the cancellation or annulment of concessions, and the right to indemnify, shall not be forfeited and the forfeiture of rights and remedies with reference thereto shall in no case be declared by the tribunal except upon proof satisfactory to the tribunal that, six months prior to the motion for such judgment, the Government of Nicaragua gave in appropriate form express notice to the parties concerned of the intention of the Government to move for such judgment against them, and except it appears that said parties have failed to appear before the tribunal for such time, no valid excuse for such failure to appear being shown.

To article 6 should be added:

ARTICLE 6. * * * *Provided*, That no contract or concession contemplated in articles 1, 5, or 6 shall be canceled or annulled except upon the ground that such contract or concession is illegal or unconstitutional, and that no decree of cancellation or annulment shall take effect until affirmed by the commission after an opportunity for a full hearing has been given to the parties in interest and until such damages, if any, as may by the commission be found due to the concessionaires from the Government of Nicaragua shall have been paid: *And provided further*, That no cancellation or annulment heretofore decreed by the present Nicaraguan Government shall take effect until a like determination by the commission and payment of damages, if any, by the Government. Where, by reason of special equipment or experience or for any other sufficient reason, the parties from whom the concession or contract is taken are better able to carry on the legally proper part of such concession or contract than a new concessionaire, such parties if responsible shall be given preference as to any new grant touching the same matter, which new grant shall be conferred in as liberal terms as may be consistent with the law and the national welfare.

Article 14 should be amended as follows:

ARTICLE 14. The six-months period above mentioned shall begin to run from the date on which the actual notice of the annulment or cancellation of the concession is given to the concessionaire or contractor, provided that in no case shall such six-month period be held to expire at a date earlier than six months from the date on which the tribunal formally begins its regular sessions for the determination and adjudication of claims; and provided that as to all other claims the period shall begin to run from the date on which the tribunal formally begins its regular sessions for the determination and adjudication of claims, which date shall be notified by proper publication in the official gazette for a period of 30 days beginning 15 days before said date of opening and continuing for 15 days after said date of opening.

An additional article 15 containing the following stipulations should be added in words to the following effect: The Government of Nicaragua shall accept the decision of the tribunal as final and

binding adjudications of the claims passed upon by the tribunal, and undertakes to pay all awards made by said tribunal against the Government.

KNOX.

File No. 417.00/43.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *July 1, 1911.*

Does the wording "by the present Nicaraguan Government," in article 6, apply to the Government of President Estrada? The Nicaraguan Government fears this paragraph would require reinstatement of the concession of the Bluefields Steamship Co., with its exclusive right of navigating Escondido River, of the lottery concession, and of other concessions referred to in the minister's dispatch 52, of May 25.

GUNTHER.

The Secretary of State to American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *July 7, 1911.*

"Present Nicaraguan Government" applies to Government of President Estrada. This provision was inserted because the decree organizing the tribunal provides for the cancellation and annulment of contracts and concessions by executive decree. Against executive action of this sort there is a strong prejudice in this country, and concessionaires losing their rights by mere executive decree would surely make such representations to this Government as would lead to the embarrassment of both the Department and Nicaragua. Therefore, in order adequately to protect American citizens and thus avoid criticism and opposition here, it is deemed best to provide, first, that no concession be canceled by executive decree except for illegality or unconstitutionality; and, secondly, that before such cancellation or annulment is put into effect its propriety be determined by the commission. In the case of onerous contracts which, though not illegal or unconstitutional, are of such a character that the economic welfare of the country requires their modification, rights which they cover should, in the Department's opinion, be obtained by the Government through regular expropriation proceedings instituted under the laws of Nicaragua.

You will impress upon the Nicaraguan Government that this Government is wholly disposed to so assist the Nicaraguan Government as to enable it to place itself in all respects upon a sound financial and economic basis. But in order to avoid criticism here and to enable that Government so to place itself it is obvious that the plans recommended must adequately protect legitimate American interests by providing, among other things, a legal procedure recognized as appropriate here in analogous cases. It is believed that this double

remedy (first by expropriation proceedings in court under general law, and second by annulment and cancellation under the decree creating the commission) will afford Nicaragua ample machinery for meeting the whole situation.

KNOX.

File No. 417.00/48.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *July 10, 1911.*

Of the contracts or concessions at issue not more than three are considered either illegal or unconstitutional in the opinion of President Diaz, the president of the assembly and the Nicaraguan member of the mixed commission. In view of this I beg leave to await further instructions before communicating to the Nicaraguan Government the substance of the Department's telegram of July 7. Nearly all the rights of Americans and other foreigners in the industrially improper concessions, contracts or leases will be obtained by the Nicaraguan Government under the expropriation arrangement proposed, according to the decree as set forth in your telegrams of June 26 and July 7, and the jurisdiction of the mixed commission will be limited to the consideration of the three illegal or unconstitutional concessions, miscellaneous claims and war claims; consequently the Department's plan adequately to protect the interests of Americans and other foreigners might possibly be frustrated by the Nicaraguan courts, from which foreigners may receive but scant consideration. Payment of damages from the proceeds of the loan must be made in case expropriation proceedings are instituted.

GUNTHER.

File No. 417.00/49.

MANAGUA, *July 12, 1911.*

There has been a leak in Government circles and the substance of your telegram of June 26 has got out somehow and produced considerable agitation, and the opinion generally expressed is that the United States Government has repudiated its policy of protecting Nicaragua against foreigners holding rights in ruinous concessions or contracts. I have reason to believe that the Department's suggestion as to expropriation proceedings would not greatly help the matter, and strongly urge that no further action be taken until the assembly approves the loan contract.

GUNTHER.

The Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *July 18, 1911.*

American and other foreign owners of industrially improper concessions to be obtained by the Nicaraguan Government by expropriation proceedings may, under the decree establishing the commission, appeal to the commission, it would seem quite clear, should they be dissatisfied with the award of Nicaraguan courts. In case of doubt

on this point the Nicaraguan Government could give assurance by hastening expropriation proceedings in the courts and authorizing the presentation of the matter to the tribunal. Furthermore, application to such industrially improper concessions of the principle set forth in amendment of article 6 of the decree regarding illegal or unconstitutional concessions would apparently enable the Nicaraguan Government to revise such concessions to make them conform to the industrial needs of Nicaragua, by amicable arrangement wherever possible, with the concessionaires.

You will fully explain to President Diaz, regarding your telegram of July 12, the Department's attitude as outlined in the present telegram, as well as in that of July 7. The Department has every disposition to assist the Government of Nicaragua in every way in which it properly may, and you will make this point perfectly clear to the Nicaraguan authorities. Having done so, you may, in your discretion, refrain from pressing the question of the modification of the decree as outlined in the Department's June 26 until after settlement of the loan contract.

KNOX.

File No. 417.00/54.

The American Chargé d'Affaires to the Secretary of State.

[Telegrams—Paraphrase.]

MANAGUA, *July 20, 1911.*

I have fully explained to President Diaz the Department's attitude outlined in your telegrams of July 7 and July 18, and in order to make it perfectly clear to the Nicaraguan authorities I have reiterated that the Department has every disposition to help the Government of Nicaragua in every way in which it properly may, in order to enable it to place itself in all respects upon a sound financial and economic basis. President Diaz, Gen. Mena, and the Nicaraguan member of the mixed commission have agreed to the modifications proposed in the department's telegram of June 26, and have expressed the hope that the submission of the revised decree to the assembly might be postponed until the loan had become assured. The assembly, they explain, would hesitate to pass a law providing for the immediate payment of damages from the treasury until the assembly felt sure that the treasury was able to make those payments. They believe, on the other hand, that several features of the revised decree would prove objectionable to the assembly and endanger the ultimate passage of the loan. Dr. Cuadra Pasos therefore advised postponement of pressing the modifications of the decree upon the assembly until that body passes the loan contract, in which the President and Mena concurred.

GUNTHER.

File No. 417.00/54.

The Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *July 26, 1911.*

The Department agrees to postponement of modifications of decree as outlined in Department's June 26, in accordance with your July 20.

KNOX.

File No. 417.00/57.

The American Chargé d'Affaires to the Secretary of State.

[Telegrams—Paraphrase.]

MANAGUA, *July 29, 1911.*

I transmit herewith, in pursuance of instructions in your June 26, amendatory decree[1] worded as President Diaz is willing to approve it. The department's proposed modification of article 4 has been embodied in amendment to article 2, in order to facilitate passage in the assembly.

GUNTHER.

File No. 417.00/65.

No. 101.] AMERICAN LEGATION,
Managua, August 7, 1911.

SIR: I have the honor to inclose herewith a confirmation copy of the mixed commission amendatory decree in the form in which President Diaz is willing to approve it.

I have, etc.,

F. M. GUNTHER.

File No. 417.00/72.

MANAGUA, *September 23, 1911.*

Since a favorable opportunity may at any moment arise for submitting the mixed claims commission decree to the assembly, President Diaz hopes the Department will immediately place him in a position to do so.

File No. 417.00/72.

The Acting Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *September 26, 1911.*

The Spanish text of the amendments as submitted in the legation's No. 101, of August 7, 1911, which differs slightly from that telegraphed July 29, is entirely satisfactory to the Government of the United States. You may so inform the Nicaraguan Government, and if you believe it will aid in carrying out the general program, you may do so at once. The Department has withheld its decision because it believes the matter of the decree ought to be considered after consideration of the loan, as the usefulness of the mixed commission depends very largely on the loan. This Government, however, would be satisfied with a simultaneous consideration of the loan and the mixed commission decree. When these two matters have been favorably acted on, the Department will be glad to consider the nomination of a successor to Moffat, and it is suggested that meantime the Nicaraguan Government terminate relations with him.

WILSON.

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[1] As the draft of the amendatory decree given in this telegram is identical with the decree enacted on Oct. 14, the text is here omitted and printed below as the inclosure to Mr. Gunther's No. 137 of Oct. 31.

File No. 417.00/74.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *September 28, 1911.*

The President is gratified to be now placed in a position for seizing a favorable opportunity for submitting the amendatory decree to the Assembly, should such an opportunity occur during the consideration of the loan contracts.

The opposition to these loan contracts and concessions is becoming more determined, and they are now supported only by Gen. Mena and Minister Cantón. The president of the Assembly and the minister of hacienda (finance) are conducting dangerous propaganda against the loan; and foreign business men who also loan and change money are making every effort to defeat the projects. The signed approval of all cabinet ministers is necessary to the President's message transmitting the contracts to the Assembly.

