[Inclosure.]

Mr. Stokley to Mr. Fish.

MAYOR'S OFFICE OF THE CITY OF PHILADELPHIA,
August 31, 1874.

DEAR SIR: Your communication of 19th instant was received, inquiring as to dissatisfaction existing among French emigrants in this city.

No complaint of any kind has been made to this department in relation thereto. Since receipt of yours I have been informed the trouble grows out of misrepresentations made by the agents who induce the parties to emigrate, they being unable to procure work upon their arrival in this country, and not possessing means to return.

W. S. STOKLEY.

GERMANY.

No. 242.

Mr. Bancroft to Mr. Fish.

No. 502.] AMERICAN LEGATION,
Berlin, July 23, 1873. (Received August 16.)

SIR: Frequent inquiries are addressed to the legation on the part of the authorities and the courts of justice here, as well as by individuals, respecting the genuineness of diplomas issued by the so-called "American University of Philadelphia."

One of the latest of these inquirers incloses the accompanying circular, which had been sent him. This paper, it will be observed, is stated to be "for private circulation." It offers to confer degrees and issue diplomas in all the branches of learning to persons in Europe, without requiring their presence, and indicates an agent in Jersey, England, as the person to whom application is to be made. I am informed that the price asked for the highest degree is $150.

I cannot think that any reputable institution in the United States would thus, underhand, offer to peddle its honors indiscriminately to any who would pay for them, and am led to hope that the enterprise may emanate altogether from England.

As much importance is attached to university degrees in Germany, and they are conferred with scrupulous care, their sale either by, or ostensibly on behalf of, a university with us, tends to bring our institutions of learning into disrepute, and is a detriment to the cause of letters everywhere.

I have thought it proper, therefore, to bring the matter to your attention, with a view to such measures being taken to expose and correct this abuse as may seem to you judicious.

I am, &c.,

GEO. BANCROFT.

No. 243.

Mr. Davis to Mr. Bancroft.

No. 603.] DEPARTMENT OF STATE,
Washington, August 18, 1873.

SIR: Referring to your No. 502, requesting information concerning the so-called American University of Philadelphia, and especially in regard

to the proceedings of one Dr. P. F. A. Vander Vyver, of the island of Jersey, who offers for sale certain diplomas of the above-mentioned institution, I inclose herewith for your information a copy of a communication from the executive department of Pennsylvania, and of its inclosures, in answer to inquiries made at the instance of the consular agent of the United States at Königsberg, concerning the subject in question.

I am, &c.,

J. C. B. DAVIS,
Acting Secretary.

[Inclosure 1 in No. 603.]

Mr. Norris to Mr. Fish.

EXECUTIVE CHAMBER, HARRISBURGH, PA.,
March 7, 1873. (Received March 10.)

SIR: In reply to your letter of the 3d instant, making inquiry "whether the Philadelphia University of Medicine and Surgery have authority to grant a diploma of Doctor of Philosophy to a person who has not been a regular student of the university or who has not graduated in its course of study," by direction of the governor I have the honor to transmit herewith a communication, with an accompanying circular from the secretary and treasurer of the board of trustees of the University of Pennsylvania, which doubtless convey the information desired.

I am, &c.,

A. WILSON NORRIS,
Private Secretary.

Hon. HAMILTON FISH,
Secretary of State.

[Inclosure 2 in inclosure in No. 603,]

Mr. Biddle to Governor Hartranft.

PHILADELPHIA, 208 SOUTH FOURTH STREET,
March 6, 1873.

DEAR SIR: The letter from the Hon. Mr. Fish, with your indorsement, was this morning received.

An institution entitled the Philadelphia University of Medicine and Surgery did exist in Philadelphia, with power to confer degrees, but at the last session of the legislature its charter was repealed. Dr. William Paine was the dean of this institution.

An elaborate report was at that time made by a committee, appointed by the legislature, which recommended the repeal of several charters. The report was adopted, and a bill passed.

