FRANCE

NEGOTIATIONS TO ENSURE RECOGNITION OF THE RIGHTS OF THE UNITED STATES IN TERRITORIES UNDER MANDATE[1]

800.01 M 31/61b : Telegram

The Secretary of State to the Ambassador in France (Herrick)[2]

WASHINGTON, *August 7, 1921—2 p.m.*

377. In response to a recent request from the French Embassy for an expression of our views on the draft mandates for Togoland and the Cameroons,[3] and in view of the fact that the draft "A" and "B" Mandates are now under discussion, the following memorandum setting forth our views with regard to the draft "A" and "B" Mandates has been handed to the French Chargé d'Affaires and also communicated to the British, Italian and Japanese governments.

You will so inform the Minister for Foreign Affairs and hand him a copy of the following memorandum:

"Before proceeding to the consideration of the precise terms of draft mandates, it is thought best to restate the general principles which are deemed to be involved.

1. This Government adheres to the position already stated that the right to dispose of the overseas possessions of Germany was acquired only through the victory of the Allied and Associated powers, and that there can be no valid or effective disposition of these territories without the assent of the United States as one of the participants in that victory.

2. This position of the United States is not opposed, but is confirmed, by the Treaty of Versailles, by which Germany renounces in favor of the Principal Allied and Associated Powers, of which the United States was designated to be one, all her rights and titles over her overseas possessions. It may further be observed that in providing, as stated in Article 440, for the coming into force of that treaty when it had been ratified by Germany and three of the Principal Allied and Associated Powers, it was manifestly not the intention that on such ratification by three Powers there should still remain in Germany any undivided share of title or sovereignty in the overseas possessions described. It would seem to be clear

[1] For texts of draft mandates, see pp. 96 ff.

[2] The same *mutatis mutandis*, Aug. 7, to the Ambassador in Italy as no. 134 and to the Chargé in Japan as no. 129 (file no. 800.01 M 31/61a, 61c). A somewhat similar telegram had been sent to the Ambassador in Great Britain on Aug. 4; see vol. II, p. 106.

[3] Note of July 5; not printed.

that the renunciation set forth in Article 119 of the treaty was not intended to be divisible.

In the light of all the pertinent considerations, this Government perceives no possible basis for a claim that the other Principal Allied and Associated Powers would be entitled to exclude the United States from full participation, and the United States does not understand that any such claim is made.

3. The right of the United States in the territories in question could not be made the subject of such disposition as is proposed without its assent, and under its constitutional system the giving of this assent is not exclusively within the authority of the President. It is thought, however, that there would be no difficulty in negotiating an appropriate treaty if the terms of the mandates were defined in the line of the following suggestions. It is not the intention of this Government to raise objection to allocation or terms of mandates for the purpose of seeking additional territory or for any other purpose than to safeguard the interests of the United States and the fair and equal opportunities which it is believed the United States should enjoy in common with the other powers.

With respect to the Island of Yap there are special considerations, because of its characteristics and availability for communication purposes, and the questions pertinent to that island or to the "C" Mandates are not discussed in this memorandum.

4. With respect to mandated territories, other than those which were formerly possessions of Germany, while it is true that the United States did not declare war against Turkey, still the opportunity of the Allied powers to secure the allocation of mandates and the administration of territories formerly under Turkish rule was made possible only through the victory over Germany, and the United States assumes that by reason of its relation to that victory and of the fundamental principles recognized by the British Government [4] as applicable to the administration of mandated territories, there would be no disposition in relation to any of these territories to discriminate against the United States or to refuse to safeguard equality of commercial opportunity.

5. With this understanding, and without attempting to restate the general principles governing mandates which have been the subject of previous correspondence between the two governments, this Government desires to submit the following special observations as to the forms of mandates which have been proposed:

Draft "A" mandates

(*a*). Capitulatory Rights. In the draft for Syria and Lebanon [5] there is a provision in Article 5 not found in the mandates for Mesopotamia [6] and Palestine,[7] to the effect that foreign consular tribunals shall continue to perform their duties until the described new legal organization is set up. It is desired that there should be a similar

[4] Telegraphic instructions to omit the words "by the British Government" were sent on Aug. 8 to the Ambassadors in France and Italy and to the Chargé in Japan (file nos. 800.01 M 31/61f, 61g, 61h.)

[5] *Ante*, p. 99.

[6] *Ante*, p. 105.

[7] *Ante*, p. 110.

provision in the mandate for Mesopotamia, and that in the mandate for Palestine it should be provided that Capitulatory rights shall be continued until adequate courts are established. Provision should also be made in all "A" Mandates for the revival of capitulatory rights in the event of the termination of the mandate regime.

(*b*) Provisions against Discrimination. The limitation of protection in Articles 11 and 14 of mandates for Syria and Lebanon and Mesopotamia, and of Articles 18 and 21 of mandate for Palestine to states that are members of the League of Nations should be removed and the protection extended so as to embrace the United States. This could be effected by referring to any State mentioned in the annex to the covenant of the League of Nations. The reference to incorporated companies in Article 11 of the mandate for Mesopotamia and in Article 18 of the mandate for Palestine is too narrow and should be broadened to embrace societies and associations (see Article 11 of mandate for Syria and Lebanon).

It is desired that there should also be provision against discrimination in concessions. British " B " mandate for East Africa,[8] Article 7 provides as follows:

> 'Concessions for the development of natural resources of the territory shall be granted by the mandatory without distinction on grounds of nationality between the nationals of all states members of the League of Nations but on such conditions as will maintain intact the authority of the local government.'

Similar provision should be inserted in "A" Mandates and broadened to embrace the United States.

There should also be appropriate provision against the granting of monopolistic concessions or the monopolizing of natural resources by the mandatory itself.

(*c*). Missionaries. In Mandate for Syria and Lebanon protection is accorded provided activities are confined 'to the domain of religion.' It would appear as if the intention were to restrict, if not to eliminate, educational and charitable missionaries. It is desired that present and future activities, both religious and educational, of our missionaries should be fully protected, and it is suggested that provision similar to Article 8 of the British " B " mandate for German East Africa be incorporated in all " A " mandates.

(*d*) It will be understood that the consent of the United States shall be necessary to any modification of a mandate after it has been agreed to.

Draft " B " mandates

(*a*) The provisions of Article 6 of the British and French mandates for the Cameroons and Togoland [9] and of the Belgian mandate for German East Africa [10] and of Article 7 of the British mandate for German East Africa are not extended to the nationals of the United States. This should be corrected, and it might be sufficient to substitute 'nationals of States mentioned in the annex to the covenant of the League of Nations' for 'nationals of States members of the League of Nations' in each of these articles.

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[8] *Ante*, p. 121.
[9] *Ante*, pp. 125 and 129, respectively.
[10] *Ante*, p. 133.

In the third paragraph of the same article in each mandate it should also be provided that monopolistic concessions should not be granted by the mandatory, nor should natural resources of the mandated territory be monopolized by the mandatory itself.

(*b*) Article 8 of the British mandate for East Africa is acceptable and its provisions should be substituted for those of the corresponding article numbered 7 in the other B mandates.

(*c*) Article 10 of the British mandate for East Africa contains a clause 'provided always that the measures adopted to that end do not infringe the provisions of this mandate', which might well be added to the corresponding Article 9 of the other B mandates.

(*d*) The consent of the United States will be necessary to modify the mandate terms."

HUGHES

800.01 M 31/89

The Ambassador in France (Herrick) to the Secretary of State

No. 1094 PARIS, *December 29, 1921.*
[Received January 12, 1922.]

SIR: With reference to the Embassy's telegram No. 702 of December 27, 1921,[11] transmitting the substance of the Foreign Office Note dated December 22, 1921, in reply to the observations embodied in the Department's telegraphic instruction No. 377, August 7, 2 p.m., I have the honor to transmit herewith for the information of the Department and such action as may be deemed appropriate, a copy and translation of the Foreign Office Note in question.

I have [etc.]

For the Ambassador:
SHELDON WHITEHOUSE

[Enclosure—Translation [12]]

The French Minister for Foreign Affairs (Briand) to the American Ambassador (Herrick)

MR. AMBASSADOR: In accord with the Allied Governments, to whom the same memorandum was also communicated, the Government of the Republic has examined with the greatest care the memorandum of August 9, 1921, setting forth the views of the Government of the United States relative to the mandates for certain territories which, by the terms of the treaties of peace, cease to be under the sovereignty of the enemy powers.

The Government of the United States claims the right to take part in the measures for the disposition of these territories and, on

[11] Not printed.
[12] File translation revised.

this occasion, raises certain questions relative to the consequences of the nonratification by the United States of the Treaty of Versailles and of its nonparticipation in the war against Turkey.

Referring to the general principles governing mandates, principles established in the correspondence previously exchanged between the two Governments, the Government of the United States submits now for the examination of the Government of the Republic certain modifications which it believes should be embodied in the text of the French mandates.

The Government of the Republic has the honor to point out that it has never been its intention to deprive the United States of the fruits of a victory to which the latter so generously contributed. It is altogether disposed to meet, as far as it is concerned, the views of the United States; it does not therefore appear necessary to undertake a detailed discussion of the general considerations contained in the American note.

The cooperation of the United States in the elaboration of peace was the necessary corollary of its cooperation in the war and in the victory. The Treaty of Versailles, which was the result of that cooperation, was accepted by the Allied Powers on the presumption that it represented the common views of all those who had taken part in its preparation, after having combined their efforts to assure victory.

It is by reason of this presumption that the Allied Powers have accepted engagements not only with regard to Germany, but also with regard to each other, engagements from which it is impossible for them now to withdraw. The decision of one of the Allied and Associated Powers not to ratify the treaty does not change the obligations that this treaty has imposed on the powers which have ratified it, and does not release them from the obligations it contains. Neither can these powers now accept any new engagements which are not in accordance with the terms of this treaty.

The foregoing is particularly true as far as it concerns the overseas territories which formerly belonged to Germany. By the Treaty of Versailles, Germany has renounced all sovereignty over them; as is indicated in the American note, this renunciation was intended to be indivisible; Germany does not retain today any part of this sovereignty. But this sovereignty has been given up under the conditions inscribed in the treaty. Among the conditions there laid down appeared the assurance that these territories would be administered in the future by mandatories delegated by the League of Nations, and placed under its general control. The Allied Powers are bound to observe this engagement; they engaged themselves not only toward Germany but toward their own peoples to recognize and accept the special role and the functions of the League

of Nations in all that concerns the mandates for these territories; they are not free to agree with another power to any arrangements which are not in accordance with the engagements that they have taken.