GUNTHER.

File No. 417.00/76.

The Acting Secretary of State to the American Ambassador to Great Britain.

No. 1593.] DEPARTMENT OF STATE,
Washington, October 10, 1911.

SIR: In connection with previous correspondence on the subject of the Nicaraguan Claims Commission, a copy of an instruction to the legation at Madrid is inclosed for your information. Similar instructions have been sent to the embassies at Paris, Berlin, and Rome.[1]

I am, etc.,

ALVEY A. ADEE.

[Inclosure.]

The Acting Secretary of State to the American Chargé d'Affaires at Madrid.

DEPARTMENT OF STATE,
Washington, October 10, 1911.

SIR: As you are probably aware, the Government of Nicaragua, with the advice of this Government and as a corollary of the general plan for the rehabilitation of the finances of Nicaragua, has established a Nicaraguan Claims Commission to adjudicate the claims of nationals and foreigners against the Government of Nicaragua. Most of these claims are on behalf of Nicaraguan citizens and are a result of the long and arbitrary administration of ex-President Zelaya Nationals of the United States, Germany, Great Britain, France, Italy, Spain, and other countries, however, also have claims against Nicaragua.

[1] Also to the legation at Guatemala.

By a decree ratified by the Nicaraguan Assembly on April 4 last, it was ordered that the commission should be composed of three members—one Nicaraguan and two Americans. Dr. Cuadra Pasos and Mr. Moffat were appointed by the Government of Nicaragua, and Judge Otto Schoenrich by this Government. Mr. Moffat has since been appointed consul general of the United States at Singapore, and his successor on the commission has not yet been designated. Judge Schoenrich, a lawyer of high standing, formerly a member of the Porto Rican district court, is the presiding commissioner. The commissioners are to be remunerated solely by Nicaragua.

The Department, in advising that the commission be so composed, sought only to assure the justice and impartiality of the tribunal and to make it one to which foreign Governments would be likely to look for the just consideration of the claims of their citizens.

It now appears, to the surprise of the Department, that some of the foreign ministers, notably the German, English, and French, have taken exception to this commission and have advised their nationals not to submit their claims to it.

You will explain to the Spanish Government that this commission is a purely Nicaraguan tribunal constituted by that Government to pass upon claims against Nicaragua; that in accordance with the general rule of international law regarding the exhaustion of local remedies before diplomatic representations can become appropriate, save under exceptional circumstances not appearing in the present situation, the Government of Nicaragua would appear to be within its rights in requiring that all claims should be adjudicated in the first instance by this commission; that in the very unlikely event of an actual denial of justice before this commission it obviously would be open to Spain or any other power to take up such a case diplomatically for final settlement by an international commission or otherwise; that it can hardly be supposed that Spanish or any other interests would be less safe before a Nicaraguan commission of three, two members of which are American citizens approved by this Government, than they would be before one of purely Nicaraguan personnel, which would probably have been established had not this Government secured the designation of two Americans.

This Government feels the more certain that the Spanish Government will raise no objection to this strictly Nicaraguan commission, since it is but a part of an apparently conscientious plan undertaken by the Government of Nicaragua in order to rehabilitate the finances of that country and to make its Government stable and responsible. Any disarrangement of this plan tending to defeat its purpose, which, under present conditions, seems reasonably assured, must be highly deprecated. Spain, as well as the United States, is commercially interested in the establishment of stable conditions and a responsible Government in Nicaragua and in adjacent countries.

The Department can not overemphasize the importance it attaches to the successful carrying out of the plans for the rehabilitation of Nicaragua, and it believes that all the countries commercially interested in Central America will best serve their own interests by promoting the realization of those plans.

The foregoing is for your information and guidance and anticipatory of future telegraphic instructions pending the receipt of which you will take no action in this matter.

I am, etc.,

ALVEY A. ADEE.

File No. 417.00/96.

The American Chargé d'Affaires to the Secretary of State.

AMERICAN LEGATION,
No. 137.] *Managua, October 31, 1911.*

I have the honor to report that on the 14th instant the National Constituent Assembly unanimously approved the decree of the Executive bearing date of the 9th instant, and embodying the amendments approved by the Department in its telegram of June 26 to the mixed commission decree of May 17 last. A certified copy of this law is herewith inclosed.

I have, etc.,

F. M. GUNTHER.

[Inclosure.]

Act of October 14, 1911, of the Nicaraguan Constitutional Assembly, approving the presidential decree of October 9, 1911, amending the act of April 4–May 17, 1911, establishing the tribunal or mixed commission.

[Translation.]

The National Constituent Assembly decrees that the following presidential decree of October 9, 1911, is approved in its entirety:

The President of the Republic, seeing that in the legislative decree of May 17, 1911, certain amendments and additions should be made to clarify and better apply its provisions, by the authority invested in him and in ministerial council, decrees:

ARTICLE 1. The preamble of said decree of May 17, 1911, shall be amended to read as follows:

The President of the Republic, having conferred with the Government of the United States as to the best mode of affording a just and equitable solution of questions concerning the validity or invalidity of all pending claims against the Government of Nicaragua, including those that originate through the cancellation or suspension of monopolies, leases, concessions, and contracts executed by prior governments of the Republic, and to guarantee to nationals and aliens equally their lawful rights—by the authority invested in him and in ministerial council decrees:

ARTICLE 2. To article 1 of the said decree shall be added the following:

The claims referred to in this article are all those claims which from any cause whatsoever may arise or may have arisen against the Government of Nicaragua from the beginning of the administration of President Zelaya until the closing of the commission, including claims which may arise out of the belligerent operations of either faction during the recent civil war. To facilitate the examination of these claims the commission is empowered to meet in its discretion in places other than in Managua, and it shall give due and appropriate notice of such meetings to the interested parties. The commission shall in its consideration of claims give precedence to claims arising out of military loans, requisitions, or exactions by either faction during the recent civil war.

ARTICLE 3. To article 2 shall be added the following:

The commissioner appointed by the Department of State shall act as president of the tribunal, and no meeting at which he or his duly appointed successor is not present shall be held, nor shall any rule or regulation be adopted or put into effect until the president of the commission shall have expressed his opinion regarding the same. All vacancies arising from whatever cause shall be filled within thirty days from the beginning of such vacancies in the same manner in which the original appointment was made.

ARTICLE 4. Article 3 shall read as follows:

All cases pertaining to the said claims shall be initiated by introduction before said tribunal or mixed commission, which shall hear, try, and judge them in all their phases; and a majority of the votes of the members shall suffice for final judgment in all cases, and in pronouncing said judgment every member of the tribunal shall vote. If any member is persistently absent and without just cause, or for any reason is incapacitated for the performance of his duties, the attending members shall notify the Government of Nicaragua, which shall thereupon declare the commissionership vacant, which vacancy shall immediately thereupon be filled as provided in article 2. The commission is empowered to employ the clerical force necessary for the conduct of its work, which clerical force shall be compensated by the Nicaraguan Government.

ARTICLE 5. Article 5 shall read as follows:

ARTICLE 5. The individuals or companies referred to in article 1, or their assigns, who shall not appear before the tribunal or mixed commission established

by this law within six months to plead, shall thereby lose their rights by default, as well as the right of indemnification, and the concessions, leases, or contracts shall immediately be considered finally forfeited, the tribunal being under obligation so to declare upon the request of the Government of Nicaragua: *Provdied, however,* That the right to oppose the cancellation or annulment of concessions, and the right to indemnity, shall not be forfeited, and the forfeiture of rights and remedies with reference thereto shall in no case be declared by the commission, except upon proof satisfactory to the tribunal that, six months prior to the motion for such judgment, the Government of Nicaragua gave in appropriate form express notice to the parties concerned of the intention of the Government to move for such judgment against them, and unless said parties shall have failed to appear before the tribunal during the said term and shall not have presented any valid excuse for such failure to appear.

ARTICLE 6. Article 6 shall read as follows:

ARTICLE 6. The President shall cancel by special decrees such contracts or concessions as may be illegal or unconstitutional. No contract or concession contemplated in articles 1 and 5 and the present article shall be canceled or annulled except on the ground that such contract or concession is illegal or unconstitutional, and no decree of cancellation or annulment shall take effect until affirmed by the commission after an opportunity for a full hearing has been given to the parties in interest and until such damages, if any, as may by the commission be found due to the concessionaires from the Government of Nicaragua shall have been paid. No cancellation or annulment heretofore decreed by the present Government of Nicaragua shall take effect until a like determination by the commission and payment of damages, if any, by the Government. Where, by reason of special equipment or experience or for any other sufficient reason, the parties from whom the concession or contract is taken are better able to carry on the legally proper part of such concession or contract than a new concessionaire, such parties if responsible shall be given preference as to any new grant touching the same matter, which new grant shall be conferred in as liberal terms as may be consistent with the law and the national welfare.

ARTICLE 7. To article 9 shall be added the following:

The salary of the president of the tribunal shall be 10,000 dollars gold besides the sum of 2,000 dollars gold for expenses.

ARTICLE 8. Article 14 shall read as follows:

ARTICLE 14. The six months period above mentioned shall begin to run from the date on which the actual notice of the annulment or cancellation of the concession is given to the concessionaire or contractor, provided that in no case shall such six month period be held to expire at a date earlier than six months from the date on which the tribunal formally begins its regular sessions for the determination and adjudication of claims; and provided that as to all other claims the period shall begin to run from the date on which the tribunal formally begins its regular sessions for the determination and adjudication of claims, which date shall be notified by proper publication in the official gazette for a period of thirty days beginning fifteen days before said date of opening and continuing for fifteen days after said date of opening.

ARTICLE 9. The following new article shall be added to the said decree:

ARTICLE 15. The Government of Nicaragua shall accept the decisions of the tribunal as final and binding adjudications of the claims passed upon by the tribunal, and undertakes to pay all awards made by said tribunal against the Government.

Enacted at Managua, in the Hall of Sessions, the 14th day of October, 1911.

Promulgated October 17, 1911.

Certified to the American Chargé d'Affaires October 20, 1911, by the Ministro de Gobernacion ad interim, Luis Mena.

File No. 417.00/88.

The American Ambassador to Great Britain to the Secretary of State.

[Telegram—Paraphrase.]