It is reported that by an oversight the bill then passed did not repeal the charter of one of the institutions it was designed to reach.

The title of the Philadelphia University of Medicine and Surgery caused it to be confounded with the University of Pennsylvania, causing much very serious annoyance to the authorities of the latter, with which I am connected as secretary and treasurer.

I remain, &c.,

CADWALADER BIDDLE.

His Excellency Governor HARTRANFT.

[Inclosure 2 in inclosure No. 603.]

[Circular.]

UNIVERSITY OF PENNSYLVANIA,
Philadelphia, September, 1871.

Frequent applications are made to the authorities of this university by gentlemen who desire to obtain honorary degrees. As these applications are made in evident ignorance of the rules which govern the university in conferring these degrees, as well as of the law of the State of Pennsylvania on the subject, it has been thought best to reprint the existing regulations.

Extract from the statutes of the university.

"Of honorary degrees in divinity, law, arts, and medicine:

"1. These may be conferred either at the instance of the faculty or in pursuance of a resolution of the board of trustees; but no such degree shall be conferred unless the mandamus ordering the same be signed by two-thirds of the whole number of trustees, nor unless the candidate shall have been nominated at the board three months previously to taking the question on conferring the degree.

"2. The question on conferring an honorary degree shall always be decided by ballot, and the candidate must receive a unanimous vote.

"AN ACT to prohibit the sale of academic degrees.

"SECTION 1. *Be it enacted by the senate and house of representatives of the commonwealth of Pennsylvania in general assembly met, and it is hereby enacted by the authority of the same,* That it shall not be lawful for any university, college, or other institution incorporated under the laws of this State, with power to grant academic degrees, honorary or otherwise, to confer the same upon any person or persons upon the payment, or promise of payment, by any person, in consideration thereof; and any person knowingly signing a diploma or other instrument of writing purporting to confer an academic degree when such consideration has been paid, or promised to be paid, shall be guilty of a misdemeanor, and on conviction thereof be sentenced to pay a fine not exceeding five hundred dollars and to undergo an imprisonment not exceeding six months, or both, or either, at the discretion of the court.

"Approved May 19, 1871."

No. 244.

Mr. Bancroft to Mr. Fish.

No. 527.] AMERICAN LEGATION,
Berlin, October 6, 1873. (Received October 30.)

SIR: While perfect freedom remains to all Germans that wish to emigrate to the United States, the governments of the several states are becoming impatient at the presence within their limits of agents of emigration, and in two or three instances such agents have been summarily directed to quit the state in which they prosecuted their business. Perhaps not every one of the agents has conducted himself discreetly, and, as far as I have been able to observe, they have brought to the United States no increase of desirable emigration. In some cases the agent is a naturalized German-American citizen again established in Germany, apparently without an intention to return to the United States, and, therefore, feeling no kind of responsibility to our Government. Of the motives to emigration, the most influential is the low price paid in Germany for agricultural labor, which has led many of the country people to flock to the towns and cities and many to cross the Atlantic.

I have thought it incumbent on me to do what I could to restrain the arbitrary procedures of the local governments, and the only measure I could adopt is to ask that in every instance of expulsion there be notice given, with assignment of the reasons.

The books of Heffter and Bluntschli both authorize, and even recommend, this procedure, but both maintain the right of expulsion.

In two cases emigration agents have appealed to the legation. In one case it had been proved that the emigration agent had assisted a fraudulent bankrupt in escaping to America. The agent, in his conversation with me, did not so much deny the fact as insist on his own innocence, founded on his ignorance and good intention.

A second case is that of a commissioner of immigration from the State of Michigan, of whose personal character I have received the best accounts. I have, therefore, selected his case for a more formal statement to the government, of which I inclose a copy.

The beneficial results which I expect from this course are two: To increase the disinclination of the government to the use of this measure, and to obtain a clearer definition of the rights and duties of emigrant agents, so that in the pursuit of their business they may know how to avoid all violations of law.