In view of this situation, the Government of the Republic has the honor to formulate the propositions which appear to it to satisfy best the American views with regard to French mandates in Central Africa. As regards the mandates for the territories of the middle East, the position of these territories not yet being legally defined, the Government of the Republic will make this matter the subject of a later note: [14]

(1) The Government of the United States proposes that the words "nationals of States mentioned in the annex to the Covenant of the League of Nations" be substituted for the words "nationals of states members of the League of Nations" inserted in article 6 of the mandates for Togoland and the Cameroons and in article 7 of the English mandate for East Africa. Thereby the citizens of the United States would be included in this definition.

The Government of the Republic must point out, in the first place, that this modification would exclude the states which, although not mentioned in the annex to the Covenant, have become members of the League since the signature of the treaty of peace.

It must bring to mind, in the second place, that the object of the mandate regime is to render the mandatory powers responsible at all times for the discharge of certain duties toward the states which have adhered to the Covenant of the League of Nations. The Government of the Republic consequently considers it difficult to accept a proposition by which, in the very terms of the mandate, other states would be designated either by name or collectively.

It appears that the best way to meet the wish expressed by the American note would be that the French Government give to the Government of the United States the guarantee that citizens of the United States will enjoy in every respect in the mandated territories the same rights and privileges as citizens of states members of the League of Nations, it being understood that they will also be subject to the same obligations. This guarantee could be the object of an exchange of notes.

The Government of the United States expresses in addition the wish that paragraph 3 of the same article should stipulate that the mandatory will not grant any monopolies and that the natural resources of the mandated territories will not be monopolized by the mandatory itself. The Government of the Republic has no intention of granting concessions having the character of a general monopoly in the territories in question, nor of reserving for itself

[14] Not received during 1921.

such concessions. It is necessary, however, in the interest of the territories under mandate, that the mandatory assure to the territories the fiscal resources which may appear best suited to local needs and, to this end, reserves the right to create monopolies for purely fiscal reasons. It is likewise necessary that the administration have the right to exploit in the way that it considers best those natural resources that can be employed in the public interest, as, for example, water power that can be utilized for the electrification of a railroad or for the production of light.

The insertion of the following paragraph, after paragraph 3 of article 6, would meet the preceding observations:

"There shall be granted no concessions having the character of a general monopoly. This clause does not impair the right of the mandatory to create monopolies of a fiscal character or, in certain cases, to develop the natural resources, either directly by the state, or by an organization subject to its control, provided that no monopoly of the natural resources will result therefrom to the benefit of the mandatory."

(2) The Government of the United States asks that the text of article 8 of the British Mandate for Tanganyika be substituted for that of article 7 of the other African mandates.

The intention of the Government at Washington is apparently formally to assure to American missionaries the right to exercise freely their mission to Togoland and to the Cameroons, a right which up to the present has, in fact, been granted them by the French Government. This result can be obtained without any modification being made in the text of the mandate. The Government of the Republic is indeed disposed to give to the Government of the United States, insofar as concerns equality of treatment, a guarantee similar to that which is suggested above for article 6.

The Government of the Republic is disposed, moreover, to declare that, in the territories under mandate, the missionaries will have the right to acquire and possess property, construct buildings for religious purposes, and to open schools adding as a condition the words: "in conformity with the local law."

Consequently, the text of article 7 would be drawn up as follows:

"Subject to the provisions imposed by the local laws for the maintenance of public order and public morals, the mandatory shall insure in the territory liberty of conscience and the free exercise of all forms of worship, and it shall permit all missionaries, nationals of states members of the League of Nations, to enter the territory, to travel there and to reside there for the purpose of carrying out their mission, to acquire and possess property, to construct buildings for religious purposes and to open schools, on condition that they conform to local law."

(3) The Government of the United States asks that there be added to paragraph 2 of article 9 of the mandate for Togoland and

the Cameroons, the following words which are found in article 10 of the British mandate: " provided always that the measures adopted to that end do not infringe the provisions of this mandate."

The Government of the Republic has no objections to this addition.

(4) Finally, the Government of the United States expresses the wish that the consent of the United States be obtained before any change is made in the text of the mandates.

It would be difficult to insert in the mandate itself a clause of this nature, constituting an engagement between the League of Nations and a power which is not a member of the League. There is, however, no objection to the mandatory making in this respect special dispositions.

Under these conditions, the best way of meeting the wishes of the United States would seem to be that the Government of the Republic, as mandatory, give to the American Government the assurance that it will not propose nor accept any modification in the terms of the mandates without first consulting the Government of the United States.

The Government of the Republic hopes that the Government of the United States will feel that an exchange of notes will answer its requirements, and that there will be no delay in the publication of the mandates, which should not be deferred any longer.

Please accept [etc.] For the Minister for Foreign Affairs
[PERETTI DE LA ROCCA]

PARIS, *22 December, 1921.*

MAINTENANCE OF THE CAPITULATORY RIGHTS OF AMERICAN CITIZENS IN SYRIA

867.512/84

The Consul in Charge at Beirut (Knabenshue) to the Secretary of State

No. 251 BEIRUT, *March 3, 1921.*
[Received April 4.]

SIR: I have the honor to report that recently the Beirut Municipality declared a consumption tax on Gasoline and Benzine to be levied against Oil Companies operating in Beirut, where both the Standard Oil Company and the Vacuum Oil Company have agencies. After some investigation of the matter and discussion with the representatives of the American companies involved, I called upon the Acting High Commissioner and represented to him that the proposed tax as well as the increase in the Warehouse (Gas-khana) dues, which various municipalities were endeavoring to collect, were con-

trary to the immunities granted under the Capitulations as regards the former and the agreement between the Ambassadors at Constantinople and the Turkish Government as regards the latter. Mr. De Caix was in entire accord with my views on the subject, but stated that he was faced with a municipal crisis inasmuch as the members of the Municipality threatened to resign unless he permitted them to levy the proposed consumption tax. He stated that in view of the altered political status of this country, being as it was cut off from the former Turkish Empire, and the need of the municipalities for revenue to execute the work necessary for reconstruction and for the maintenance and improvement of the towns, and in view of the fact that upon the forthcoming abolition of the Capitulations, the Municipality will have the right to levy such taxes which, however, he stated, would be kept within reasonable bounds, he asked whether it would not be acceptable to the Oil companies to pay something to the municipalities, more or less, in anticipation of taxes that might be levied in future. In reply to his suggestion, I reminded him that before taxes of this character could be levied, the consent of the Capitulatory Powers must be secured. I, thereupon, suggested that he should have the subject of all new taxation, which they had attempted or might desire to levy against foreigners, carefully studied, and a proposal drawn up and sent to me, as *Doyen* of the Consular Corps, for ultimate transmission to our respective Governments for their consideration. He readily agreed to have this done. I, thereupon, asked him to inform the Municipality that the matter was now to be made the subject of diplomatic negotiations with the Powers, and that, in the meantime, no attempt be made to collect the tax, and that the Police Authorities, who were at that moment preventing the deliveries of oil, be instructed to permit the continuation of deliveries. Mr. De Caix promised to do this, and his order went into practical effect a few days afterwards.

I report these preliminary steps at the present time for the Department's information, and will report again on the subject as soon as I receive the proposal of the Government, as above indicated.

I have [etc.] PAUL KNABENSHUE

890d.512/30

The Consul in Charge at Beirut (Knabenshue) to the Secretary of State

No. 334 BEIRUT, *July 6, 1921.*

[Received July 30.]

SIR: I have the honor to refer to my despatch No. 251 of March 3, 1921, relative to my negotiations with the French High Commissioner in order to cause the discontinuance of the collection of new

taxes from foreigners which had been levied contrary to Capitulatory exemptions.

The most important taxes were those on petroleum and benzine, levied by the various Municipalities throughout Syria.

The general principle involved as put forward by me as *Doyen* of the Consular Corps, and also on behalf of the large American oil interests here, was accepted by the French authorities, and these taxes were immediately stopped as regards the Municipality of Beirut. However, with the greatest difficulty, and after considerable correspondence and personal interviews with the officials concerned, it was only on May 7, 1921, that I finally succeeded in causing the Haut Commissariat to send instructions in the matter to their Counsellors in the respective administrative zones (A copy of such instruction is enclosed). Even this did not prove sufficient, for considerable delay ensued before the instructions were communicated to the various Municipalities, and this was done only after my repeated strong representations in the matter. So far as I am aware, all the Municipalities have now received the instruction.

The next step in the proceedings is to be the submission to the Consular Corps of a proposal from the French High Commissioner that the Capitulatory powers accept, at least temporarily, the imposition of certain taxation upon foreigners. A French committee is at work on the text of the proposal and it is believed that it will be ready shortly. I will transmit the proposal to the Department with my observations.

In the meantime, I have the honor and gratification in reporting that through my incessant efforts, American citizens and other foreigners residents in Syria are not being obliged to pay any of the new taxes instituted since the beginning of the war.

I have [etc.] PAUL KNABENSHUE

[Enclosure—Translation]

The French High Commissioner ad interim in Syria and the Lebanon (De Caix) to the Counselors in the Administrative Zones

Department of Finance
No. 2042/D.F./8 BEIRUT, *May 7, 1921.*

The Consular Corps has laid before me various complaints against the subjection of foreign nationals to the payment of certain taxes or dues not consented to by the Foreign Powers, and particularly the tax on petroleum which is being collected in Beirut, Latakia and Aleppo.

No matter how much equity may be in favor of collecting these taxes or dues, it should be taken into consideration that as long as

the regime of mandate is not as yet sanctioned, the capitulations continue to exist.

I am therefore obliged to admit the legal status of these complaints and to allow every advantageous measure to give them satisfaction.

In view of the above, I have the honor to ask you to suspend immediately the collection of every state or municipal tax from foreign subjects, the collection of which taxes are not approved of by the Foreign Powers. All the taxes created since the outbreak of the war are included in this category, as well as the removal of the taxes put into effect since that same date. The taxes which had been originally accepted will continue to be collected at the pre-war rate.

It is in the province of your office to send me a list of these taxes in order that propositions for their acceptance may be made to the Consular Corps.

These propositions should reveal the fact that they are of public utility and general interest, as well as the character of remuneration for a service rendered, as in that case their application on the foreigners will be considered as equitable.

ROBERT DE CAIX

711.673/135

The Consul in Charge at Damascus (Allen) to the Secretary of State

No. 57 DAMASCUS, *October 13, 1921.*
[Received November 8.]

SIR: I have the honor to inform the Department that I have today been advised verbally by the Director of Consular Services (formerly Minister of Foreign Affairs) of the State of Damascus and by the French Legal Adviser to the local government that a controversy in which I have been engaged with the government for some time over the correct interpretation of Article IV of the Treaty of May 7, 1830[15] has been decided in my favor, that is to say, in favor of the point of view of the Department of State, and that henceforth American citizens accused of crime or misdemeanor in this jurisdiction will be immediately turned over to this office for trial.