LONDON, *November 2, 1911.*

Sir Edward Grey writes me that when the foreign office first heard of the proposed establishment of the Nicaraguan commission, they told Mr. Carden that British claimants might avail themselves of it if they desired, but in that case the foreign office must hold aloof and reserve the right to intervene diplomatically if occasion arose. Sir Edward says he will have to consider inviting British claimants to refer claims to arbitration if settlement can not be made by direct negotiations with Nicaragua.

His position therefore is that while he places no obstacle in the way of British claimants who may decide to present their claims before the commission, he can not accept the commission as a bar to diplomatic intervention looking to arbitration. Sir Edward does not attach exaggerated importance to the questions that have arisen in Central America from time to time in which our interests have seemed to be divergent, for he believes that by the exercise of a little patience and good will these difficulties will easily be smoothed over.

REID.

File No. 417.00/89.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *November 6, 1911.*

The President has been informed by the secretary of the German Legation that his Government does not recognize the mixed commission, "for political reasons," and that he believes the other nations will not recognize it, adding that his Government is disposed, however, to arrive at an amicable settlement of German claims.

GUNTHER.

File No. 417.00/89.

The Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *November 10, 1911.*

The Department is not disposed to counsel the Nicaraguan Government to resist demands of European countries through diplomatic channels for the direct settlement of their claims; but if the Nicaraguan Government of its own initiative should decide that European claimants must first exhaust the remedies afforded by the Nicaraguan courts or other local tribunals, including the claims commission, the Department believes that international law and practice furnish ample precedents therefor.

You will have in mind that if the British claims are paid, and if direct settlement is made of the other European claims, preferential treatment over American claims will thereby be given them, since this Government has consented, because of its friendly feeling toward Nicaragua, to the presentation of American claims in the first instance to the claims commission.

KNOX.

File No. 417.00/92.

The Nicaraguan Minister to the Secretary of State.

[Translation.]

LEGATION OF NICARAGUA,
Washington, November 7, 1911.

EXCELLENCY: I have received telegraphic instructions from my Government to-day to inform your excellency that the Government of Nicaragua has issued a decree declaring vacant the commissionership heretofore held by Mr. Moffat, and to ask therefore that your excellency will be good enough to appoint a commissioner to fill the vacancy in accordance with law relative to the formation of the mixed commission recently enacted by the Constituent Assembly.

I avail, etc.,

SALVADOR CASTRILLO.

File No. 417.00/92.

The Secretary of State to the Nicaraguan Minister.

No. 13.] DEPARTMENT OF STATE,
Washington, December 5, 1911.

SIR: The Department is in receipt of your note of the 7th ultimo, stating that the Government of Nicaragua has issued a decree by which the office of member of the Nicaraguan Mixed Claims Commission heretofore held by Mr. Thomas P. Moffat, is declared vacant, and that you have been instructed by your Government to ask the Secretary of State to designate Mr. Moffat's successor.

The Department's note to you of the 2d,[1] answering the note of the 8th ultimo from the Nicaraguan minister for foreign affairs to the Secretary of State,[1] has already informed you that Mr. Arthur B. Thompson, of this city, has been recommended by the Secretary of State for appointment by the Nicaraguan Government to fill the vacancy referred to.

Accept, etc., P. C. KNOX.

File No. 417.00/95.

The American Chargé d'Affaires to the Secretary of State.

[Telegrams—Paraphrase.]

MANAGUA, *November 17, 1911.*

In regard to the settlement of European claims other than British, and referring to your telegram of November 10, the Nicaraguan

[1] Not printed.

Government seems disposed on its own initiative to consider sending a circular note to the interested powers, making clear that they must first exhaust the remedies afforded by the Nicaraguan courts, including the mixed claims commission. The President, however, hesitates to take this initiative until assured of the support of the United States Government, for he recalls how on past occasions Nicaragua has taken this position only to be brought to humiliating terms by the presence of foreign vessels.

The President had, before receipt of your November 10, agreed to a compromise upon all British claims in toto; and in order to avoid giving them precedence over American claims his Government would submit the compromise to the mixed commission.

GUNTHER.

File No. 417.00/101.

MANAGUA, *November 28, 1911.*

The President still hesitates to send the circular note referred to in my November 17. Meantime a German subject, Julius Weist, and an Italian subject, Bissio, each having a war claim against the Nicaraguan Government (the German claim pending before the mixed commission and the Italian claim about to be presented to it), have both withdrawn their claims, the German under instruction of the German Legation and the Italian on the advice of the Italian consul here. Both will seek a direct settlement with the Nicaraguan Government.

GUNTHER.

The Acting Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *December 2, 1911.*

The Department's November 10 should be a sufficient response to your November 28, and instruction for your guidance regarding the preferential treatment of European claims and the advisability of sending the circular note.

WILSON.

WASHINGTON, *December 2, 1911.*

As successor to Moffat on the Nicaraguan Mixed Claims Commission, the department proposes Arthur R. Thompson, and has officially notified Castrillo thereof. Mr. Thompson was formerly engaged by this Government in the trial of cases before the Spanish Treaty Claims Commission, and is now practicing law.

WILSON.

File No. 417.00/108.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *December 5, 1911.*

The Nicaraguan Government yesterday appointed Arthur R. Thompson on the mixed claims commission.

GUNTHER.

File No. 417.00/115.

No. 159.]

AMERICAN LEGATION,
Managua, December 16, 1911.

SIR: I have the honor to report that the Nicaraguan Government of its own initiative having reached the conclusion that European claimants should first exhaust the remedies afforded by Nicaraguan courts, including the mixed claims commission, before presenting demands through diplomatic channels, has forwarded to the ministers to Central America of France, Germany, Great Britain, Italy, and Spain the identic note of which I inclose herewith a copy and translation. Copies of this note have been delivered to all consular representatives in this city, have been published in the local newspapers, and forwarded to the other Governments in Central America for their information.

I have, etc.,

F. M. GUNTHER.

[Inclosure.]

Identic Circular Note of the Nicaraguan Government to European Powers.

[Translation.]

MINISTRY FOR FOREIGN AFFAIRS,
Managua, Nicaragua, December 9, 1911.

Mr. MINISTER: Owing to the grave situation, aggravated by a long civil war, in which the country found itself as the result of a prolonged period of administrative abuses which culminated in the illegal distribution of the national wealth and in the immoderate augmentation of the debt through claims and concessions onerous to the country, some in the hands of foreigners, there has devolved upon the Government which emerged from the revolution the fundamental and immediate duty of giving its especial attention to political and constitutional reorganization of the Republic and the rehabilitation of its finances upon a stable basis, having in mind the refunding of its debt and the meeting of its obligations through a just and equitable settlement of all pending economic questions.

To this end a loan has been contracted in the United States to afford the Republic the necessary means for the prompt fulfilment of its obligations, securing at the same time permanent domestic peace and welfare.

In order to accomplish such purposes, the Government of the Republic in exercise of its sovereign rights, and by a decree of the National Constituent Assembly sanctioned by the Executive the 18th of May of the current year, established in this capital a tribunal or mixed claims commission which will ascertain and adjudicate, without further recourse, all pending claims against the Government of Nicaragua, including those which may arise out of the cancellation or suspension of the monopolies, concessions, leases, or whatever other classes of contracts made by former Governments of the Republic.

Subsequently, and by a law of the same National Constituent Assembly with the due approval of the Executive on October 9 of the current year, various amendments to the preceding decree were made, some of which limit the scope of the mixed claims commission to cognizance of such claims as may arise or have arisen against the Government of Nicaragua from the beginning of the administration of President Zelaya until the commission closes its work, including claims which arose out of the belligerent operations of either faction during the recent civil war, giving preference, in the order of examination, to those arising out of military loans, requisitions or exactions of the factions during the recent civil war; empowering the commission, whenever it may deem

best, and to facilitate the better examination of these claims, to meet, after due notice to the parties interested, in places other than the capital.

For the better understanding of your excellency I herewith inclose a copy of the decree establishing the mixed claims commission, and a copy of the decree amendatory thereof, seizing this opportunity to call to the attention of your excellency the fact that the mixed claims commission enjoys sole jurisdiction to declare valid or invalid all the claims referred to.

In establishing the tribunal or mixed claims commission in its present form the Government of Nicaragua believed it had found a satisfactory solution of pending claims, and of safeguarding equally the legitimate interests of the State and of foreign or domestic claimants.

The high respectability of the members that compose it, and the significant fact that two of its judges are foreigners of recognized ability and of unquestioned integrity, neither of whom had any part in the controversies and struggles of which unhappily the country has been the scene during a long period of political and economic disorganization, vests the tribunal with a character of such unimpeachable impartiality that it could hardly become a question for discussion.

That foreigners must observe the laws of the country wherein they reside is a principle of public law. Article 13 of the Nicaraguan constitution of 1893 provides that foreigners can not make claims or exact indemnity from the State except in the cases and in the form permitted to Nicaraguans; and article 8 of the constitution of 1905 provides that Nicaragua is under no obligation to foreigners and recognizes no responsibilities other than those which by the constitution and law it assumes in reference to Nicaraguans. Applying then the principles laid down, it is evident that foreigners on entering the republic submit themselves thereby to the laws in force on an equal footing with nationals, and under no circumstances can they, in violation of the law, have any rights that would give them advantage over Nicaraguans.

It is also an admitted principle of international law that parties who are aggrieved by acts of the public authorities which they consider unlawful, are bound to exhaust every legal means given by the constitution of the country to obtain due reparation and justice. But if they, being foreigners and perfectly entitled to appeal to the courts of law, neglect to do so, they are not entitled to invoke the intervention of their government to obtain for them indemnity. Protests, whether made by the parties themselves or by their representatives, can not be held to supply the place of an appeal to the tribunal competent to deal with the subject matter, nor do they render the right of intervention complete. It is in accordance with these principles that article 11 of the constitution of 1905 provides that foreigners can not have recourse to diplomatic channels except in cases of denial of justice.

This being a generally accepted doctrine I feel that no further explanation is necessary, especially because there is no international law obliging a nation to take upon itself the collection of the claims of its citizens against another nation when within the reach of these citizens are sufficient means for obtaining justice in the country without the intervention of their government.