Besides the above two cases of professional emigrant agents, three naturalized Americans of the neighborhood of Saarburg, in the district of Treves, have been recently sent over the frontier for alleged enticement of laborers to go to America. I brought the case to the attention of the Prussian government, which made its explanations, without reversing its decree.

* * * * * * *

I remain, &c.,

GEO. BANCROFT.

[Inclosure.]

Mr. Bancroft to Mr. Von Balan.

AMERICAN LEGATION,
Berlin, October 1, 1873.

Mr. SECRETARY: In conformity with the suggestion of your excellency, that I should make a written communication on the subject of our yesterday's conversation respecting the recent expulsion of American citizens from the German Empire without trial by law or conviction of any offense, I do myself the honor to present some suggestions for your consideration.

There are two grounds on which the United States may claim the right to make representations on the subject.

I. As a question of international law, it is very clearly laid down by the highest German authorities that the government of which a citizen is thus expelled has a right to expect information of an expulsion and of the reason for it. Heffter, in his *Europäisches Völkerrecht*, § 33, vo., p. 64, lays down this rule:

"Kein Staat kann die gehörig legitimirten Unterthanen eines anderen befreundeten Staates zurückweisen, oder, nachdem sie einmal von ihm aufgenommen sind, wieder ausweisen ohne bestimmte ihrer Regierung mitzutheilenden Ursachen."

II. Another ground exists in the treaty of May 1, 1828, between the King of Prussia and the American Republic, by the terms of which, as distinctly expressed in Article I, American citizens are at liberty to sojourn and reside in all parts whatsoever of Prussia, and shall enjoy the same security and protection as natives of the country, on condition of their submitting to the laws and ordinances there prevailing.

There is another point of view which I desire to bring to your excellency's attention. The Government of the United States, equally with the German government, desires its citizens residing in a foreign country to conform scrupulously to the laws of the land. But when a new interpretation is put upon existing laws, or a different practice under them is suddenly followed, it is obviously desirable to give warning of the change in advance, in order to obviate its infringement.

The special case to which I now beg leave to direct the attention of your excellency is that of Mr. Allardt, now resident in Leipsic. He has published a pamphlet and an occasional newspaper on the subject of the State of Michigan. I inclose the pamphlet and specimens of those papers for your exact information, and I cannot but agree with the observation of your excellency, that the simple publication of information is not an offense or a breach of German law. So far as I know, it is not charged against Mr. Allardt that he has ever attempted to persuade any person to emigrate to America.

I beg leave further to add, that, as far as Mr. Allardt is known to this legation, he is held to be a man of truth and honor, and every way worthy of esteem. Yet he has been expelled and a respite of but one week allowed him for his preparations.

I inclose the papers in his case, with the request, first, that a delay may be granted him until the question of his expulsion may receive further consideration; and, next, I would ask permission for him to continue to reside in the German Empire, obeying its laws, which, so far as he is informed, he has not violated.

I gladly avail myself of the occasion to renew to your excellency the assurance of my most distinguished consideration.

GEO. BANCROFT.

P. S. Dr. Bluntschli, in section 384, of the second edition of his "*Modernes Völkerrecht*," fully confirms the opinion of Heffter.

G. B.

No. 245.

Mr. Bancroft to Mr. Fish.

No. 532.] AMERICAN LEGATION,
Berlin, October 27, 1873. (Received November 14.)