I had occasion to bring this matter up when the local government, in accordance with the procedure usual in the case of other powers whose nationals enjoy capitulatory rights, sent me for execution a sentence passed prior to my arrival here against the American citizen, Nejib Meshaka, accused and convicted of a constructive assault against his uncle. I returned the sentence with a statement to the

[15] With Turkey; see Miller, *Treaties*, vol. 3, p. 541.

effect that it was in contravention of the article and treaty above-mentioned, was therefore in contravention, not only of American law, but of local law, and could not be lawfully executed by any authority.

. . . . . .

Locally speaking it is a considerable victory for this office over the government but it is quite evident that no particular credit is due me seeing that I merely made use of arguments advanced by the Department a long time ago. A great deal of credit is due the French Delegation however in having obliged the local government to accept unconditionally our point of view in the matter. This is merely another example in proof of what I have continuously insisted upon, namely, that the French themselves make a distinction between the State of Damascus and the remainder of Syria. . . .

I have [etc.] CHARLES E. ALLEN

890d.512/21

The Consul in Charge at Beirut (Knabenshue) to the Secretary of State

No. 437 BEIRUT, *November 2, 1921.*
[Received November 29.]

SIR: I have the honor to refer to my despatches, No. 251 of March 3, No. 334 of July 6 and No. 351 of August 3,[16] relative to the taxation of foreigners in Syria contrary to capitulatory exemptions, and to inform the Department that as indicated in my former despatches, the Government here proposed to draw up a new schedule of taxes and to submit it to the Capitulatory Powers for consideration and approval in so far as such taxes might be applicable to foreigners.

The proposal in question was submitted a few weeks ago to the various foreign consuls in Beirut. The Consular Corps here has met several times to discuss jointly the proposal. At the last meeting, held on October 28th, three representatives of the local Government were present, by invitation, to explain certain features of the proposal which appeared to require further elucidation. Another meeting of the Consular Corps will be held within a few days, when it is proposed to draw up a joint resolution on the subject for submission by each consular representative to his government.

I have just received from Consul Jackson at Aleppo a copy of his despatch No. 708 of October 29, 1921,[17] giving his observations in

[16] No. 351 not printed.
[17] Not printed.

connection with the new tax proposal. Inasmuch as the Consular Corps at Beirut have given considerable time and study to this question, in order that the various consuls may submit to their respective governments a carefully considered recommendation for consideration and appropriate action, it is respectfully suggested that the Department take no action in the matter until my report on the subject is received. The Department will, of course, understand that the action of the Consular Corps in Beirut and its relations with the Government here in connection with this matter have been entirely confined to a study of the question and not negotiations. The local Government has been informed by the Consular Corps that the entire matter must, of necessity, be referred to the Capitulatory Powers for consideration and appropriate action, and that no assurances in connection with or acceptance of the provisions of the new tax proposal can be given by the respective consuls unless so authorized by their governments.

It is hoped that my report covering this question will be transmitted to the Department in about two weeks' time.[18]

I have [etc.] P. KNABENSHUE

711.673/143

The Consul in Charge at Damascus (Allen) to the Secretary of State

No. 103 DAMASCUS, *December 27, 1921.*
[Received January 26, 1922.]

SIR: I have the honor to transmit herewith in translation a copy of a letter which I have just received from the local French Delegation [19] which in turn transmits a copy of a letter [from] the French High Commissioner at Beirut directing the recognition of the American point of view as regards the correct interpretation of Article IV of the Treaty of May 7, 1830.

In my despatch No. 57 of October 13 I reported that I had been advised verbally by the Director of Consular Services of the local government and by the French Legal Adviser that this point of view had been accepted. I was later informed by the Director of Consular Services that he had been reprimanded by the Governor-General for so advising me and that the government was not yet disposed to accept the American point of view.

It happened that at this moment an American citizen, George Haddad by name, became involved in a brawl with a policeman

[18] The report to which the consul refers was not sent until Feb. 9, 1922 (file no. 890d.512/9). Its purport is indicated in the telegram of Jan. 21, 1922, p. 936.

[19] Not printed.

and this gave the government an opportunity to reopen the discussion. It accordingly dropped the question of Nejib Meshaka treated in my despatch No. 57 and took up with some vigor the question of George Haddad. I naturally declined to recede from the position I had taken and while the correspondence was being carried on, I placed Haddad under arrest on a warrant charging him with disorderly conduct, continued the case once in order to give the government every opportunity to compel the aggrieved policeman to appear as a witness, and when he did not appear at the second hearing, I dismissed the charge for want of evidence.

The receipt of the enclosed letter from the French Delegation was the culmination of the matter. Attention is called to the fact that in this case the assurances are written instead of verbal.

I have [etc.] CHARLES E. ALLEN

[Enclosure]

The French High Commissioner ad interim in Syria and the Lebanon (De Caix) to the French Delegate ad interim at Damascus (Schoeffler)

No. 2455 BEIRUT, *December 19, 1921.*

In reply to your letter 1490/SJ, I have the honor to inform you that I consider correct the solution given by your delegation to the question raised by the Government of Damascus. In fact it is approved by both Young and Mandelstamm and is in conformity with all the precedents. Article IV of the Treaty of 1830 is susceptible of two interpretations according as one consults the English or the Turkish text. But in spite of the efforts of the Sublime Porte, the United States have always maintained and caused to be respected the English interpretation according to which not only the imprisonment but also the arrest of American subjects is denied to the local authorities. In 1868, 1877, 1888, 1889 and 1895 the United States carried their point of view. The entire discussion hinging upon the word "tedib" which Turkey interpreted in the sense of "punish" and not of "arrest and try", by comparison with Article VIII of the treaty concluded between the Sublime Porte and the Hanseatic Cities where the word "tedib" has, as shown by the context, a wider meaning, there seems to be no doubt that this same word in Article IV of the treaty of 1830 should be given the meaning that "the Americans shall be chastised (tried) by their Consuls". Thus the local authorities cannot, to my mind, either arrest, try or imprison an American subject.

ROBERT DE CAIX

890d.512/11 : Telegram

The Consul in Charge at Beirut (Knabenshue) to the Secretary of State

[Extract]

BEIRUT, *January 21, 1922—7 p.m.*
[Received January 22—4:28 p.m.]

Referring to my despatch number 437, November 2d. With regard to the proposal to tax foreigners, I have the honor to report that the deliberations of the consular corps have just come to an end and that the findings thereof together with all the documents and data in the matter are now ready for the formulation of my report.[20]

Last evening Acting High Commissioner in the presence of Judicial Adviser handed me a copy of new ordinance, not yet announced, establishing a new judicial organization for Syria with the request, after a long explanation, that I submit it to my Government for its consideration with a view to my Government's acceptance of the jurisdiction of the new courts for American citizens in lieu of the consular courts. Please see page 17 of the report transmitted my despatch number 342, July 27th.[21]

The proposals for taxation and judicial reforms involve at least a temporary suspension of our most important rights under the Capitulations. Because of the unsettled general political situation in the Near East it would not be advisable under ordinary conditions to accept at this juncture any proposal affecting our rights in this country but, because of the particular and peculiar conditions in Syria and because of the nature of the reasons for and conditions involved in the French proposals coming as they do from a friendly Christian power, extenuating circumstances have arisen which would seem to make it incumbent upon the United States Government to give at least serious consideration to the proposals now made. In addition to the question of policy involved therein, however, consideration should be given to the probable effect thereof upon American interests here which are extensive and important and in this respect adequate guarantees would have to be exacted.

. . . . . .

KNABENSHUE

[20] Despatch no. 580, Feb. 9, 1922; not printed.
[21] Not printed.

FRENCH REGULATIONS APPLICABLE TO AMERICAN CITIZENS OF FRENCH ORIGIN REGARDED BY FRANCE AS DESERTERS OR DEFAULTERS DURING THE WORLD WAR

351.117/159a

The Secretary of State to the Ambassador in France (Wallace)

No. 283 WASHINGTON, *November 22, 1919.*

SIR: The Department has received a number of inquiries from naturalized American citizens of French descent and from persons born in the United States of French parents, regarding their liability to punishment for their failure to comply with the military service regulations of the French Government, in the event that they return to or visit France for a temporary sojourn for business or personal reasons.[22] In a great majority of these cases the persons in question have fully complied with the military service laws and regulations of the United States. The matter has been taken up with the French Embassy at Washington in two notes of June 28, 1919, and September 15, 1919, respectively, copies of which are enclosed,[23] but up to this time the French Government has not replied to the notes. The French Government has, however, given certain assurances in respect to persons who were regarded as French citizens but who were serving or had served in the American Army. The substance of these assurances is contained in the Department's note of August 3, 1918, a copy of which is also enclosed.[24]

The Italian Government, whose military service laws appear to be no less strict than those of France, has given this Government formal assurances that American citizens, of Italian extraction, as well as persons who have retained their Italian nationality, who were under obligations of military service in the Kingdom of Italy and who did not return to that country for such service, may freely visit Italy without molestation, provided they carry with them their discharge from the American Army or an extract from the records showing that they have served in the American forces, or were exempted or given deferred classification for such service under the laws and regulations in force in the United States. The assurances of the Italian Government with respect to American citizens have been embodied in a statement bearing date of April 12, 1919, which was prepared by the Department for the information of American citi-

[22] Inquiries not printed.
[23] Not printed.
[24] *Foreign Relations*, 1918, supp. 2, p. 718.

zens, of Italian birth or parentage, desiring to return to Italy. A copy of this statement is enclosed for your information.[25]

The Department has also taken the matter up with the Greek Government, and is just now in receipt of a cable from the American Minister at Athens, in which it is stated that he has been formally notified that American citizens, of Greek origin, and all other Greeks who have served in the American Army will be exempted from further service in the Greek Army.[26]

You are instructed to inquire whether, in view of the Convention of September 3, 1919 [*1918*], between the United States and France, providing for reciprocal military service;[27] in view of the fact that this Government and the Government of the French Republic were associated as cobelligerents in the war against Germany and Austria; and in view of the attitude taken by the other Governments enumerated above with respect to similar cases, the French Government will not furnish this Government with an assurance that American citizens who may, by law be considered liable to military service in the French Army, but who have fully complied with the military service laws and regulations of the United States during the present war, will, upon their return to France for a temporary sojourn, be free from molestation, provided that they present official documentary evidence of their compliance with the military service laws and regulations of the United States.

I am [etc.]