Hence, and after mature consideration upon so important a subject, the Government of Nicaragua deems it proper to inform the interested powers that pending claims against the Government of Nicaragua, including those which may arise out of the cancellation or suspension of monopolies, concessions, leases, or whatever other class of contracts made from the beginning of Gen. Zelaya's administration until the closing of the commission, as well as claims which may be presented as a result of the operations of either belligerent faction during the recent civil war, must be submitted for ascertainment and adjudication to the tribunal or mixed claims commission that was established for this purpose by decree of May 17, 1911, whenever said claims by their nature fall within the scope of its jurisdiction; it being evident from the foregoing that only in the remote case of not being heard, which is not to be feared, given the lofty attributes of impartiality and integrity of this high tribunal of the Republic, would there be cause for resorting to the extreme means of diplomatic negotiation for the determination of these claims.

I avail, etc.,

DIEGO M. CHAMORRO.

POLITICAL AFFAIRS: RECOGNITION OF CONSTITUTIONAL PRESIDENT ESTRADA BY THE UNITED STATES. PROCLAMATION OF A CONSTITUTION BY THE CONSTITUTIONAL ASSEMBLY; ITS REJECTION BY PRESIDENTIAL DECREE; DISSOLUTION OF THE ASSEMBLY AND CALL FOR NEW ELECTIONS. RESIGNATION OF PRESIDENT ESTRADA. SUCCESSION OF VICE PRESIDENT DIAZ AS PRESIDENT; HIS RECOGNITION BY THE UNITED STATES. CONVENING OF SECOND CONSTITUTIONAL ASSEMBLY. ELECTION BY THE ASSEMBLY OF GEN. MENA AS CONSTITUTIONAL PRESIDENT FROM JANUARY 1, 1913. REVOLUTIONARY PLOTS.[1]

File No. 817.00.

The President of the United States to the President of Nicaragua, Juan J. Estrada.

[Telegram.]

THE WHITE HOUSE,
Washington, January 1, 1911.

I send your excellency my most cordial felicitations for the New Year, with which I hope will begin an era of progress, peace, and prosperity for the people of Nicaragua. I congratulate you upon your assumption of the presidency by popular mandate unanimously expressed through the Assembly recently elected, and I assure you, and through you the Government and people of Nicaragua, of the sincere sympathy and friendship of the Government and people of the United States in the work of regeneration which we hope will be so successful. I add my wishes for your own personal welfare.

WM. H. TAFT.

File No. 817.00.

The American Consul at Managua to the Secretary of State.

[Telegram—Paraphrase.]

AMERICAN CONSULATE,
Managua, January 1, 1911.

Estrada's message praises loyalty of Conservatives to the revolution; the President declares he will surround himself with them, but will make his administration a national and not a party one. Complete religious freedom; freedom of the press within proper limits; constitutional prohibition of executive influence with the judiciary and its independence, which the President declares he will respect as sacred. Noninterference in Central American political affairs. Gratitude to the United States. Modern school system; gradual decrease and disarmament of the Army beyond adequate police requirements; agricultural development; construction of a railroad to the Atlantic coast; reduction of import duties and abolition of export duties; negotiation of a loan through the good offices of the United States; currency reform; strict economy in the administration of the Government.

MOFFAT.

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[1] See Foreign Relations 1910, p. 767.

The Secretary of State to the American Minister.

DEPARTMENT OF STATE,
Washington, January 20, 1911.

SIR: The President having appointed you to be envoy extraordinary and minister plenipotentiary of the United States of America to Nicaragua, I inclose your commission.

In order that you may have before you a concise account of the events which have led to the resumption of diplomatic relations with the Republic of Nicaragua, and of the considerations which have prompted this Government to recognize the Government of Gen. Estrada, I inclose copies of certain pertinent documents and call to your attention the following facts connected with the recent history of our relations with Nicaragua:

On December 1, 1909, in a note addressed to the Nicaraguan chargé d'affaires, transmitting to him his passports, the Secretary of State declared that the Government of Gen. Zelaya, by its intolerable abuses and excesses, had not only forfeited the esteem and support of its own people, but also, by a series of petty annoyances and studied insults to the United States, culminating in the illegal and unwarranted execution of two American citizens, had exhausted the oft-tried patience of this Government so that under the circumstances the President no longer felt for the Government of Gen. Zelaya the respect and confidence which would make it appropriate further to continue diplomatic relations. Shortly thereafter Gen. Zelaya fled from the country on board a Mexican warship, his last act being the dictation to the legislature of the selection of his successor, Dr. José Madriz, in a manner violative of the provisions of the Nicaraguan constitution.

On October 11, 1909, Gen. Juan J. Estrada, governor of one of the eastern Provinces of Nicaragua, with headquarters at Bluefields, issued a manifesto reciting the evils of the Zelaya administration, proclaimed himself the provisional president of the Republic, and solicited the recognition of the United States. The Department, following its usual practice in such cases, made no response to his request, but shortly thereafter notified the leaders of the revolution, as it did the representative of Zelaya, that the Government of the United States would hold strictly accountable for the protection of American life and property the factions *de facto* in control of the eastern and western portions, respectively, of the Republic of Nicaragua, for Gen. Estrada had already gained military control of the Nicaraguan territory bordering on the Atlantic, representing substantially half of the area of the Republic. Winning new accessions to his ranks on his march westward, he eventually, after several temporary repulses, took and occupied the cities of Granada and Managua, at which latter place he received from his brother, José Estrada, such remnants of authority as had been left by Dr. Madriz upon his precipitous flight from the country.

Being in control of the capital, and having suppressed all organized opposition, Gen. Juan J. Estrada, on September 10, 1910, again sent a telegram to the Department pledging his Government to certain reforms and requesting the dispatch of a commissioner to Nicaragua to investigate and report on the situation, with special reference to the question of recognition. In consequence thereof, Thomas C. Dawson, Esq., minister to Panama, was instructed on

October 12 to proceed to Managua as special agent. He was cordially received in that capacity by the *de facto* Government and supplied with full information, including copies of four several agreements signed at Managua October 27, 1910,[1] by the leaders of the revolutionary party, Señores Estrada, Diaz, Mena, and Chamorro, pledging themselves to carry out the announced policies of the Estrada Government, pledges which were reaffirmed in a note dated November 5, 1910, from the minister for foreign affairs of the Provisional Government to Mr. Dawson.

From an inspection of the above-mentioned documents you will note the very gratifying desire of the officials connected with the *de facto* Government of Gen. Estrada, which had then been recognized as such by the United States, to restore civil peace and economic order in Nicaragua by the establishment of constitutional guaranties and by the rehabilitation of the finances of that country and their oft-repeated request for the friendly assistance of the United States in carrying out such laudable purposes.

The Department is glad to bear witness to the favorable impression created by these officials in performing in such good faith certain of their promises and in renewing their determination to execute without unnecessary delay the undertakings which remain to be fulfilled. In whatsoever may contribute to the full realization of its high aims, the restored Republic of Nicaragua can rely unhesitatingly upon the cordial and loyal support and cooperation of the Government of the United States and the warm sympathy of the American people, whose desire is to see peace, justice, prosperity, and ordered liberty prevail in the Republic now being reconstituted as in all of Central America.

Among the things already accomplished by those at present in authority in Nicaragua may be mentioned the convocation of the people of the Republic for the purpose of holding elections, with the object of naming members of a constituent assembly, in November last, the elections having been conducted with proper safeguards for an orderly, free, and honest expression of the popular will, and in a manner conducive to general acceptance of the results by the people of Nicaragua; the constituent assembly has met in general session and has elected Gen. Juan J. Estrada constitutional president and Señor Adolfo Diaz constitutional vice president for the term of two years beginning January 1, 1911, and the said two officials have been duly inducted into office.

Upon receipt of this information the President sent a telegram of cordial felicitation to Gen. Estrada, congratulating him upon his assumption of the presidency by popular mandate, unanimously expressed through the constituent assembly, and assuring him of the sincere sympathy and friendship of the Government and people of the United States in the work of regeneration, which it is hoped will prove to be the beginning of an era of progress, peace, and prosperity for the people of Nicaragua.

Of the pledges which remain to be fulfilled your attention is directed to the following:

1. The constituent assembly, now in session, is to proceed to the adoption of a constitution tending to the abolition of illegal or op-

[1] See inclosures.

pressive monopolies and the prohibition of new ones, and guaranteeing the legitimate rights of foreigners. And in addition the constitution is to contain provisions for the free popular election of the constitutional president who will succeed Gen. Estrada at the expiration of his present term of office.

2. The Government of Nicaragua will continue in its expressed purpose to prosecute and punish those persons truly responsible for the death of Lee Roy Cannon and Leonard W. Groce, will carry out the necessary judicial proceedings and will make every effort to secure the punishment of all guilty persons involved, and will justly indemnify the families of the deceased.

3. All liquidated claims are to be paid as they now stand determined and agreed upon between the former administrations of Nicaragua on the one side and foreign nations or the citizens thereof on the other, the Government of Nicaragua paying such amounts as by virtue of those settlements are found due.

4. All unliquidated claims, including such as may arise out of the abolition or discontinuance of the monopolies, concessions, leases, and other contracts created during prior administrations, shall be submitted to a claims commission, and in order to give a guaranty of impartiality to foreigners in the adjustment of these matters the Government of Gen. Estrada has expressed a desire to place itself in accord with the Department in the formation of a tribunal which is to investigate such claims, and to this effect has submitted for the approval of the Department a project for a commission composed of one Nicaraguan and one American citizen recommended by the Government of the United States, this commission to give its judgment by unanimity, submitting in case of disagreement to the decision of a third, to be appointed by the two commissioners by mutual accord.

To this proposal this Government has assented and the commissioner selected by the United States is Thomas P. Moffat, Esq., to whom you will give all proper information and support conformable to your duties as minister.

5. A financial expert designated by the Government of the United States is to be appointed for the purpose of advising, confidentially, with the Government of Nicaragua, through its minister of hacienda, regarding a plan for the complete rehabilitation of the finances of that country, including the placing of a loan on terms satisfactory to the interested parties.

The name of the expert designated by this Government is Ernest H. Wands, Esq., and for his information and guidance you will give him access to the following documents, inclosed herewith,[1] to wit, copies of pertinent papers in regard to the existing loan of the Dominican Republic and copies of similar documents in regard to the proposed loans to Honduras and Liberia.

6. The Government of Nicaragua is to proceed at the earliest possible date to the signature of a convention with the United States which shall authorize the contemplated bankers' loan contract, the terms of the latter to be approved thereafter by both Governments, and to make provision, among other things, for the service of the loan secured by a certain percentage of the customs receipts of the Republic collected in a manner satisfactory to both Governments.