SIR: I annex to this letter an authentic copy, in its original Italian, of the letter of the Pope to the Emperor William, of August 7, of this year. The effect of the correspondence has been only to increase the popularity and European reputation of the Emperor, and to depress the influence of the clerical party, thus confirming the accounts which I have always given you that the ultramontane political influence can never become vitally dangerous in this empire. The Catholic clergy are obviously beginning to regret having commenced with the state a contest in which it is not possible for them to gain the advantage. The intelligent Catholics themselves, for the most part, support the government, and so have received from the ultramontanes the nick name of State Catholics. This controversy has nothing new about it, unless it be that the Emperor, whom the Pope arraigns, is a Protestant. I need not remind you that in the last century Charles III, King of Spain, made this very question the test in his selection of his ministers, and the Spanish language has a word to designate it, *Regalismo*, the authority of the state, as opposed to papal interference. The matter was pushed so far at that time, that the King of Spain, aided by the courts of France and Portugal, obtained the total abolition of the order of Jesuits, as it was supposed, forever. I interpret the assumption in our age of a power which was given up by the Roman See a hundred years ago as evidence of a consciousness of the decline of papal authority, and as a desperate attempt to recover it. The attitude of the Emperor William is not only approved by many of the most enlightened Catholics in his own dominions, but also by the majority of the influential Catholics in Austria. Two and a half centuries ago the house of Austria, possessed of the crown of the Holy Empire, was very near extirpating from Germany the Protestant faith. And now the descendant of the principal Protestant prince of that day has obtained not the crown of the old Holy Roman Empire, as it was called, but of the German Empire, and is welcomed at Vienna by the Austro-Hungarian Emperor, with the most marked manifestations of friendship, among them the honorary command of a regiment in the Austro-Hungarian army.

The general result of all is, that Europe, alike Catholic and Protestant, is sick of the boundless pretensions of the Roman See, and is seeking how to avoid papal influence on the external and internal political relations of the state.

The special results for the moment in Germany are a confirmation of opposition to those pretensions, which will manifest itself in the elections for the next legislature of Prussia and in the approaching elections for the German Diet. In foreign affairs the result is a union of the eastern powers in favor of peace; that is to say, in favor of leaving the unity of Italy undisturbed, so that the temporal power of the Pope is as likely to be restored as that of the King of Naples.

I am, &c.,

GEO. BANCROFT.

[Inclosure.—Translation.]

The Pope to the German Emperor.

AUGUST 7, 1873.

YOUR MAJESTY: All the measures which have been taken for some time by the government of Your Majesty look more and more to the destruction of Catholicism. When

I reflect upon the causes which may have given rise to these most harsh measures, I confess that I can see none at all. I am told that Your Majesty does not approve the conduct of your government or the severity of the steps taken against the Catholic religion. If, however, Your Majesty does not approve, and the letters which you have heretofore written sufficiently show that you cannot approve all that is now being done; if Your Majesty, I say, does not approve this, how is it that your government continues in the path which it has entered, constantly increasing the rigor of its measures against the religion of Jesus Christ, which, while they do so much harm to that religion, are only undermining Your Majesty's throne, as you may rest assured? I speak with frankness, because truth is my banner, and I speak in order to do my whole duty, which obliges me to tell the whole truth, even to those who are not Catholics, inasmuch as whoever is baptized belongs in some measure, and in a manner which this is not the proper place to explain, to the Pope. I feel convinced that Your Majesty will receive these my reflections with your usual courtesy, and will take such steps as the case requires, while, with all regard, I pray God to unite you with me through the bonds of charity.

PIO P. M.

AT THE VATICAN, *August* 7, 1873.

No. 246.

Mr. Fish to Mr. Bancroft.

No. 626.] DEPARTMENT OF STATE,
Washington, November 3, 1873.

SIR: I have to acknowledge the receipt of your No. 527, of the 6th ultimo, inclosing copy of a communication addressed by you to the minister for foreign affairs relating to the expulsion of emigration agents from German territory, and to request that the Department may be informed of the particulars connected with the expulsion from near Saarburg of the three persons referred to in your dispatch.

I am, &c.,

HAMILTON FISH.

No. 247.

Mr. Bancroft to Mr. Fish.

[Extract.]

No. 540.] AMERICAN LEGATION,
Berlin, November 12, 1873. (Received December 8.)