For the Secretary of State:
ALVEY A. ADEE

351.117/167

The Ambassador in France (Wallace) to the Secretary of State

No. 729

PARIS, *January 15, 1920.*
[Received January 31, 1920.]

SIR: Referring to the Department's instruction, No. 283 of November 22, 1919 and the Embassy's telegram, No. 88 of January 10, 1920,[28] relative to the liability to military service in the French Army of naturalized American citizens of French descent or persons born in the United States of French parents should they return to France for a temporary sojourn, I have the honor to enclose, in copy and translation, the answer which has been received, under date of January 5, 1920, from the Ministry of Foreign Affairs.

I have [etc.]

HUGH C. WALLACE

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[25] Not printed.
[26] See telegram no. 861, Nov. 18, 1919, from the Minister in Greece, vol. II, p. 164.
[27] *Foreign Relations*, 1918, supp. 2, p. 723.
[28] Telegram no. 88 not printed.

[Enclosure—Translation [29]]

The French Minister for Foreign Affairs (Pichon) to the American Ambassador (Wallace)

PARIS, *January 5, 1920.*

MR. AMBASSADOR: By a letter dated December 12th, last,[30] Your Excellency was good enough to call my attention to the status of those persons who, belonging both to the French nationality and the American, have served in the forces of the United States during the hostilities.

Referring to the terms of the convention of September 5 [*3*], 1918, the American Government suggests that conditional to their showing proof of their compliance with the stipulations of the American military laws, persons of the category specified should not be called upon to perform military service in France in the event of their sojourning for more or less time in that country.

I have the honor to point out to Your Excellency that the sole object of the convention above mentioned was to prevent American citizens residing in France and French citizens residing in America from taking advantage of their presence on foreign soil to elude their military duties, by obliging them, should they not enlist in their own national armies, to take service in the military formations of the country in which they were residing. The convention has in nowise determined any ruling relative to the status of the said individuals with regard to their country of origin. Article 5 even specified very clearly that the citizens of either country serving in the ranks of the other shall not thereby lose their nationality; this stipulation implies that their status with regard to their mother country remains unchanged. If they are considered by the latter as delinquents who have not responded to the call to the colors, the fact of having served in the army of the other country does not efface their delinquency. Nevertheless, inasmuch as by serving with an Allied army these persons have served a common cause, the French Government has already agreed with Italy, for instance, that it considered as having met the military obligations imposed by France proportionately with the service given during the war or the time passed in captivity, those Frenchmen who have fought in the Allied army. Thus a person belonging both to the French and the Italian nationality who has given two years' service in the war in the Italian Army, will have to give only one year's service in the French Army where the active service is for three years.

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[29] File translation revised.

[30] See instruction no. 283, Nov. 22, 1919, to the Ambassador in France, p. 937.

In June 1917, the French Government gave notice through its representative at Washington of similar measures to be applied in regard to Frenchmen serving in the American Army.

The French Government is unable to do more than to consider as though it were service in its own Army that accomplished in the Army of the United States. It cannot concede a premium of reduced military service in time of war to persons who, according to the laws it is bound to enforce, are of French nationality, because they have been incorporated in an Allied army during a shorter period of time than that imposed upon their compatriots, whereas, to begin with, they may have even in some cases eluded the obligations fulfilled by the latter.

Despite its earnest desire to be able to give satisfaction to the request presented by Your Excellency, the French Goverment does not deem it possible at this time, still so close to the termination of the war which has inflicted such terrible sacrifices upon the French population, to create a regime of favor on behalf of a special category of persons who, so long as they shall be considered as such, are legally French citizens.

With assurances [etc.]

For the Minister and by authorization:

MAURICE HERBETTE

The Minister Plenipotentiary, Director

351.117/167

The Secretary of State to the Ambassador in France (Wallace)

No. 408 WASHINGTON, *March 31, 1920.*

SIR: The Department acknowledges the receipt of your cable No. 88 of January 10, 1920,[31] and your despatch No. 729 of January 15, 1920, in which the refusal of the French Government to give assurances to this Government that American citizens of French origin who have complied with the military service regulations of this Government during the war, will not be molested as military delinquents upon entering French jurisdiction for temporary sojourn, is set forth. You state in the cable that there are several cases, before the Embassy, of persons who would come within the class covered by the requested assurances, and ask instructions as to the line of action to be pursued in regard to them.

In reply the Department instructs you that insofar as any of the cases before the Embassy come within the assurances referred to in the Department's note of August 3, 1918,[32] to the French Ambassador

[31] Not printed.

[32] *Foreign Relations*, 1918, supp. 2, p. 718.

at Washington, a copy of which was enclosed in the Department's instruction No. 283 of November 22, 1919, to urge the treatment of such cases in accordance with the assurances given and to reserve the right of this Government to make further representations at a later date should it be deemed desirable. Insofar as any of the cases before the Embassy do not come within the assurances referred to, you are instructed to use your good offices in an endeavor to render the persons such assistance as may be possible and to take no action which would prejudice the right of this Government to make representations later should it desire to do so.

The Department desires to be furnished with a statement of the facts in any cases now pending with the Embassy in order that it may give the matter further consideration; also that you obtain from the French Government, and transmit to the Department at your earliest convenience, a copy of the notice stated in Mr. Herbette's note of January 5, 1920, to have been given by a representative of the French Government at Washington in June 1917, in regard to the allowance that would be made in France, to persons who were regarded as French citizens, under the French law, but who had served in the military forces of the United States.

You will also kindly endeavor to ascertain, and report at your earliest convenience, the details of the agreement between the French and Italian Governments, which Mr. Herbette refers to, under which an allowance is said to be made under the French military establishment, for service performed by French citizens in Italy. The terms of the agreement, if any, insofar as they relate to persons who complied with the military service regulations of Italy but who were not accepted for service in the Italian Army, are particularly desired, as well as the provisions of the agreement, if any, as relate to persons who served in the Italian military establishment but who did not see active service with combat troops.

I am [etc.] BAINBRIDGE COLBY

351.117/193

The Ambassador in France (Wallace) to the Secretary of State

No. 1261 PARIS, *June 4, 1920.*

[Received June 21, 1920.]

SIR: Referring to the Department's Instruction No. 408 (File No. So–351.117/167) of March 31st, 1920, relative to the eventual allowance for military service in the American Army by persons regarded as French citizens, under the French law, I have the honor to state that I brought this matter in detail to the attention of the Ministry for Foreign Affairs, asking information on all the points raised by the Department in the aforesaid Instruction.

I have the honor to enclose, in copy and translation, the reply received from the latter,[33] together with the text of the communication made by the French Ambassador at Washington to the Federal Government in the premises. It is to be noted that the copy of the latter document which is submitted to the Embassy bears no date and no indication showing to whom it was addressed.

Annexed to the Note in question, also forwarded in copy and translation, is the text of the agreement between the French and Italian Governments granting an allowance for service performed by French citizens in Italy.[33]

I have [etc.] HUGH C. WALLACE

[Enclosure—Translation]

The French Ministry for Foreign Affairs to the French Ambassador at Washington [34]

I have the honor to inform you that the Minister of War is disposed to extend the benefit of the circular of June 3rd, 1915 to Frenchmen passed over or considered as defaulters who may take service in the American Army. The terms of this circular are as follows:

By extension of the authorization granted on October 11th last to French citizens residing in Russia, who found it materially impossible to return to France, mobilisable men residing abroad who, prevented by circumstances to rejoin the corps to which they are assigned, have served during the campaign in the ranks of one of the allied Powers, shall be considered as having satisfied, for the duration of the war and in proportion to the time passed under the colors of this army or in captivity, the military obligations imposed upon them by French law.

The benefit of this provision may be claimed by all Frenchmen residing abroad, who, not having been regularly served with the general mobilization order shall have prior to the summons served on them since then, enlisted in the armies of one of the allied Powers.

This favor shall be granted to all Frenchmen concerned, under reservation that they shall serve on the French front and that their military status shall be reported to the Minister of War through my intermediary so that it may be made regular either by the census of the men passed over, or by the crossing off of the names of the defaulters on the list of defaulters. The benefit of this measure shall apply to all those who have been passed over, whether excused or

[33] Not printed.

[34] So described in the covering note from the French Ministry for Foreign Affairs (not printed).

not, on account of the present difficulty of distinguishing them one from another.

As and when the men concerned are drafted to France, our consuls shall send me the lists of our defaulting nationals present under the American colors and these lists shall mention, according to the case, the last place of residence of these Frenchmen or the recruiting office at which they are registered on the date of their engagement in the Federal army and the date on which they are sent to the French front.

851.111/169

The Ambassador in France (Wallace) to the Secretary of State

[Extract]

No. 1295 PARIS, *June 18, 1920.*

[Received June 29.]

SIR: Referring to my cablegram No. 1232 of the 1st instant,[35] and to previous correspondence regarding the situation of persons of dual nationality who come to France without having discharged their military obligations under the French law, I have the honor to transmit herewith in copy and translation a Note dated June 7th from the Ministry for Foreign Affairs, in which the status of the several classes of such persons is defined.

. . . . . .

HUGH C. WALLACE

[Enclosure—Translation]

The French Minister for Foreign Affairs (Millerand) to the American Ambassador

PARIS, *June 7, 1920.*

MR. AMBASSADOR: In reply to the notes of the Embassy under date of April 3rd and 29th last, I have the honor to inform you that the Minister of War has examined the situation of French deserters and defaulters who, having acquired American nationality, take up residence on French territory.

As regards deserters, as they can in no case plead their good faith, and as, moreover, the law demands their appearance before the Court Martial, no favor can be granted them.

As regards defaulters, in whose interest indulgent measures have been considered, the Minister of War will decide their case accord-

[35] Not printed.

ing to the following distinctions, in the establishment of which account has been taken, both of the date of the acquisition by them of American nationality and the date on which they were declared defaulters.

1. Those born in America of French parents shall be considered as released from their military obligations in France if they have satisfied the American military law and they will not be molested in case they return to France.

2. Those born in France, but who acquired American nationality before they were declared to be defaulters, may, if they have enlisted in the American Army, be admitted for temporary residence in France without risk of molestation for their offense of default; it will be sufficient for them to request to this end a special authorization from the French Embassy at Washington which, in granting it to them, will fix the duration of their residence.

Those among them who may have been exempted from military service in the United States for reasons of health, may be definitely taken off the list of control of defaulters in France on condition that they are also considered by the physician which the French Embassy will designate as unfit for French military service.

3. Those who have only acquired American nationality after their declaration as defaulters shall be treated as follows:

If the default dates before the war, the law shall be rigorously applied, the principle of the allowance for services, the benefit of which has been recognized as granted to the said defaulters, applying to the period of service accomplished during the war, but not effacing the offense of default for which they will continue to have to answer on their return to France.