In this connection you are informed that Dr. Salvador Castrillo, jr., who has been received by the President as the Nicaraguan envoy extraordinary and minister plenipotentiary, has requested of his Government special full powers authorizing and enabling him to sign the desired convention, to the negotiation of which the Government of the United States, in view of the expressed desire of the Government of Nicaragua, is disposed to proceed.

I inclose a copy of the financial convention with Honduras,[1] a counterpart of which, it is believed by the department, will answer all the requirements of the present case.

Relying upon the present Nicaraguan Government's loyal support of the Washington conventions and their peaceful and progressive aims, the Government of the United States will, in case of need at any time in the future, rely also upon the cooperation of the Government of Nicaragua to seek some arrangement whereby the beneficial ends sought by those conventions may be effectively guaranteed.

The archives of the legation will afford information concerning other questions which have engaged the attention of the two Governments, and further instructions will be sent you as required.

You are instructed to proceed to your post by way of Salina Cruz, Mexico, where you will go aboard the U. S. S. *Vicksburg*, which has been designated by the Navy Department, at the direction of the President, to convey you to Corinto. You will be accompanied by Mr. Wands, the financial expert herein above mentioned, and by Franklin Mott Gunther, Esq., who has been appointed secretary of the legation.

Entire confidence is entertained that the affairs of the legation will prosper at your hands, and that the formal relations between the two Governments having been resumed, the friendly intercourse and cordial intimacy which so long existed in the past, and which promise so auspiciously to develop and grow closer in the future, will be fostered during your incumbency.

You will be guided in your efforts toward this end by the policies and desires of this Government as expressed herein.

I am, etc.,

P. C. KNOX.

[Inclosure 1.]

Translations of agreements signed by Provisional President Estrada and others.

AGREEMENT No. 1.

After numerous conferences the undersigned have agreed upon the following political and economic bases for the reorganization of the country:

1. The convocation of the people of the Republic to proceed to hold elections with the object of electing the members of a Constituent Assembly in November next, and that they will assemble in the following December and will elect a President and Vice President for a period of two years, on the basis of a democratic constitution.

2. To lend all support in the said Constituent Assembly to the candidacy of Gen. Juan José Estrada for President pro tempore and to that of Adolfo Diaz for Vice President for the said term of two years.

3. The Constituent Assembly will adopt a constitution tending to the abolition of monopolies, guaranteeing the legitimate rights of foreigners, and in addition

[1] Not printed.

will convoke the people for the election of constitutional President corresponding to the period following upon that previously mentioned.

Signed in triplicate at Managua, October 27, 1910.

JUAN J. ESTRADA.
ADOLFO DIAZ.
LUIS MENA.
E. CHAMORRO.

AGREEMENT No. 2.

1. We have likewise agreed that all unsettled claims proceeding from the annulment of contracts and concessions, associated with the previous régime of Nicaragua will be submitted to the impartial examination of a mixed commission appointed by the Government of this Republic in harmony with that of the United States.

2. The election and number of its members and the plan of its proceedings will be in conformity with the agreement with the American agent, after submitting it to the consideration of the Department of State, which must be done before signing it.

3. In the same way we obligate ourselves to pursue and punish the executioners and accomplices in the death of Cannon and Groce. Concerning the indemnity that must be paid to the families of both victims, it will await the result of these proceedings.

Signed in duplicate at Managua, October 27, 1910.

JUAN J. ESTRADA.
ADOLFO DIAZ.
LUIS MENA.
E. CHAMORRO.

AGREEMENT No. 3.

In order to rehabilitate the public finances and to pay legitimate claims, both foreign as well as national, the good offices of the American Government will be solicited, with the object of negotiating a loan, which will be guaranteed by a certain per cent of the customs receipts of the Republic, collected in accordance with the terms of an agreement satisfactory to both Governments.

Signed in triplicate at Managua.

JUAN J. ESTRADA.
ADOLFO DIAZ.
LUIS MENA.
E. CHAMORRO.

AGREEMENT No. 4.

The signers, desirous of duly complying with the program of the revolution of October 11, have agreed to designate at an opportune time and by a majority a candidate for constitutional President of the Republic and another for Vice President, corresponding to the period following the presidency pro tempore of Gen. Estrada, obligating themselves to take into consideration that the one chosen must represent the revolution and the Conservative party.

The subscribers obligate themselves in order that, in addition to the established laws guaranteeing a free election, there will be no concentration of armed forces of the Government in any point of the Republic other than shall be necessary for the preservation of order and proper policing.

They add that Gen. Estrada can not be a candidate for the new period, or that which follows the provisional one.

Also it is agreed that the Government to be established in Nicaragua must not permit, under any pretext, the Zelayista element in its administration.

Managua, October 27, 1910.

JUAN J. ESTRADA.
FERNANDO SOLORZANO.
LUIS MENA.
E. CHAMORRO.
ADOLFO DIAZ.

[This "Agreement No. 4," being one affecting Nicaraguan politics, but not international relations, is not referred to in the note of the minister for foreign affairs, which touches only the first three "Agreements." Signed originals of all were left in the legation archives. T. C. DAWSON.]

[Inclosure 2.]

[This inclosure is identical with the first item of the foregoing correspondence entitled "Establishment of a tribunal or mixed commission," etc., namely, the note of November 5, 1910, from the Nicaraguan minister for foreign affairs to the American minister, Mr. Dawson.]

[Inclosure 3.]

The American Special Agent to the Nicaraguan Minister for Foreign Affairs.

AMERICAN CONSULATE,
Managua, Nicaragua, November 5, 1910.

MR. MINISTER: I am in receipt of your important note of to-day setting forth the program of your excellency's Government for the maintenance of peace, order, and liberty; the reestablishment of constitutional and democratic government, the assuring of honest and economical administration, the rehabilitation of the finances, the faithful performance of international obligations, and the consequent removal of danger of outside pressure.

The Government of the United States is profoundly gratified at this declaration of principles and policies. The good offices of the United States Government are at the disposition of your excellency's Government in regard to its proposed loan, and it will welcome any further opportunity to lend its good offices whenever in your excellency's Government's opinion they would be beneficial to Nicaragua. I cherish the conviction that the good relations now so happily entered into with this Government and my own will continue uninterrupted, thus giving assurance that the two sister Republics will each always enjoy the respect and warm friendship of the other on frank, cordial, and equal terms.

My Government has already been briefly informed by telegraph of the principal provisions of the Government's program, now fully set forth in the present note, and has authorized me to express its gratification. There will doubtless arise various details to be arranged later and I have cabled my Government suggesting that the financial expert, whose presence you ask for, be sent at once.

Urgent official duties elsewhere make it necessary for me to absent myself shortly. Until my return Mr. Thomas P. Moffat is charged by me with the matters between your excellency's Government and this agency. I bespeak for him the same confidence and courtesy that has been shown me.

I avail, etc.,

T. C. DAWSON.

File No. 817.00/1525.

The Acting Secretary of State to the Secretary of the Navy.

DEPARTMENT OF STATE,
Washington, February 15, 1911.

SIR: I have the honor to transmit for your information and for consideration with reference to the advisability of keeping a naval vessel at Corinto paraphrases of two telegrams from American consular officers reporting on recent political events in the Republic of Nicaragua:

(From Consul Johnson, Corinto, February 13, 9 a. m.)

Acting under orders from Managua, the commandant here has recruited 25 men and sent them to Paso Caballos, where he will also place a field gun.

(From Consul Moffat, Managua, February 13, 10 a. m.)

Two million cartridges, 10,000 rifles, and the Government magazines containing them destroyed to-day by fire, and the people are greatly excited. Documents were found last Saturday showing Zelayista Liberal's plot to capture Leon and Managua as the first move of a revolution. The fire in the magazines may be a part of the plot. The country is under martial law and President Estrada is investigating. All Conservatives and many Liberals have assured him of their support. Several Zelayista Liberals, among them Felix Pedro Zelaya, Rodolfo Espinosa, Luciano Gómez, Octavio Gómez, José Dolores Gómez, and Manuel Maldonado, have been arrested. I consider the situation well in hand.

I have, etc.,

HUNTINGTON WILSON.

File No. 817.00/1540.

The American Minister to the Secretary of State

[Extract.]

No. 7.] AMERICAN LEGATION,
Managua, Nicaragua, February 25, 1911.

SIR: I have the honor to report that I have gathered the following impressions as to political conditions in Nicaragua at the present time:

Estrada has given a great deal of thought to the situation and has decided that the only hope for Nicaragua is close alliance with the United States. That his course will be antagonized by practically all the Central American Republics is already beginning to be proved by influences felt here. Extracts from Costa Rican papers are especially bitter and the action of Honduras on the American loan is being kept to the front. Guatemala's attitude is understood to be strongly against Estrada's policy and Salvador is understood to be somewhat less openly against him. In addition to this, the natural sentiment of an overwhelming majority of Nicaraguans is antagonistic to the United States, and even with some members of Estrada's cabinet I find a decided suspicion, if not distrust, of our motives. To make the situation more critical for Estrada is the activity of the Zelayistas, who are constantly scheming and plotting his overthrow, as evidenced by the attempted blowing up of the Government palace and arsenal on the day of my arrival at Corinto. * * * Estrada believes he can force through his policies until such a time as they will justify themselves in the face of all difficulties, provided he can move without delay and can count on the earnest support of the United States. Whether or not he can succeed is, I must confess, in my opinion somewhat problematical, but it is at least worth a thorough trial. Not again for a long time may come another such opportunity to prove our good faith in Central America.

In his talk this morning President Estrada expressed a desire to learn the possible attitude of the Department on several questions, among them being the guaranteeing by the United States of free elections in Nicaragua and the proposition of the disarmament of the five Central American Republics. On the latter proposition he said that the armies now maintained by the five Republics could only be of use as against each other or for the illegal support of some Government, and that, in his opinion, all that was necessary was a com-

petent force for the policing of the respective countries. His idea seemed to be that the United States should take the laboring oar in bringing about such a result, but intimated that he was willing to take the initiative by requesting it. * * * In any event, the loan to Nicaragua should be delayed as little as possible.

I have, etc.,

ELLIOTT NORTHCOTT.

File No. 817.00/1546.

No. 13.] AMERICAN LEGATION,
Managua, March 4, 1911.