SIR: The newly-elected Prussian Diet came together to-day. On account of the illness of the King, the opening speech, of which I inclose a copy, was made to them by Mr. Camphausen, now vice-president of the ministry. The character of the house is liberal. The Catholics of Prussia form about one-third of the population, and the ultramontanes have but a fifth of the representation. This is a gain to them of several votes; but, on the other hand, the party representing the extreme of orthodox Lutheranism and so-called feudalism has disappeared. In a house of four hundred and thirty members, the extreme radicals, the extreme conservatives, the ultramontanes, the discontented and all but disloyal Poles, taken together, count scarcely one hundred and thirty votes against three hundred who are united on the basis of attachment to the unity of Germany and to the progress of liberal principles in legislation.

* * * * * * *

I am, &c.,

GEO. BANCROFT.

No. 248.

Mr. Bancroft to Mr. Fish.

No. 542.] AMERICAN LEGATION,
Berlin, November 21, 1873. (Received December 11.)

SIR: I received your instruction No. 626 just as I was on the point of reporting the circumstances of the expulsion of three persons from the district of Saarburg, mentioned in my No. 527, having had my last interview on the subject with this government on the 19th.

The legation received, on August 1, a communication from Luxembourg, signed Peter Puhl, Johann Wirtz, and Peter Blasius, complaining that they, American citizens, had been ordered out of German territory.

The legation at once addressed a note in their behalf to the foreign office, and subsequently, in a personal interview, and again in writing, renewed the application. The legation was, meanwhile, left by the parties, notwithstanding its repeated requests for definite information and proofs, in great uncertainty as to the merits of the case.

When, therefore, the reply of the government was received, approving the expulsion and assigning as its reason that the persons expelled had violated the laws of the land by enticing laborers to emigrate, the legation could make no further representation; nor have these persons, since they have been informed of the ground of their expulsion, given any satisfactory account of their real business in Germany although repeatedly urged to do so. They have, however, remained in Luxembourg, just over the German border, whence they have recently addressed to me a further appeal, still failing to state what is the real business for which they wish to return to Saarburg.

The legation has taken great pains to solicit the facts from the complainants, but without success. They confine themselves to affirming that their business in Saarburg was not to entice workmen to emigrate, without disclosing what is their object there.

On the other hand the German government has exhibited to me the reports of its officials, and assures me that the matter has received the most thorough and impartial investigation; that as the result of that investigation it appears that these men were agents of manufacturers in America to induce the emigration of workmen from Saarburg, where there are large manufacturing establishments; that they pursued their agency with considerable success; and that in the procedure they violated the laws of the kingdom.

Here there was a direct conflict of statement between the complainants themselves and the German government which I was not able to reconcile; but, on the one hand, the legation had only the naked denial of the men; on the other, official documents reporting the results of the investigation.

I inclose copies of the notes exchanged with the government on the subject.

I remain, &c.,

GEO. BANCROFT.

[Inclosure 1 in No. 542.]

Mr. Bliss to Mr. Von Philipsborn.

AMERICAN LEGATION,
Berlin, August 4, 1873.

The undersigned, chargé d'affaires of the United States of America, has the honor to bring to the notice of his excellency Mr. Von Philipsborn, in charge of the foreign

office, the inclosed letter, signed by Peter Puhl, Johann Wirtz, and Peter Blasius, who describe themselves as being American citizens, temporarily sojourning in the district of Saarburg for purposes of business, and complaining that they have been, without notice and without any reason being assigned, forcibly expelled from German territory. As this legation has received no notice from the imperial government of an intention to expel from its territory any citizens of the United States, and no information of the grounds for the expulsion of the persons in question, the undersigned entertains no doubt that the proceeding complained of is the unauthorized act of merely subordinate officials, and that the imperial government will take pleasure in restoring his countrymen to the enjoyment of the hospitality which it extends to foreigners within its borders. As the persons in question have been forced to seek temporary refuge in Luxembourg, where they are detained at great inconvenience and loss, the undersigned would be glad to be as early as possible enabled by his excellency to assure them that they may return in safety upon German soil.