If the declaration of default is subsequent to the beginning of hostilities, their names will be taken off the list of control of defaulters in case they enlisted in the American Army before they were called in France, but they will remain liable for the remainder of their regular period of service after application of the allowance for service. In all other cases, proceedings remain " possible ".

On the other hand, it will devolve on the Minister of War to decide concerning the particular cases which may arise from the putting in operation of the principles thus laid down, which, moreover, only bear on penal procedure for default; the prescriptions of the Civil Code relative to the attribution of French nationality, *jure sanguinis* and the necessity of an authorization of the Government for the valid acquisition in the eyes of French law of a foreign nationality by means of naturalization remaining outside the question.

I am asking the French Ambassador at Washington to inform the Federal Government of these general decisions; I wish however, to

communicate them to Your Excellency in the hope that you will appreciate the good will shown by the Government of the Republic to give the greatest satisfaction possible to the desiderata of American opinion in this important matter.

Please accept [etc.]

For the President of the Council,
Minister for Foreign Affairs and by order:
PALÉOLOGUE
The French Ambassador, Secretary General

351.117/193

The Secretary of State to the Ambassador in France (Wallace)

No. 589 WASHINGTON, *August 30, 1920.*

SIR: The Department has received your despatch No. 1295 of June 18, last transmitting a copy of a communication dated June 7 from the French Ministry for Foreign Affairs in which the status in regard to military liability of certain naturalized American citizens of French origin is defined. It is observed therefrom that persons who may be considered deserters under French law will be required to appear before the Court Martial upon their return to France and will be dealt with in the usual manner, and that persons who may be regarded as defaulters under the French military law will be dealt with according to certain stated distinctions. Classification No. 3 of the communication of the Ministry for Foreign Affairs reads in translation as follows:

"Those who have only acquired American nationality after their declaration as defaulters shall be treated as follows:

"If the default dates before the war, the law shall be rigorously applied, the principle of the allowance for services, the benefit of which has been recognized as granted to the said defaulters, applying to the period of service accomplished during the war, but not effacing the offense of default for which they will continue to have to answer on their return to France.

"If the declaration of default is subsequent to the beginning of hostilities, their names will be taken off the list of control of defaulters in case they enlisted in the American Army before they were called in France, but they will remain liable for the remainder of their regular period of service after application of the allowance for service. In all other cases, proceedings remain 'possible.'"

In view of the communication from the French Government transmitted with your despatch No. 1261 of June 4 last, which restricted the deduction of service in the American Army of persons held to be liable under French law for military service in France to those persons only who served in the American Army on the French front, the

Department desires you to obtain from the French Government an amplification and a more definite expression of its attitude toward the persons described in Section 3 quoted above. It would seem from the interpretation of the whole communication that the French Government proposes to allow the deduction from the regular period of service in the French Army of the entire period of service performed in the American Army and that such deduction will be allowed whether or not the person served on the French front.

It is also requested that you ascertain from the French Government its attitude toward persons who registered for military service in the United States and who were given deferred classification for reasons other than physical unfitness. As many American citizens of French origin meet with hardships through their ignorance of the attitude of the French Government toward them upon their return to France, you will please report promptly to the Department.

I am [etc.]

For the Secretary of State:
ALVEY A. ADEE

851.111/188 : Telegram

The Secretary of State to the Ambassador in France (Wallace)

WASHINGTON, *February 15, 1921—4 p.m.*

87. Recently numbers of naturalized American citizens of French origin have complained to the Department that, when they applied to have their American passports visaed for France, French consular officers in New York City and elsewhere declined to recognize them as American citizens and insisted that they must use French passports, describing them as French citizens. In one case it was stated that the French Vice-Consul in New York City told an applicant that he must renounce allegiance to the United States and assume allegiance to France in order to visit that country. This Government, regarding it as objectionable for French officials in the United States to advise American citizens to renounce their allegiance to this country, or to take French passports, or to do anything which involves disowning American citizenship, desires you to request that French consuls be instructed to that effect. Please state also that, while it is realized that in view of the conflict of laws of the two countries, complications may arise regarding the status of persons having a dual nationality, it is hoped that, until such difficulties can be obviated by a satisfactory treaty of naturalization, which is greatly to be desired, the French Government may be able

to make arrangements under which persons owing allegiance to the United States and whose allegiance is also claimed by the French Government may, when they find it necessary to visit France, be enabled to do so without in any way being called upon to disown allegiance to the Government of the United States, which naturalized citizens have obligated themselves by solemn oath to observe. Enquire whether, with a view to the elimination of unfortunate difficulties for the two Governments and for their respective citizens, and in harmony with the growing tendency toward a more liberal and uniform practice among nations in dealing with questions relating to the loss and acquisition of nationality, the French Government may be willing to take up the negotiation of a naturalization treaty.

COLBY

351.117/212

The Ambassador in France (Wallace) to the Secretary of State

No. 2300 PARIS, *March 31, 1921.*
[Received April 12.]

SIR: With reference to the Department's despatch No. 589 of August 30th, 1920 (File No. 351.117/193), and to previous correspondence relative to the military liability of certain naturalized American citizens of foreign origin, I now have the honor to transmit to the Department copy and translation of a Note from the Ministry for Foreign Affairs [37] in reply to a Note from the Embassy of October 14th, 1920, in this connection.

The Note from the Minister includes the text of a circular which was addressed by the Minister of War to the various military authorities.[38] This circular concedes to the desire of the Department that the equivalence of service is not made subordinate to the condition that the service has been performed on the French front. It is sufficient that the defaulters have seen service in the American Army, whether or not they served in France. The cases in which exemption from military service has been granted are only recognized when they are in accord with American legislation similar to the cases admitted by the French law covering ill-health or physical disability.

I have [etc.] HUGH C. WALLACE

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[37] Not printed.
[38] Circular printed as enclosure hereto.

[Enclosure—Translation [39]]

Circular by the French Minister of War to the Various French Military Authorities

No. 18338–2/10 PARIS, *March 10, 1921.*

The Government of the United States has called my attention to the following question:

May not a man who has preserved his French citizenship in the eyes of the French law, but who has become an American citizen through naturalization or birth in the Federal territory, return to France and sojourn there temporarily on business or for any other personal reason without risk of being disturbed, provided he holds a certificate to the effect that he has complied with the military laws of the United States?

I have the honor to communicate to you hereinbelow the *modus vivendi* which I deemed it my duty to adopt on this question with the consent of the Guardian of the Seals and the Minister of Foreign Affairs.

It can only be a question of deserters or defaulters coming under one of the following categories:

A. Deserters

1. Deserters before the beginning of hostilities.
2. Deserters after the beginning of the war, the great majority of whom consist of men who failed to rejoin their regiment upon the expiration of a permit granted to go to the United States.

B. Defaulters

1. Men declared defaulters prior to August 2, 1914, for failure to respond to an order to report and to a transportation order calling them together either in order to perform their active-service obligations or in order to pass a drill period in the reserve or territorial army.
2. Men declared defaulters since the beginning of hostilities because they belonged to a class of the reserve or territorial army and failed to rejoin their regiment at the time of the general mobilization within the periods prescribed by law.
3. Men belonging, owing to their age, or assigned to the classes called to the colors subsequent to August 2, 1914, and declared defaulters for failure to respond to a duly served order to report and to a transportation order.

As regards deserters, I consider that their double nationality cannot entitle them to any special favor.

As a matter of fact, whatever may be the date on which these men acquired American citizenship, they could not, upon leaving their

[39] File translation revised to accord with corrected copy of French text of this circular, transmitted to the Department with despatch no. 311, Sept. 8, from the Ambassador in France (file no. 351.117/214).

regiment, have been unaware of the fact that they were still French citizens and remained, in spite of everything, subject to the military obligations of this country.

None of them can seriously say that he was acting in good faith, and nothing but a judicial decision can rectify their status.

As to defaulters, I think it would be proper, in determining the rules to which they should be subject, to take into account both the date on which they acquired American citizenship and that on which they were declared defaulters.

1. Those who were born in the United States of French parentage should be considered as being released from their military obligations in France if they have complied with the military law of the United States, and their sojourn in France should consequently not be subject to any restrictions.

2. As far as those are concerned who were born in France but acquired American citizenship before being declared defaulters, it may be laid down as a principle that they may to a certain extent have been acting in good faith when they concerned themselves solely with their American military obligations, and the decision may be reached that if they satisfied the military laws of the United States they may return to and sojourn temporarily in France without risk of being disturbed as defaulters. It should be admitted that it will be sufficient for them, in order to reside thus in France, to request a special authorization from the French Embassy in the United States, which shall at the same time fix the length of their stay.

It should likewise be understood that those of them who have been excused from the American military service on account of ill health shall not be permanently stricken from the lists of defaulters unless they have also been considered by the physician designated by the French Embassy as being unfit for military service in France.

3. Those who, on the contrary, did not acquire American citizenship until after they had been declared defaulters in France must be treated more severely.

Ante bellum defaulters have by their own act deprived themselves of any right to special treatment, since they did not deem it proper to return to France at the time of the general mobilization, when they might have had applied to them the amnesty law of August 5, 1914. They must not be permitted to return to France, even temporarily, without running the risk of being arrested to answer for their crime, and their status can be rectified only by means of a judicial decision after they have been arrested.

As to defaulters who have not been declared such until after the beginning of hostilities, they shall enjoy the benefit of the provisions of circular No. 46. 454–2/10 of May 30, 1919.

Those of them who prove that they entered the service of the American Armies prior to their being declared defaulters shall be permanently stricken off the lists of defaulters, but they must, in the proper case, be called upon again to fulfill the remainder of their regulation period of service in France, after the time has been deducted which they actually passed in the American Army and for which they have benefited by the equivalence of services provided by circular No. 11.897–2/1 of June 3, 1915.

The others must have their status rectified by the court martial, which shall take into account the length of their services in the American Army, their behavior under fire, and any circumstances which may have induced them not to fulfill their duties toward France.

The advantage thus granted with respect to equivalence of services shall not be made contingent upon their having served on the French front, it being sufficient that the interested parties shall have enlisted in the service of the American Army.

These rules, of course, will cease to be in effect as soon as governmental action against the interested parties has become barred by limitation and as soon as a declaration of amnesty shall wipe away the crimes which may be imputed against them.

851.111/194

The Ambassador in France (Wallace) to the Secretary of State

No. 2297 PARIS, *April 1, 1921.*

SIR: Referring to the Department's cabled Instruction No. 87, of February 15th last, 4 p.m., regarding certain naturalized American citizens of French origin who experienced difficulty in obtaining a visa from the French authorities of their American passports, I have the honor to transmit herewith copy and translation of a Note received from the Ministry for Foreign Affairs in this connection.