SIR: I have the honor to report that I have had two very important private conferences with President Estrada in which he has outlined specifically the policy he desires to pursue in Nicaragua. The matter is, in my opinion, of such vital importance that I have decided to request Mr. Ernest H. Wands, the financial expert who accompanied me to Nicaragua and who leaves for Washington tomorrow, to lay this matter before you in person. I have decided on this course after careful consideration, and have made Mr. Wands fully acquainted with the reasons that have governed me. I have also endeavored to give Mr. Wands my opinion on the points in question, with a request that he repeat them to you, and I sincerely hope that, without inconvenience to yourself, you may be able to give him a full hearing.

I have, etc.,

ELLIOTT NORTHCOTT.

File No. 817.00/1556.

[Extract.]

No. 21.] AMERICAN LEGATION,
Managua, March 27, 1911.

SIR: I have the honor to report that political conditions here still remain very unsettled. Gen. Moncada is apparently trying to divide the Conservative party and a very bitter newspaper controversy is in progress between him and Chamorro.

Gen. Mena, minister of war, is still in control of all the arms and ammunition, but it seems that the only member of the cabinet in whom President Estrada has implicit confidence is Adolfo Díaz, minister of hacienda and Vice President.

The constitution of the mixed commission as directed by the Department has all been agreed to by the Nicaraguan Government and the decree constituting same should have gone to the assembly on yesterday, but a delay was caused by the absence of the foreign minister from the city. * * *

As the matter now looks to me President Estrada is being sustained solely by the moral effect of our support and the belief that he would unquestionably have that support in case of trouble. Estrada is unquestionably determined to carry out his policy of seeking our help as he has outlined it, and I believe that he will be able to do so, although the element of uncertainty in the matter is the possibility of his resigning, as I am reliably informed he has at-

tempted to do once since I have been here, the resignation being torn up by a friend after having been written out. * * *

When the loan is negotiated I feel that some safeguard should be thrown around it to insure its proper expenditure. Otherwise I do not believe that President Estrada will be able to control the situation and prevent its waste. In this view President Estrada himself concurs. * * *

I have, etc.,

ELLIOTT NORTHCOTT.

File No. 817.00/1562.

[Extract.]

No. 28.] AMERICAN LEGATION,
Managua, April 6, 1911.

SIR: I have the honor to report that for some time past, in fact ever since I arrived at this post, Gen. Emiliano Chamorro, who in the elections had secured a majority of the Constitutional Assembly, has been using his power to attack and endeavor to weaken the administration of President Estrada, * * * bring about his retirement from the presidency and the succession of himself, Chamorro. * * * Finally it was rumored that the Assembly would endeavor to hurriedly finish and proclaim the constitution and, voting itself into a congress, adjourn as a constitutional assembly. And in order to provide against any action that President Estrada might take, it passed an article authorizing Congress to meet in any city of the country. This coming to the knowledge of the president on the morning of April 4 last, through the minister of the interior (Gobernación), he sent a message to the Assembly stating his objections to the constitution and requesting a reconsideration of certain points in accordance with the announced principles of the revolution. On the receipt of this message the Assembly ignored it and the majority members began at once to sign a prepared copy, the friends of President Estrada having in the meantime withdrawn from the body. After the constitution was signed and proclaimed by the president of the Assembly the president's message was read and tabled as having arrived too late.

The President then issued a decree in which all the members of the cabinet, except don Pedro Chamorro, an uncle of Gen. Chamorro, joined, dissolving the assembly and calling elections for another assembly to be held on April 16 next, the new body to assemble in Managua on May 1 next, and vetoing or rejecting the constitution. * * *

Throughout all this I took the position that I could in no way interfere with matters that were purely internal, but counseled harmony and used every endeavor to persuade Chamorro to support Estrada, as he was pledged to do, but to no avail; on April 4 I saw Chamorro at least six times. President Estrada was at all times ready to meet Chamorro more than half way, and had there been the slightest disposition on the part of the assembly to compromise, the whole matter could have easily been arranged.

On the whole, I feel that all pending negotiations between the United States and Nicaragua will be greatly expedited by the President's action, and I am convinced that Chamorro would never have

allowed any ratification of the loan that did not give him control of its expenditure.

I have, etc.,

ELLIOTT NORTHCOTT.

File No. 817.00/1550.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *April 8, 1911.*

Your April 4 and April 5.[1] While the policy adopted by President Estrada under the circumstances meets with the approval of this Government, you will nevertheless make every effort during this crisis to impress upon the party leaders the fact that by their agreements transmitted to Dawson they have assumed a responsibility toward this Government of working harmoniously and in a conciliatory spirit. The said agreements led to the election of President Estrada and the resulting recognition of his Government by that of the United States. The responsibility under those agreements applies especially to the approaching free elections. For now that the financial operations for the rehabilitation of that country—the first necessity for its peace and progress—are begun any delay in the said elections or the failure of the new constitutional assembly to meet promptly thereafter might gravely jeopardize the future of Nicaragua.

KNOX.

File No. 817.00/1546.

The Acting Secretary of State to the American Minister.

DEPARTMENT OF STATE,
Washington, April 21, 1911.

SIR: The Department acknowledges the receipt of your dispatch No. 13 of March 4 last reporting that you had two very important private conferences with President Estrada, in which he had outlined specifically the policy he desires to pursue in Nicaragua, stating that as the matter was in your opinion of such vital importance you had decided to request Mr. Ernest H. Wands, the financial adviser of the Nicaraguan Government, who was about to leave for Washington, to lay this matter before the Department in person. Mr. Wands has now submitted to the Department an outline of President Estrada's ideas and wishes.

You will avail yourself of an early opportunity to inform President Estrada confidentially that this Department greatly appreciates the renewed evidence of the cordial and friendly relations existing between the two Governments, which is afforded by this communication of his wishes as presented by Mr. Wands.

As President Estrada is already fully aware, it is the sincere wish of this Government to do all that it properly can to assist the people of Nicaragua in securing and maintaining an efficient, conciliatory, stable, and democratic government, since thus only can the peace and prosperity of the people of Nicaragua be fully attained. The manner

[1] Telegrams conveying news more fully reported in dispatch No. 28, above.

in which this Government can be of assistance to the people of Nicaragua in securing these ends must inevitably to a great extent depend upon future circumstances which it is not possible to anticipate, but this Government believes that the surest course to secure the future peace and prosperity of Nicaragua lies in the strict fulfillment of the program laid down in the note dated November 5, 1910,[1] addressed to Mr. Dawson, the special agent to Nicaragua, by the Nicaraguan minister for foreign affairs, and of the agreements dated October 27, 1910,[1] signed by President Estrada and other political leaders, of which copies were handed to Mr. Dawson.

The Government of the United States has been gratified to learn that President Estrada's Government has been proceeding along the lines indicated by this program, and confidently expects that the financial rehabilitation of Nicaragua through the loan which it is hoped will soon be consummated, and the settlement by the mixed commission, which is about to begin its labors, of the numerous serious questions arising from pending claims, will have far-reaching effects in securing the removal of strife and dissension and in assuring peace, stability, and prosperity in Nicaragua.

Regarding President Estrada's wish to be relieved of the obligation of maintaining a representative at the Central American court, it is the constant desire of this Government to see the Washington conventions, by one of which this court was created, faithfully executed in letter and in spirit in the belief that in the conscientious observance of those conventions lies the stability and cordial relationship between the five States which the Government of the United States so earnestly desires to see maintained and which in bringing about the conference which framed the Washington conventions it exerted friendly influence to establish.

I am, etc.,

HUNTINGTON WILSON.

File No. 817.00/1556.

No. 16.] DEPARTMENT OF STATE,
April 21, 1911.

SIR: The Department has received and has read with attention your No. 21 of the 27th ultimo in relation to political conditions in Nicaragua. In this connection you are referred to the department's telegram of April 8 expressive of its views regarding the situation.

I am, etc.,

HUNTINGTON WILSON.

File No. 817.00/1586.

The American Minister to the Secretary of State.

[Extract.]

No. 38.] AMERICAN LEGATION,
Managua, April 25, 1911.

SIR: I have the honor to report that conditions here continue quiet throughout the country.

On Sunday, April 16, the first day of the elections, Gen. Emiliano Chamorro left Corinto for San Salvador. He called at the legation

[1] See inclosures with the Department's instructions of Jan. 20, 1911.

before he left and told me he was very sorry that I had not seen it to be my duty to support him in demanding that President Estrada accept the constitution as prepared by the former assembly and that he felt sure that in time I would discover that I had made a serious mistake, but that he, Chamorro, felt no resentment, being satisfied that I thought I was pursuing the proper course.

By the time this dispatch reaches the Department the new assembly will have convened and this Government will be in the best condition in which it ever will be to close all matters, and I would most respectfully but most earnestly urge that there be as little delay as possible in arranging all pending questions.

I have, etc.,

ELLIOTT NORTHCOTT.

[Extract.]

No. 41.]

AMERICAN LEGATION,
Managua, May 5, 1911.

SIR: I have the honor to report that the newly elected Assembly convened here on Monday last and organized by electing Dr. Ignacio Suarez president of that body * * *. The president has asked of the assembly the authority to proceed with negotiations for a loan through or by the aid of the Government of the United States; his object is to get the Assembly committed to the policy of the loan so that there will be no question of its approval afterward by the same body * * *. The financial condition of the public is deplorable and unless relief is given from some source will become critical in a very short time. Legitimate demands on the Government, growing out of the revolution and coming from other sources, are becoming very pressing. The Nicaraguan member of the Cartago court has not been paid for about a year. I am, however, more than ever convinced that the natural riches of the country is such that with the proper assistance financially, and the proper government, a comparative short period of peace will show a progress that will be little short of miraculous.

I have, etc.,

ELLIOTT NORTHCOTT.

File No. 817.00/1573, 1574.

[Telegrams—Paraphrases.]

MANAGUA, *May 9, 1911.*

President Estrada caused the arrest last night of Minister of War Mena, on the ground of "contemplated treason." The President and Adolfo Díaz called at the legation and informed me of this action, adding that they greatly feared an uprising. It was evident that the President had been drinking heavily.

To-day Estrada resigned the presidency in favor of Vice President Díaz, who at once released Mena. At my request Mena was received at the British consulate. He asked the troops to remain quiet, assuring them of his safety.

Estrada's attack on Mena without advising with the legation violates the agreement given Dawson. If not the act of a drunken man under the advice of Moncada, minister of gobernación, and an enemy

of Mena, it was a treacherous step toward throwing the Government to the Liberals.

NORTHCOTT.

File No. 817.00/1575, 1579.