The undersigned avails himself of this occasion to renew to his excellency the assurance of his most distinguished consideration.

ALEXANDER BLISS.

[Inclosure 2 in No. 542.]

Mr. Bancroft to Mr. Von Philipsborn.

AMERICAN LEGATION,
Berlin, September 9, 1873.

The undersigned, envoy of the United States of America, has the honor once more to call the attention of his excellency Mr. Von Philipsborn, in charge of the foreign office, to the case of three American citizens in the district of Saarburg who, without assignment of any reason and without notice to this legation, have been expelled from German territory. The undersigned begs to refer to the communication on this subject addressed to his excellency as long ago as the 4th day of August last, and to the verbal renewal of the application on the 20th of August, and expresses the hope that the earliest practicable steps will be taken for the relief of his distressed countrymen.

The undersigned avails himself of this occasion to renew to his excellency, Mr. Von Philipsborn, the assurance of his most distinguished consideration.

GEO. BANCROFT.

[Inclosure 3 in No. 542.—Translation.]

Mr. Von Balan to Mr. Bliss.

BERLIN, *September* 18, 1873.

The undersigned has the honor to reply to the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. Bancroft, while returning the inclosure of his letter, in answer to his esteemed notes of the 4th and 9th instant, that according to the report of the royal Prussian administration in Treves, Peter Blasius, John Wirz, and Peter Puhl emigrated some years since from Nitten. Having returned thither, they endeavored, by means of misleading representations and promises, to entice Prussian subjects to emigrate. In concordance with the provisions of the law, the above-mentioned persons consequently received notice to quit the country for enticing Prussian subjects to emigrate. The royal Prussian government, therefore, is not able to permit the return of Peter Blasius, John Wirz, and Peter Puhl to the kingdom.

Referring it to the envoy extraordinary and minister plenipotentiary of the United States of America to call the attention of the aforesaid three persons to the illegality of their conduct, the undersigned takes this opportunity to renew the assurance of his most distinguished consideration.

BALAN.

No. 249.

Mr. Bancroft to Mr. Fish.

No. 544.] AMERICAN LEGATION,
Berlin, December 1, 1873. (Received December 19.)

SIR: The tendency of Europe is toward the American system of separating church and state. Here a twofold development is going

forward. On the one side there is an inflexible determination to enforce the supremacy of the state over all its citizens. In the pursuit of this object the government has gone so far as to demand of the archbishop of Posen his resignation. No doubt he will refuse, and a legal process for his deposition will ensue. He will then undoubtedly deny the validity of the act of deposition by civil authority; but the government will persevere in its purpose, though it does not conceal from itself the difficulty of the undertaking.

On the other hand, a step in the other direction is proposed, and is received with a very general approval. The clergy of the several denominations now keep the record of marriages, baptisms, and deaths, and so in fact perform most important civil offices, on which the transmission of all the property of the country, from one generation to another, depends. They also have some power to restrain freedom of marriage. At present a Jew and a Christian cannot intermarry, and obstructive forms precede the marriage of a Catholic and a Protestant, the marriage of Protestants of different denominations, and the marriage of one not avowing himself a Christian with another who is a Christian. A law is in preparation, soon to be brought before the Prussian Diet, making civil marriage obligatory, and intrusting to civil officers the registry of marriages, births, &c. The measure is required by the necessities of the times, since in many Catholic parishes there is no priest or curate whom the law recognizes; and since often the priests who are recognized forbid marriages between a Catholic who accepts the new dogma of papal infallibility and the old Catholic who rejects it. The measure is a long stride toward making the separation of church and state possible.

The Prussian finances are in a splendid condition. In the last year forty millions of their very inconsiderable debt has been discharged, and forty millions more of a contingent debt liquidated. The money-market here has been disturbed, but the sound principles on which the finances are administered has saved the business of the kingdom from disaster. The secretary of the treasury was asked to intervene in behalf of those who were in trouble, and wisely refused to do so. In this way the suffering has been confined as nearly as possible to those who were speculating on borrowed capital, or on no capital at all.