I have [etc.] HUGH C. WALLACE

[Enclosure—Translation [41]]

The French Minister for Foreign Affairs (Briand) to the American Ambassador (Wallace)

Administrative Claims
3d Bureau PARIS, *March 24, 1921.*

MR. AMBASSADOR: By a letter dated February 17 last, and acting under instructions from your Government, Your Excellency was good enough to make known to me that several naturalized American

[41] File translation revised.

citizens of French origin had informed the Department of State at Washington that at the time of applying for the French visa of their American passports, the French consuls both in New York and in other cities, had declined to recognize them as American citizens, claiming that these individuals must use French passports wherein they would be described as French citizens. According to an example given, it would seem that the French vice consul in New York told one person who desired a visa to visit France, that he must renounce his American allegiance and assume French allegiance.

The Government of the United States has therefore requested Your Excellency to ask me to send instructions to the competent authorities in the United States, directing them not to advise American citizens to renounce their allegiance to the United States, nor to urge them to obtain French passports or to do anything which would imply the disavowal of their American nationality.

Although it is realized that, in view of the conflict of laws of the two countries, complications may arise regarding the status of persons of dual nationality, the Government of the United States hopes that, until these difficulties can be obviated by a satisfactory treaty of naturalization, the French Government will find it possible to make arrangements by which persons, owing fidelity to the United States and whose allegiance is claimed by France, who wish to proceed to France, can do so without being called upon in any manner to disown their allegiance to the Government of the United States, an allegiance which American citizens undertake to observe by solemn oath.

Finally, Your Excellency was good enough to ask me, in conformity with the instructions received from your Government, whether the French Government is willing to take up negotiations for a naturalization treaty.

My Department has thoroughly studied the communication of Your Excellency, in the most friendly spirit and with the sincere wish to find a solution to the difficulties which Your Excellency has been good enough to point out to me. I have the honor to communicate to you below the result of this study.

The Government of the United States—and such is its absolute right, as in acting thus it is only exercising the legitimate prerogatives of sovereignty—grants naturalization to foreigners, and in particular to French persons who comply with the legal conditions for obtaining this favor, without regard to the provisions of the legislation of their country of origin which restrict, in making it subject to certain conditions, their recognized right validly to renounce their nationality of birth.

There are grounds for recognizing with Your Excellency that no one has the right, within the territory of the United States, to urge individuals naturalized in such territory to renounce the allegiance

which has been conferred upon them by the sovereignty of the United States.

But the question at issue in the present case is in reality quite different.

Of all the countries in the world France is perhaps the one which has shown the most liberal tendencies as regards the liberty of expatriation, which the law of Congress of July 27, 1868,[42] declared a natural right of man. Until the law of May 12, 1870, the United Kingdom of Great Britain and Ireland maintained the principle of perpetual allegiance: "once a subject, always a subject", which principle the United States has not expressly repudiated as regards American citizens, except by article 2 of the Federal law of March 2, 1907,[43] relative to the expatriation of citizens and their protection abroad. Moreover, until the law of July 22, 1913, on the acquisition and loss of Empire and State nationality, the German Empire did not admit naturalization abroad as a cause of loss of State nationality and of the quality of nationality of the Empire, and admits it now (article 25 of the above-mentioned law) only under a reservation allowing, with the connivance of the Empire authorities, the voluntary and secret preservation by the interested party of his nationality of origin concurrently with the nationality acquired upon his request. On the other hand, article 17 of the French Civil Code of 1804 provided without any restriction for the loss of French nationality as a result of the naturalization of French people abroad. The Imperial decree of August 26, 1811, enacted, it is true, severe penalties for French persons who obtained naturalization abroad without the consent of the Government, but these penalties had fallen into disuse with the circumstances which had given rise to them, and the bond of allegiance continued to be broken, and foreign nationality acquired by naturalization was recognized in France, as was expressly shown by the judgment of the Civil Court of the Seine (3d Chamber), of February 23, 1898, in the *Tirveillot* case.

Following the war of 1870–71, in view of the circumstances, France found herself under the necessity of having recourse to the institution of compulsory and personal military service, introduced by the law of July 27, 1872, on army recruitment.

In view of the stagnation of her population, France had to prevent Frenchmen from escaping their military obligations and eluding them through naturalization abroad. In consequence of the loss of French nationality, such naturalization did indeed result in the crossing out of the names of the men in question from the military

[42] 15 Stat. 223.
[43] 34 Stat. 1228.

lists and registers, inasmuch as it is a French principle that no one can be allowed to serve in the French army unless he is French or a naturalized Frenchman (article 3 of the law of July 15, 1889, and article 3 of the law of March 21, 1905 on army recruitment.)

The French legislator of 1889 did not, however, abandon the traditional principle of liberty of expatriation. On the contrary, he reinforced it by abrogating the decree of August 26, 1811, and by including in item 1, paragraph 1, of article 17 of the Civil Code, modified by the law of June 26, 1889, as a cause of the loss of French nationality, the acquisition by a Frenchman at his request of a foreign nationality as a result of the law of naturalization, properly so called. But, in the 2d paragraph of article 17, item 1, he inserted the following reservation with a view to safeguarding the interests of national defense:

"If he (the Frenchman) is still under the obligations of military service in the active army (the term 'active army' including the inactive list and the reserve of such army), naturalization abroad will not result in the loss of the French nationality unless such naturalization has been authorized by the French Government."

A similar reservation, prompted by the same spirit, exists in American law itself. Article 2 of the Federal law of March 2, 1907, relative to the expatriation of citizens and their protection abroad, while laying down as a principle that any American citizen shall be deemed to have expatriated himself when he has been naturalized in a foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state, adds *in fine* the following proviso:

"No American citizen shall be allowed to expatriate himself when this country is at war".

It follows that naturalizations obtained by citizens of the United States under these circumstances, in contempt of the provisions of this law, do not result in the loss of American nationality, are not recognized in their effect by the Government of the United States, and cannot be pleaded against it on its territory.

This provision of the law contemplates only a time of war. But in reality it is more stringent than paragraph 2 of article 17, item 1 of the French Civil Code. In fact, it applies to all American citizens, without any distinction of age or sex, whereas paragraph 2, article 17, item 1 is applicable only to males and only to one category of them. Girls or women of age, widows, or divorced women, or those having only obtained judicial separation, since the law of February 6, 1893, amending article 311 of the Civil Code, Frenchmen definitively exempted from military service or having complied with

military obligations in the active army and in the reserve of the latter, and passed to the territorial army, who have obtained naturalization abroad, lose for this reason French nationality from the French point of view, without having to request or obtain any authorization from the Government beforehand.

However, Frenchmen who, being still under military obligations in the active army and its reserve, have secured naturalization abroad without having requested and obtained the authorization of the French Government beforehand, remain French from the French point of view, a subsequent authorization not having the power to set right their defective naturalization. It is the same with deserters and *insoumis* (defaulters) who, not having complied with military obligations for the active army, are still legally liable for them. Whatever their age may be, naturalization abroad does not cause them to lose their French nationality, according to the terms of article 17, item 1, paragraph 2 of the Civil Code.

This does not mean that the French administrative or judicial authorities are in a position to question the validity or pronounce the nullity of a document of naturalization emanating from a foreign sovereignty. International courtesy prevents it. But such a document can have no effect on French territory, and French nationality with its rights and the duties attached thereto is the only one which can be recognized on French territory in the individual in favor of whom the naturalization has taken place.

Furthermore, it is the same with individuals born in the United States of French parents not naturalized or [not?] naturalized before their birth, who are considered Americans *jure soli* by American law, whereas France considers them as French by birth, *jure sanguinis*, by virtue of article 8, paragraph 1 of the Civil Code, without according to them any right of option.

Each State on its territory, by virtue of its sovereignty, applies in the matter of nationality its own legislation which bears the character of public law, to the exclusion of any other.

The principle generally accepted and recognized in international relations, which principle is in conformity with this rule, is, as stated in Westlake, *International Law*, *Part I*, *Peace*, 1910, chap. X, p. 230, that in the absence of provisions by treaty clauses, no State ought to give protection to its nationals residing on the territory of another State which claims them as its nationals on any ground recognized in the civilized world, *jus soli*, *jus sanguinis*, or naturalization.

The French practice to which Your Excellency is good enough to allude, is in conformity with this principle.

In the United States a passport is not only a travel document, but a document indicative of nationality. The passport attests the American citizenship of the holder.

On arrival in France the passport is to serve as proof of nationality. The visa of such a document by our consuls would be tantamount to the official guarantee that this nationality will be recognized in him in France, whereas a formal provision of our domestic public law states that this cannot be guaranteed; that he has retained his status as a Frenchman in France, and that he must be treated here as such. Bound by French law, our agents, without contesting the American point of view regarding the value of the documents which are submitted to them, cannot give any such assurance to the applicants, which might mislead them concerning their real status under French law, which prevails exclusively on French territory and determines their status there. It is the duty of the French agents, while in no way urging the applicants to disown American allegiance, to inform them of the nationality which is attributed to them on French territory and of the conditions of admission thereon. Consequently, in spite of my earnest wish to give satisfaction to the request which Your Excellency has been good enough to address to me on behalf of the Government of the United States, it is not within my power to issue instructions recommending the violation of French legislation constituting public law and being of a public order.

I do not ignore the serious difficulties which arise from the absolute divergence of the two systems of laws as regards nationality, each one being sovereign in the territory which it governs. This situation is not peculiar to the relations between France and the United States. The same conflicts exist in our relations with many other States.

Your Excellency was good enough to suggest that an endeavor should be made to settle these difficulties by means of a treaty. In view of the particularly amicable relations which exist between the two countries, I do not feel that I should dismiss this suggestion. However, I must call Your Excellency's attention to the special difficulties which the conclusion of a treaty on such a subject offers. Firstly, from the constitutional point of view, such a treaty must be submitted to the approval of Parliament. Article 8, section II of the constitutional law of July 16, 1875, on the relations of the public powers provides in effect:

> Treaties of peace, of commerce, other treaties which involve the finances of the State, those which refer to the status of persons and to the right of property of Frenchmen abroad are not definitive until they have been approved by a vote of the two Chambers.

Now, a treaty regulating questions of nationality is relative, in the highest degree, to the status of persons. I cannot, of course, prejudge the reception Parliament might possibly give a treaty modifying the fundamental principles on which our law on nationality is based at present but not finding its justification in actual reciprocity.