MANAGUA, *May 11, 1911.*

I have fully confirmed the former report that Estrada's deed was done in a fit of drunken insanity, with the advice of Moncada. Estrada is still at Corinto. Everything is quiet. Mena has turned back all troops marching on Managua. Díaz is recognized as President, and the Díaz Government is especially anxious to go on with the program as arranged. No anti-American sentiment apparent here.

I am assured the Assembly will confirm Díaz in the presidency according to any one of the following plans which the Department may indicate, namely:

1. Recognize Díaz without further action; or
2. Declare the presidency vacant and elect Díaz; or
3. Declare the presidency vacant because of Estrada's action, Díaz succeeding by virtue of being Vice President.

A war vessel is necessary for the moral effect.

NORTHCOTT.

File No. 817.00/1579.

The Acting Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *May 14, 1911.*

To the Department it appears that either the first or third plan of confirming the presidency of Díaz would accord with Martinez's note of November 5, 1910, to Dawson, and also the Assembly's decree of December 31, 1910, electing Díaz Vice President. Make suitable expression of this Government's satisfaction with the Díaz Government's assurance of its desire to continue with the program.

WILSON.

File No. 817.00/1626.

The American Minister to the Secretary of State.

[Extract.]

No. 53.] AMERICAN LEGATION,
Managua, May 25, 1911.

SIR: I have the honor to report that the political situation has remained unchanged since my No. 47 of May 15[1]; that is to say, that President Díaz and Gen. Mena continue to work together with every evidence of unity of feeling and interest. Rumors have been current that the Liberals are organizing a concerted uprising all over the country with the declared object of defeating the loan. It is difficult to estimate how serious a measure this might be if well organized and led, as the Liberals are in such a majority over the Conservatives. I therefore hasten to repeat my suggestion as to the advisability of sta-

[1] Not printed.

tioning permanently, at least until the loan has been put through, a war vessel at Corinto.

I have, etc.,

ELLIOTT NORTHCOTT.

File Nos. 817.00/1593, 1594, 1595, 1596.

[Telegrams—Paraphrase.]

MANAGUA, *May 30, 1911.*

A Liberal plot supported by Zelaya has been discovered. The President urgently requests that an American war vessel be immediately sent to patrol the coast between San Juan del Sur and Corinto and watch for filibuster that left San Francisco some time ago. Diaz also requests legation to urge Costa Rica Government to watch Rudolfo Espinosa and Moncada, who are together on a boat bound for Limón, evidently intending to cross through Costa Rica to the Pacific side and join the insurrection. This probably explains Estrada's treachery and proves the troubles are due to opposition to the program by an anti-American party. Diaz says Mena is cooperating with him admirably. I repeat my belief that a war vessel is necessary on the Pacific coast of Nicaragua.

NORTHCOTT.

MANAGUA, *May 31, 1911.*

The fort overlooking Managua blew up this afternoon; between 60 and 70 of the garrison killed. Diaz and Mena believe it is part of the Liberal plot, and a number of arrests have been made.

President Beltrán of Honduras wires Nicaraguan Government that the filibuster *Eureka* left Salina Cruz May 30 with cargo of arms, ostensibly for Amapala. I have informed legation in Salvador.

NORTHCOTT.

File No. 817.00/1593.

The Secretary of State to the American Minister.

[Telegram—Paraphrase.]

WASHINGTON, *June 1, 1911.*

Inform Diaz that the Government of the United States renews assurances of its support in assisting his Government in so far as it properly may; that this Government has taken note of his pledge to you—and therefore to this Government—not to resign.

Since Diaz is the constitutional President, recognized by this Government as such, Mena must see it to be indispensable to his own interests that Diaz remain in office.

Impress Diaz with the value of harmony with Mena, so as to execute effectively the pledges signed by him and Mena and delivered to Dawson.

It would be the manifest duty of the United States Government to continue to recognize the constitutional authorities in case of irreconcilable differences between the Executive and any faction.

Inform Diaz that the *Yorktown* has been ordered from Panama to watch for the reported filibuster and intercept her if warranted by circumstances. Also that the Costa Rican Government has been informed of the expected arrival of Espinosa and Moncada.

KNOX.

File No. 817.00/1597, 1599.

The American Minister to the Secretary of State.

[Telegrams—Paraphrase.]

MANAGUA, *June 2, 1911.*

The governor is instructed to exercise very great vigilance in Bluefields and the Bluff. The Government learns that the filibuster *Eureka* went to Amapala where, on examination, nothing suspicious was found; the Government believes arms were landed on some island in the Gulf, and greatly desires that the Government of Salvador make a search and secure them before removed by the revolutionists.

NORTHCOTT.

File No. 817.00/1599.

The Secretary of State to the American Minister.

WASHINGTON, *June 5, 1911.*

In regard to the *Eureka* telegraph to the *Yorktown* at San Juan del Sur the information sent the department June 2. Repeat to American legation at San Salvador the other information in your telegram.

KNOX.

File No. 817.00/1640.

The American Minister to the Secretary of State.

[Extract.]

No. 58.] AMERICAN LEGATION,
Managua, June 5, 1911.

SIR: I have the honor to report that on receipt of the Department's telegram of June 1, I arranged for a conference with President Diaz, * * * at the legation on last Saturday night, June 3, the President having suggested the legation as the best place for the conference.

I began by stating that I had been instructed by my Government to assure him of its support as far as was possible and to say to him that I was ready to do anything in my power to sustain him and his administration. The President replied by thanking my Government for this expression and stated that he had understood this attitude of the Government of the United States from the first through expressions made by me; that so far as he could see there was nothing to be done that had not already been done. I then informed him that I had communicated to my Government his promise to me not to resign, and that I was instructed to say that my Government considered the pledge as given to it through me, and appreciated it very much. He replied renewing the pledge. I then stated that I had heard rumors to the effect that he was not entirely satisfied with Gen. Mena's attitude, and asked if I could be of any service in that direction. He replied that these rumors were unfounded; that he was not only entirely satisfied with Gen. Mena's actions and attitude, but

that he believed Mena necessary to the present situation. I then asked him if he thought Liberals were being unjustly imprisoned, and he replied, No; that the reports of the prisons being full were exaggerated, and that he approved what had been done as necessary. I then asked President Diaz what he thought about Gen. Chamorro's return, and he replied that Gen. Chamorro was a splendid fellow, one of the best in the world, but that he did not believe this an opportune time for his return, as his coming would cause trouble. I then asked him if he did not believe that he, Diaz, with my assistance, could bring about an understanding between Mena and Chamorro, to which he replied that it was possible, but would cause endless trouble and annoyance afterward, and that he would prefer that I did not take the matter up with Mena.

The President then inquired about the loan, but I informed him that I had received no further news of it from my Government. * * *

Inclosed herewith is a copy of an agreement, with translation, signed by Diaz and Mena on May 9 last. It is perhaps needless for me to say that I was in no way a party to this agreement. When shown me I at once said that I could not agree at all to be bound by it, as far as my influence went, as the people of Nicaragua should have the right to freely select the President to succeed Diaz at the expiration of Estrada's term, and with this Gen. Mena seemed perfectly satisfied.

In view of all this I am led to the conclusion that Diaz will retain the presidency just so long and no longer as it suits him, regardless of any pledge or promise he may have made to me or to anyone else. The whole matter resolves itself into a question of how long the present status, supported as it is only by Mena's strength, Diaz having in himself no following or strength, can be maintained. If the loan contracts were submitted now they would at once be approved. That trouble will come and continue to come until the loan question is settled, I am convinced.

I have, etc.,

ELLIOTT NORTHCOTT.

[Inclosure.]

Agreement between Diaz and Mena.

[Translation.]

In order to solve the political difficulties which have arisen among the chiefs of the revolution of October, and principally those that have appeared in the last few days, Gen. Luis Mena and Adolfo Diaz have agreed on the following:

1. Mena will assist Diaz, who now holds the presidency of the Republic, in the development of a policy of concord tending to return tranquility to the State, and pledges himself to give him his whole support to uphold his administration.

2. Diaz will place no obstacle whatever in the way of the future election work in favor of Mena for the candidacy for the presidency of the Republic during the next term, pledging himself to assist him in every way possible and to support him in his administration.

Signed in duplicate at Managua, May 9, 1911.

ADOLFO DIAZ.
LUIS MENA.

File No. 817.00/1616.

[Telegram—Paraphrase.]

MANAGUA, *June 9, 1911.*

I earnestly request *Yorktown* remain at Corinto two weeks at least, on account of activities of Zelayistas in Costa Rica reported to this Government. Castro Quesada, Costa Rican minister foreign affairs, is said to be aiding them.

NORTHCOTT.

File No. 817.00/1645.

The Secretary of State to the American Chargé d'Affaires.

No. 28.] DEPARTMENT OF STATE,
Washington, June 27, 1911.

SIR: I inclose herewith a copy of the Department's letter of the 20th instant,[1] and a copy of one dated the 21st instant from the Navy Department in reply thereto,[1] from which you will observe that the Navy Department has arranged for the *Yorktown* to remain at Corinto until relieved by the *Vicksburg* and for the *Marietta* to be kept in wireless communication with Bluefields.

You will communicate this information to the consuls at Corinto and Bluefields.

I am, etc.,

P. C. KNOX.

File No. 817.00/1656.

The American Chargé d'Affaires to the Secretary of State.

[Telegrams—Paraphrase.]

MANAGUA, *July 3, 1911.*

A vessel laden with arms left Guayaquil July 1, bound for Nicaragua, according to information transmitted by the President of Salvador.

GUNTHER.

File No. 817.00/1669.

MANAGUA, *July 20, 1911.*

A revolution is set for July 26. The Zelayista junta in Salvador has sent an agent to procure the help of President Cabrera of Guatemala, who has been trying to defeat the Nicaragua loan project, and is cooperating with Saldivar, ex-President of Salvador, for the overthrow of Diaz. The Zelayista leader, José D. Gámez, has been conspiring with Saldivar's daughter, Tona. The foregoing advices come from the Nicaraguan chargé d'affaires in Salvador to the President.

The Nicaraguan Government knows there are deposits of arms but can not locate them.

GUNTHER.

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[1] Not printed.

File No. 817.00/1677.

MANAGUA, *July 30, 1911.*

At the legation night before last Diaz for the first time frankly confessed his position, namely that of a figurehead, ignored by Mena's followers, and no voice in decision on any executive act. I reiterated the Department's attitude toward him, and said I looked to see a radical change. He left contented, after repeating his promise not to resign until the loan matter had been settled, at least. Yesterday I had a long conference with Mena at the legation. He became contrite, and is now fully awake to the need for preserving the status quo.

GUNTHER.

MANAGUA, *August 1, 1911.*

A complete reconciliation between Diaz and Mena took place in my presence to-day.

GUNTHER.

File No. 817.00/1696.

[Extract.]

AMERICAN LEGATION,
No. 113.] *Managua, September 5, 1911.*

SIR: I have the honor to report to the Department that the only development in the political situation since my last dispatches is the movement among Gen. Mena's followers in the assembly to elect him for the presidential term which is to succeed that of President Diaz. Some of the deputies have gone so far as to state that unless this course is agreed to they will not approve the loan contracts.

Gen. Mena came to see me on the 1st instant * * * and finally * * * requested my opinion on the measure. I replied that I was unable to give an official opinion without first consulting with my Government, but that personally it appeared to me that there were grave legal objections, even apart from the terms of the Dawson agreement No. 4; that I did not see how a constitutional assembly, the successor to a constitutional assembly called to elect a President for the provisional term of two years, could possibly elect the President for the succeeding regular term of four years. I argued rather firmly with the general for a few minutes and expressed my hope that were he to become President he might become so legally with the full recognition of the American Government.

Before leaving the general became very conciliatory and requested me to consider the incident as confidential and closed. * * *

This morning Gen. Mena again called at the legation and after a few minutes conversation again opened the question. * * * He repeated all his previous arguments in favor of the step and, in addition, that there was a precedent in point in the action of the Assembly in 1859, I believe. I repeated the objections which I had made in our previous conversation and added that the precedent which might be established would hardly contribute to a popular form of Republican Government.

I further added that I could give no official reply until I was in receipt of pertinent instructions from the State Department. * * *

Of course, the approval of the loan contracts depends in a large measure upon the will of Gen. Mena, who remains in control of the majority of the Assembly. * * *

I have, etc.,

F. M. GUNTHER.

File No. 817.00/1698.

[Telegram—Paraphrase.]

MANAGUA, *September 29, 1911.*

In my 113, September 5, I spoke of the plan of the election of Mena by the assembly for the four-year constitutional term to succeed Diaz. The tacit consent of the Department to this plan would result in the immediate approval by Assembly of the loan and mixed commission matters. Mena has withheld his consent to his election before consideration of these matters by Assembly. President Díaz requests me to submit this situation to the Department and is heartily in favor of the plan, remarking that free elections are hopelessly impracticable for several years in Nicaragua. He added that if the Department disapproved he would resign and deposit the executive power in Mena. But Mena declares he will not accept the power in that way and would resign, which would doubtless split the Conservatives, cause an anti-American uprising, and put an end to the Department's present program.

GUNTHER.

File No. 817.00/1696.

The Acting Secretary of State to the American Chargé d'Affaires.

No. 51.] WASHINGTON, *September 30, 1911.*

SIR: The Department acknowledges the receipt of your dispatch No. 113, of the 5th instant, reporting that Gen. Mena, the minister of war, came to see you and, after speaking in a rambling manner about other matters, finally referred rather cautiously to his proposed candidacy for the next presidential term, suggesting at the same time the inadvisability of an attempt at a free election in Nicaragua because of the turmoil which would result therefrom. You replied to his request for an expression on this subject that you were unable to give an official opinion without first consulting with your Government, and in lieu thereof you gave your personal views.

You are instructed that of the Nicaraguan matters under consideration by the Department the ratification of the pending loan contract and the amendment of the decree establishing a claims commission are of the first importance and should be disposed of before attention is directed to other subjects.

Thereafter, in due time, the Department would be prepared to give deliberate consideration to such political questions as might concern it in pursuance of existing engagements and the principles of international law, and would consider, when opportune, making appropriate expressions in a proper case upon questions affecting the nec-

essary steps to insure recognition by the Government of the United States of succeeding presidents in Nicaragua.

I am, etc.,

ALVEY A. ADEE.

File No. 817.51/240.

The American Chargé d'Affaires to the Secretary of State.

[Telegram—Paraphrase.]

MANAGUA, *October 3, 1911.*

Decree approving loan contracts was signed this morning by the Ministers and will be sent by the President to the Assembly to-day. Yesterday a "Junta de Notables" from all over the country pronounced in favor of the loan contracts, and will use their influence with the Assembly.

GUNTHER.

File No. 817.00/1698.

The Acting Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *October 5, 1911.*

The Department in reply to your September 29 and October 3 believes that attention should be steadily directed to the loan and the claims commission matters; they are the first importance and should be disposed of before consideration of political subjects, which should not be discussed unnecessarily.

ADEE.

The American Chargé d'Affaires to the Secretary of State.

[Extract.]

No. 133.] AMERICAN LEGATION,
Managua, October 26, 1911.

SIR: I have the honor to inclose herewith a copy and translation of the law[1] enacted by the National Constituent Assembly electing Gen. Luis Mena as President for the constitutional term beginning January 1, 1913, and ending January 31, 1916, and Col. Fernando Solorzano as Vice President for the same period. This law was approved in second debate by a vote of 29 to 2.

This double elections has been well received. Since it occurred conditions have had a more settled and peaceful appearance than in some time.

I have, etc.,

F. M. GUNTHER.

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[1] Not printed.

File No. 817.00/1709, 1710.

[Telegrams—Paraphrase.]

MANAGUA, *November 1, 1911.*

The new cabinet is quite to the President's satisfaction; but he writes me (Oct. 31) in part as follows:

I beg you to address your Government urging that it declare its attitude toward Gen. Mena's election, for the sake of allaying public apprehension.

Díaz sees in the return of Gen. Emiliano Chamorro danger to the policy of reconstruction, which has really been going forward in the different ministries since their reorganization. Chamorro has not yet paid his respects to the President and is said to be cooperating with the President of Guatemala for a coup d'état within a week. President Díaz believes that recognition of Mena by the department would cause Chamorro to discontinue his machinations.

GUNTHER.

File No. 817.00/1725.

MANAGUA, *November 18, 1911.*

I respectfully request instructions as to article 3 of agreement 1, signed October 27, 1910, by Estrada and others, whether you wish me to point out again the pledges therein. The present (second) National Constituent Assembly will adjourn in a few days and has not called a presidential election under the constitution.

GUNTHER.

The Secretary of State to the American Chargé d'Affaires.

[Telegram—Paraphrase.]

WASHINGTON, *November 20, 1911.*

The National Assembly may wish, if possible, to continue in session until the arrival at Managua of the currency experts, collector general of customs, and assistants, who will start before December 1. The assembly may wish to decide after their arrival whether they need further legislation to carry out the projected financial reforms.

KNOX.

File No. 817.00/1744.

The American Chargé d'Affaires to the Secretary of State.

[Extract.]

No. 152.] AMERICAN LEGATION,
Managua, December 2, 1911.

SIR: Referring to the Department's telegram of November 20 * * * I have the honor to report that after discussing this matter with President Diaz he directed that the assembly continue in session. As it has completed the constitution, it continues as a legislature, losing altogether its former character of constitutional assembly. Incidentally I venture to call the Department's attention to the

misnomer which has almost invariably been applied to the assembly, namely, that of constituent. The error seems first to occur in the translation of the agreements of October 27, 1910, and has been constantly repeated. It was not a constituent assembly, but a constitutional assembly. The legation has consistently applied the misnomer to avoid confusion. President Diaz has not yet approved the constitution, which, according to his wishes, will not be put in force until March 1, 1912. * * *

I have, etc., F. M. GUNTHER.

File No. 817.00/1742.

[Telegrams—Paraphrase.]

MANAGUA, *December 18, 1911.*

Exiled Zelayistas in Costa Rica headed by Irias and supplemented by Estrada Cabrera are about to move against Nicaragua. Seven machine guns for them are coming from New Orleans. The foregoing is reported by the Nicaraguan chargé d'affaires in Costa Rica.

GUNTHER.

File No. 817.00/1745.

MANAGUA, *December 21, 1911.*

President Diaz has written me a letter, which I received this morning, with the request that I transmit a translation of it to the Department. The following is a translation of the letter:

MY DEAR SIR AND FRIEND: Since you have been here during such an eventful period, occupying a position permitting you fully to appreciate the situation, you have perceived what almost insuperable obstacles confront every attempt to put into effect a truly reconstructive program. One of them is found in our foreign relations, where the inevitable contact of our policy with that of other Central American States produces uneasiness in the country because of the uncertainty it inspires in the men of the Government and because of the encouragement it gives to those who expect assistance from some other Central American Government that is interested in creating difficulties for us in our relations with the United States.

Another is the internal situation. The party leaders, filled with hatred by years of bloody struggle, will never confide the triumph of their cause to republican propaganda, but expect always to assert by force of arms the right to exercise power in the Republic. An irreconcilable division therefore separates the political parties, and the Government consequently has to maintain itself, as in a campaign, against the constant conspiring of its opponents; in short, the result may be called a state of war. It has lasted for years, and, of course, the economic consequences are profound; and this same violent politics is also the reason for the prevalence of sanguinary crimes, which can not be successfully dealt with by courts and juries, since in the juries passion defeats justice almost always.

On these two problems I have seriously meditated and disconsolately conclude that lasting and stable peace, order, economy, moderation, and liberty can not come through our own means; and that the grave evils affecting us can be destroyed only by means of more direct and efficient assistance from the United States, like that which resulted so well in Cuba.

It is therefore my intention by means of a treaty with the American Government to so amend or add to the constitution as to assure that assistance, permitting the United States to intervene in our internal affairs in order to maintain peace and the existence of a lawful government, thus giving the people a guaranty of proper administration.

Before opening official negotiations I wish first to learn privately through you the opinion of the Department of State, and if you can do me this favor you will also render thereby a great service to this country.

I am, etc., ADOLFO DIAZ.

GUNTHER.

The Secretary of State to the American Chargé d'Affaires.

[Telegrams—Paraphrase.]

WASHINGTON, *December 23.*

In response to your telegram of December 21 you are instructed to express to President Diaz the department's intense gratification upon noting the spirit of confidence in the good faith of the United States which he displays in his proposal, which implicates recognition by President Diaz of this Government's benevolent and sympathetic attitude toward Nicaragua and the other Central American Republics. The suggestions made by President Diaz involve, however, matters of such great importance that the Department will not be able to make any expression whatever in relation to them until after deep and careful consideration.

KNOX.

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