The convention of May 13, 1870, between the United States and Great Britain [44] was greatly facilitated, on the one hand, by the suppression of the principle of perpetual allegiance by the British law on nationality of May 12, 1870, and on the other hand, by the fact that the institution of compulsory military service was unknown in both countries.

As regards the celebrated Bancroft treaties [45] concluded in 1868 between the United States and the Confederation of Northern Germany, Bavaria, the Grand Duchy of Baden, Hesse, and Württemberg, it should be recalled that the laws of the greater part of the German States, like the subsequent law of June 1, 1870, on the acquisition and loss of Empire and State nationality, admitted as a cause of the loss of nationality an uninterrupted residence of ten years abroad. Hence, the treaties, in making the loss of German nationality a result of a reduced residence abroad of five years coexistent with naturalization in that country, did not derogate from a principle; they conformed to it, although they attenuated the original requirements of internal legislation. It is not the same as regards France, where French nationality is not lost through residence abroad, however protracted its duration may be, since the suspension by the law of June 26, 1889, of the cause of loss of nationality resulting from emigration without intention of returning.

Moreover the Bancroft treaties are far from having settled the question in an entirely satisfactory manner. In fact, it appears from the statistical reports of Mr. Squiers, Secretary of the Legation of the United States at Berlin, on the practical application of the Bancroft treaties, that the Imperial administration, under the influence of the necessities of recruitment and the tendencies to reinforce the military institutions of the German Empire, recognized so well immigrant Germans naturalized in the United States as Americans, that it expelled them *en masse*, judging their presence undesirable in the territory of the Empire as having a demoralizing effect on German nationals who had to comply with military obligations.

Finally, a special treaty on naturalization like the Bancroft treaties would have a limited object; it would leave out of its provisions

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[44] Malloy, *Treaties*, vol. 1, p. 691.
[45] *Ibid.*, pp. 53, 60, 949, and vol. 2, pp. 1298, 1895.

the situation of individuals born in the United States of French parents not naturalized or [not?] naturalized before their birth, considered as Americans in the United States and as French in France, without any participation of their will. This situation, arising out of the absolute incompatibility of *jus sanguinis* and *jus soli* could not be settled without the formal renunciation by one of the two countries of the fundamental principle on which they base the attribution of nationality of origin.

I am none the less ready, as I have said before, to receive the overtures which Your Excellency might be led to make me, and to examine them in the most friendly and conciliatory spirit, while making reservations on the possibilities of reaching an agreement, in view of the special difficulties which I have pointed out and the necessity for Parliament's approval.

Please accept [etc.]

For the President of the Council,
Minister for Foreign Affairs and by order:
(signed illegibly)
The French Ambassador, Secretary General

FAILURE TO AGREE UPON THE RECIPROCAL USE OF THE ANNAPOLIS AND LAFAYETTE RADIO STATIONS FOR TRANSMITTING OFFICIAL MESSAGES [46]

811.7451/1

The Ambassador in France (Wallace) to the Secretary of State

No. 1833 PARIS, *November 24, 1920.*
[Received December 9.]

SIR: With reference to previous correspondence concerning the reciprocal rights of the United States for the use of the Lafayette Radio Station at Croix d'Hins, France, I have the honor to enclose, in copy and translation, a Note dated November 22, 1920, from the Ministry for Foreign Affairs.

This communication is in reply to informal representations made by the Embassy, at the suggestion of the Naval Attaché, that the French Government should authorize certain of its delegates to the Preliminary Communications Conference [47] to discuss a reciprocity clause with the competent American authority.

I have [etc.] HUGH C. WALLACE

[46] For previous correspondence concerning radio communication with France, see *Foreign Relations*, 1918, supp. 2, pp. 836 ff.

[47] For papers relating to this conference, see *ibid.*, 1920, vol. I, pp. 107 ff.

[Enclosure—Translation [49]]

The French Minister for Foreign Affairs (Leygues) to the American Ambassador (Wallace)

PARIS, *November 22, 1920.*

MR. AMBASSADOR: You have been good enough to remind me recently of a communication from your Embassy, dated December 8, 1919, relative to the use by the United States of the Lafayette radio station for American official and commercial telegraphic correspondence.

This question, which has been examined with the greatest attention by the French Administration of Posts and Telegraphs, gives rise to the following observations:

1. The building of the Lafayette station was decided upon in 1917 by the American High Command in France as a war measure. Following the Armistice of November 11, 1918, the Lafayette station was turned over to the French Government. By the terms of the agreement of February 11, 1919,[50] this Government was charged with all the expenses incurred by the United States for the construction of the station.

2. Radio communication is provided for in the United States by stations belonging to private companies. This condition has no exception save for the Navy station at Annapolis. But when this station discontinues the commercial traffic which it provisionally assures with the Doua (Lyon) station, the Lafayette station will no longer be able to communicate to the United States for commercial telegrams except through private stations.

3. In normal times telegrams of foreign states are subject to the regular rates on telegrams; the Administration is not able to make an exception to this rule.

Under reservation of the preceding observations, the French Administration is entirely willing to transmit, under ordinary conditions, the official telegrams of the United States and of France via Lafayette and Annapolis or to receive them from Annapolis, when the Lafayette station is placed in operation. The Government of the United States has only to make known definitely its desire; it does not seem necessary to add a clause to that effect in the contract which was entered into between the two Governments on February 11, 1919.

Please accept [etc.]

For the Minister and by authorization:

MAURICE HERBETTE

The Minister Plenipotentiary

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[49] Supplied by the editor.

[50] *Foreign Relations*, 1918, supp. 2, p. 841.

811.7451/2

The Secretary of the Navy (Daniels) to the Acting Secretary of State

DNC 12479–1072: 43 WASHINGTON, *December 20, 1920.*

SIR: I have the honor to inclose for your information in connection with the unsigned memorandum of Department of State dated 14 December, 1920,[51] on the subject of reciprocal rights for the Lafayette Radio Station, a copy of a proposed agreement drawn up in a conference between Rear Admiral Bullard of this Department and Monsieur Broin and General Ferrié of the French delegation.[52]

Monsieur Broin of the French delegation has a copy of the proposed agreement and upon his return to France the question of its ratification by the French Department of Posts and Telegraphs will be taken up by him. Unless or until further information as to the action taken by the French Department of Posts and Telegraphs is received, it is not believed that any further steps are necessary on the part of this Government.

Please accept my thanks for the co-operation and assistance rendered by the Department of State in connection with this matter.

Respectfully,

JOSEPHUS DANIELS

[Enclosure]

Draft of Proposed Agreement between the Navy Department and the French Department of Posts and Telegraphs Providing for the Reciprocal Use of the Lafayette and Annapolis Radio Stations

The following traffic agreement, so far as relates to government messages of the French and United States governments, is proposed:

(1) The Lafayette and Annapolis radio stations will continue to be available for the transmission of State telegrams emanating from French and American officials stationed in France or in the United States as defined in Article 5 of the Convention of St. Petersburg,[53] without charge to either government for the radio transmission and reception involved. Radio receiving stations in France and in the United States will be designated by the respective managements to ensure the reception of such messages transmitted by radio.

(2) Each of the above named stations may be used for the broadcasting of State telegrams, as defined above, transmitted into the

[51] Not printed.

[52] To the Preliminary Communications Conference.

[53] *I. International Telegraph Convention of St. Petersburg, 1875*, etc. Translation of the text issued by the International Bureau of the Telegraph Union, Berne, May, 1930 (Government Printing Office, 1930).

air and destined for vessels of the French or United States Navy as may be arranged by the administrations controlling the two stations, at the request of responsible officials of the two services.

(3) These stations shall reserve a period of time of sufficient length to permit the handling of all official messages filed by representatives of the respective governments.

(4) The right is reserved to suspend the provisions of this agreement in cases of national emergency.

811.7451/3

The Secretary of State to the Secretary of the Navy (Daniels)

WASHINGTON, *February 15, 1921.*

SIR: I have the honor to acknowledge the receipt of your letter of January 31, 1921, enclosing a copy of a communication from the French Department of Posts and Telegraphs [54] relative to the draft agreement between the Governments of the United States and France providing for the reciprocal use of the Lafayette and Annapolis radio stations for the transmission of official messages.

It is noted that the French Department of Posts and Telegraphs accepts Articles 1, 3 and 4 of the proposed agreement, but objects to Article 2 on the ground that the use of the Lafayette station for broadcasting official messages to the navies of the two governments, would to that extent interfere with communication to and from the United States. It is also noted that the French Department of Posts and Telegraphs suggests the use of the station at Bordeaux for the purpose mentioned in Article 2 of the proposed agreement.[55]

I shall be grateful for information as to the Navy Department's views on the subject, and as to the advisability of taking the matter up further with the competent authorities of the French Government through the American Ambassador in Paris.

I would suggest that, if and when the terms of the proposed agreement are formulated to the satisfaction of the two parties, an exchange of notes should take place between the diplomatic representative of the United States and the appropriate authority of the French Government.

I have [etc.]

For the Secretary of State:
NORMAN H. DAVIS
Under Secretary

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[54] Neither printed.

[55] An error; for correct interpretation of French communication, see letter from the Secretary of the Navy, Feb. 18, *infra*.

811.7451/5

The Secretary of the Navy (Daniels) to the Secretary of State

Op–20–A WASHINGTON, *February 18, 1921.*

SIR: I have the honor to acknowledge receipt of your letter of February 15, 1921, relative to the agreement between the French Department of Posts and Telegraphs and the Navy Department, for reciprocal use of the Lafayette and Annapolis Radio Stations in the transmission of official messages of the two Governments.

From your letter above referred to, it would appear that your understanding as to the Station which the French Department of Posts and Telegraphs suggests for the purpose mentioned in Article 2 of the proposed agreement is not quite the same as that held by the Navy Department, as it appears to this Department that the French Department of Posts and Telegraphs do not feel that it is at all desirable to use the Lafayette (Bordeaux) Station for transmitting radiograms to ships. It is believed, however, that the Department of Posts and Telegraphs of France intend using the high power station at Lyons very probably for the transmission of official radiograms addressed to Naval vessels. The designation of the Lafayette Station for the purposes mentioned in paragraph two of the tentative draft of agreement is, of course, greatly to be desired, owing to the greater range of that Station and consequent better service in transmission of official despatches to United States Naval vessels.

Any steps which the Department of State may be able to take to bring about the designation of the Lafayette Radio Station for the purposes mentioned in paragraph two of the proposed agreement will be greatly appreciated by this Department.

Very respectfully,

JOSEPHUS DANIELS

811.7451/13

The Ambassador in France (Herrick) to the Secretary of State

No. 711 PARIS, *November 7, 1921.*

[Received November 25.]

SIR: With reference to your instruction No. 779, dated March 16th last,[56] and other correspondence on the subject of the reciprocal use of the Lafayette (Bordeaux) and Annapolis radio stations, I have the honor to transmit herewith for the Department's informa-

[56] Not printed.

tion, copy and translation of a note received from the French Government in the premises.

This note maintains the same attitude as previously expressed by the French Authorities, that is, agreement as to Paragraphs 1, 3 and 4 of the draft agreement, but not as to Paragraph 2.

I have [etc.] MYRON T. HERRICK

[Enclosure—Translation]

The French Minister for Foreign Affairs (Briand) to the American Ambassador (Herrick)

PARIS, *November 4, 1921.*

MR. AMBASSADOR: By letter dated July 28th last you were good enough to inquire whether it would be possible to utilize the station of Bordeaux–Lafayette for the transmission of State telegrams destined for American war vessels.

I have the honor to inform Your Excellency that the station Bordeaux–Lafayette is destined to ensure long distance communications, and particularly communications with the United States, and its utilization for the transmission of official messages to vessels would have the disadvantage, by limiting the time which might be given to exchanges with corresponding stations, of delaying the forwarding of commercial traffic.

It does not therefore seem desirable to open up the post of Bordeaux–Lafayette to communications with American vessels, and it has seemed preferable to the Under-Secretary of State of Posts and Telegraphs to put the station of Lyons in charge of these transmissions.

Kindly accept [etc.]

For the Minister and by authorization:

R. PÉAN

Minister Plenipotentiary

MISSION OF M. RENÉ VIVIANI TO THE UNITED STATES

033.5111/61

The Ambassador in France (Wallace) to the Secretary of State

No. 2218 PARIS, *March 11, 1921.*

[Received March 25.]

SIR: I have the honor to report to the Department that the following note in regard to ex-Premier Viviani's visit to the United States was published in the French Press of March 8:

"The French Government is sending M. Viviani to Washington on a special mission to convey to the United States the congratulations of friendly France, on the occasion of the coming into office of President Harding.

This visit will have a particular significance in the eyes of the Americans.

At the moment when the direction of the affairs of the State changes hands in the United States, it will mark the lasting friendship of the French people for the sister nation which, in the difficult hours of the Great War, maintained the noble traditions inaugurated between the two nations during the heroic epoch of the War of Independence.

M. Viviani was at the head of the French Government during the tragic hours of the German declaration of war; he received in the United States, in company with Marshal Joffre, an unforgettable welcome when he went to thank the American people for the cooperation so enthusiastically given; finally, he took part in the labors of the French Parliament and of the League of Nations in a way that cannot be forgotten; he is better able than anyone else to testify to France's pacific designs; to trace the line of the wonderful efforts which she has already accomplished in order to regain in the world the place to which the services rendered to humanity give her a right; and also to show the necessity for her to find, in a just execution of the Treaty, accepted by Germany, the means to repair the ruins caused by a war of which she has borne the heaviest burden, and to prevent, by disarmament, a return to the crimes against civilization and liberty."

In an interview with *Le Matin*, M. Viviani is stated to have declared:

"Several weeks ago, M. Briand asked me if I would go to America immediately after the inauguration of President Harding to salute him in the name of the French Democracy and to demonstrate through him to the American people the ardent sympathies and the imperishable gratitude of France".

After mentioning the announcement made public concerning him, the ex-Premier said he expected to arrive in Washington about March 28th and that his first duty would be to call upon the President. He concluded the interview with the following words:

"I shall probably have occasion, in the course of the conversations which will be held, to cause the true democratic and pacific character of France to appear, and to explain that this disinterested nation, which has fought for civilization and for liberty, demands only her right and recently has even reduced the figure in the interests of the peace of the world. I go alone, counting furthermore upon the valuable assistance of our eminent Ambassador, M. Jusserand, and of the French services. I expect to be back in France during April and shall be happy if I can, in the interests of my country, fulfil the confidential mission with which its Government has charged me."

The French text of the official note and of M. Viviani's interview with *Le Matin*, as published by that paper on March 8, are forwarded as an enclosure to this despatch.[57]

Le Temps issues a semi-official note denying the report said to have been published in certain newspapers or agencies of the United States to the effect that M. Viviani in the course of his mission to America has been charged with the discussion of the question of the Inter-Allied debts.

I have [etc.] HUGH C. WALLACE

462.00 R 29/3457

Memorandum by the Under Secretary of State (Fletcher)

Memorandum of interview held in office of the Secretary of State, Wednesday, March 30, 1921.

Present:

Mr. Viviani	Secretary of State
Mr. Jusserand	Under Secretary of State

Mr. Viviani, after being introduced by Ambassador Jusserand, informed the Secretary of State that in the first place he wished to correct a misapprehension which had been given currency by newspaper reports to the effect that he had come here to secure remission of the French debt to the United States. He said that this was entirely incorrect; that he wished to say that France had pledged her faith in the obligations to the United States and expected to make payment.

German reparations—Mr. Viviani then turned to the question of the reparations due by Germany to France. He said that France at the time of the signing of the Treaty of Versailles felt satisfied, but that the Treaty had not worked out as she hoped and expected; that England had secured immediate satisfaction in the disposition of the German colonies and merchant fleet, whereas the reparation payments due France, which had necessarily to be deferred, had not so far been satisfactorily adjusted, and sketched rapidly the causes leading up to the present occupation of the Rhineland. He stated that France could not be militaristically inclined, in view of the losses which she had sustained and the million and a half men killed and almost half as many wounded and disabled.

He then turned his attention to the financial situation of France, stating that although the war had cost an enormous sum France had not followed Germany's example of 1870 by demanding repayment of the cost of the war, but had merely asked a sum sufficient to pay

[57] Not printed.

pensions and actual restoration of the devastated district, and he recited figures to prove that payments by Germany, as provided for in the Treaty, were absolutely necessary to save France from bankruptcy; that the French Government has practically reached the economic limit of her borrowing. The Secretary replied to this that our Commissioner in Berlin had been instructed to say to the German Government that this Government felt that Germany should not only acknowledge her responsibility, but that she should pay to the limit of her ability.[58]

Separate peace.—Mr. Viviani then turned to the subject of a separate peace with Germany. He stated that his Government was extremely apprehensive on this score, and felt that if the United States would make a separate treaty of peace with Germany it would be extremely difficult for the Allies to exact compliance on the part of Germany with the terms of the Treaty of Peace. Mr. Viviani very earnestly sketched the disastrous consequences which he feared would follow a separate peace between Germany and the United States. Secretary Hughes replied that he felt that there was today in the United States greater opposition to the Treaty of Versailles than at the time of the last election even, and that this opposition, which was crystalized during the debate upon this Treaty in the Senate and the last Presidential campaign, had been intensified, if anything, by observation of what had been done by the League in disregard of American rights, and that as sentiment formed against the Treaty, the idea of separate peace with Germany gained ground.

League of Nations—This brought into the discussion the question of the League of Nations. Mr. Viviani was careful to state that in any discussion of the League of Nations he could not speak either as the representative of France or of the League of Nations itself, and that anything that he might say would be purely from a personal point of view. Secretary Hughes replied that he understood that perfectly and that anything which he himself might say must be taken also as a mere personal and informal expression of opinion, in no way binding the Government of the United States. The discussion therefore proceeded on the theory that it was an informal and confidential exchange of views.

Mr. Viviani pointed out that France and the other Allied Powers, with the exception of the United States, had ratified the Treaty, and that as a consequence the League of Nations had come into being and comprised some forty nations of the earth; that it was a distinct international entity. He stated that if our objections related only to Article X, it ought to be a simple matter to come to some under-

[58] See telegram no. 553, Mar. 29, to the Commissioner at Berlin, vol. II, p. 40.

standing, that in his personal opinion Article X was perfectly valueless and unimportant, and as proof of this he referred to the discussion of Armenian affairs before the League at Geneva. He stated that in practice, due to slow operation of the League machinery, the guaranty under Article X was ineffective, that he personally was opposed to it because of the encouragement it might give to the smaller states in their international relations. He said he knew of course of the other objections which have been raised to the Covenant of the League of Nations, and that he would be very glad to go over them to see whether the parts objected to by us might not be eliminated. He thought that there would be no difficulty in England and France, after an informal exchange of views, recommending to the League of Nations such amendments to the Covenant as would enable us to take the place in the League which was waiting for us. Secretary Hughes replied that the Peace Conference had departed from the original idea of the League of Nations by making it not only an instrument for conference and conciliation, with a view to preserving the peace of the world, but also by charging it with certain definite duties in connection with the enforcement of the terms of the Treaty, and that the opposition of the American people to the League had grown after seeing it in operation, and mentioned as an incident of this action of the League through the Council in its distribution of mandates not only without the consent, but over the formal protest of the United States. The Secretary said that he felt he ought in candor to make very clear to Mr. Viviani the state of public opinion in this country on the subject of the League. He stated that he assumed that Mr. Viviani and the Ambassador would not deny that the United States could not be divested of the rights accruing to it as one of the victorious Allied Powers except by a Treaty signed and ratified by us. This position was readily assented to. The Secretary again referred to the course of the Council in distributing mandates without regard to our rights, and mentioning specifically the case of Yap where the attitude of France and England seemed to be that it was not their affair but that we should settle the matter with Japan, and the information which we had had from the French Government that as far as it was concerned the matter had been definitively settled. Secretary Hughes said that he had referred to this merely as an illustration of the difficulties which had been created as a consequence of making the League of Nations an instrument for the enforcement of the Treaty and of the difficulties which would confront the United States in entering it. The Secretary stated that, as he had informed Ambassador Jusserand in previous conversations, he felt that this question of mandates could not be settled in disregard of the rights of the

United States, and that in the case of Yap it was not a matter which depended solely upon an agreement between Japan and the United States, and he asked what France would have said if, in a similar situation to that now occupied by the United States, the other Allied Powers had assigned the Saar Valley to another. The Secretary said that while there was no comparison in the relative importance of the two examples, the underlying principles were the same.

The Secretary asked whether, in view of the state of public opinion in this country with respect to the League and the consequent drift toward a separate peace, the French Government could make an alternative suggestion. Both Messrs. Viviani and Jusserand felt that the French Government would find great difficulty in making any such suggestions and believed that the suggestion should come rather from the United States. Mr. Jusserand then stated that the President had informed him that he was not in favor of a separate peace. Secretary Hughes replied that while the President felt so with respect to a separate peace at this time, yet in view of the strong public opinion in this country with reference to the Treaty and League, unless an alternative were suggested which would have the general support of public opinion here, a separate peace might be the only course left open to us.

[H. P. FLETCHER]