Yours, &c.,

GEO. BANCROFT.

No. 250.

Mr. Bancroft to Mr. Fish.

No. 547.] AMERICAN LEGATION,
Berlin, December 8, 1873. (Received December 27.)

SIR: I inclose a copy of the correspondence between the chief president of the Prussian province of Posen and Count Ledochowski, the archbishop of Gnesen and Posen. The antagonism between civil and ecclesiastical power which has here received its strongest expression, is one of which the importance can hardly be rated too high. It is direct and absolute. The president recapitulates the laws of the kingdom which the archbishop has violated, and the archbishop represents himself as above those laws by the authority of the Pope, whom he calls the representative of God, and in his own right as appointed to rule his diocese by the Holy Ghost. With these pretensions the archbishop

takes no pains to draw a limit to the questions in which he may interfere, and the Catholic clergy in fact use all their power at the polls and in political discussions of all kinds through the press. The Prussian government is fully aware of the difficulties attending the contest in which they have engaged; but they profess no disposition to recede from their determination to cause the power of the state to be respected by every citizen of the state. Toward the archbishop the steps that are threatened are depositions and the removal of his place of residence to some other part of the kingdom.

Meantime the bishopric of Fulda remains vacant. If the Pope pursues his principles to their logical consequence, he will, contrary to all precedent, himself alone assume alike the appointment and the investiture of a new bishop.

I remain, &c.,

GEO. BANCROFT.

No. 251.

Mr. Bancroft to Mr. Fish.

[Extract.]

No. 550.] AMERICAN LEGATION,

Berlin, December 15, 1873. (Received January 5, 1874.)

SIR: The Prussian government have brought in their new law transferring from the clergy to civil officers the registry of births, marriages, and deaths. The law avoids all possibility of conflict with any church. Every child, within a week of its birth, must be reported to the proper civil officer of the place, for registry, with the family name and the names given him; or if the parents have not decided on the latter, they may at any time within two months be added to the record. At the baptism of the child names may be given at will. The state takes cognizance only of those entered in its own registry. Marriage is to be preceded by a two-week publication at the town-house of the place of residence of one of the betrothed. The parties then appear before the proper magistrate, and in the presence of two witnesses make an affirmative answer to the question whether they wish to take each other in marriage. On the affirmative answer the magistrate declares them to be married. Whatever religious ceremonies may attend the nuptials, the state takes cognizance only of the act of its official. Every death is to be registered at latest on the day following the death.

Simple as are the main features of the law, they will effect a very great change in the social and religious life of Germany.

Marriages between members of different religious confessions, and of Jews with Christians, will henceforward be attended with no legal obstacles, nor made to depend on the caprices of the clergy.

* * * * * * *

Thus there is a sort of stamp-tax on newspapers, which the liberal party has long desired to repeal; this repeal may perhaps now be effected.

The house does not divide itself into two parties. The members separate themselves into eight fractions, as they are called, with a ninth fraction to include those that attach themselves to no one of them all. There are the national liberals, with 170 members; the ultramontanes and their adherents, with 86; the party of progress, or more radical-liberal

party, with 72; the free conservatives, who are essentially a liberal party, with 33; the new conservatives, with 24; the Poles, with 17; the liberal center, with 5; the old conservative fraction is reduced to 4. There are fifteen who attach themselves to no fraction, and to this class belong among others the ministers and the president of the diet. Besides all these there are six vacancies. Thus there are but 86 who can be relied upon for opposition to the national liberals, and where these 86 vote for a liberal measure the vote of the house approaches unanimity. The party of the old nobility, sometimes called the feudal party, and sometimes the party of the country squires, has, as you see, almost entirely disappeared. Our Congress does not more completely represent the people as it is than the Prussian Diet represents the people of Prussia. Only here there is an artificially constituted upper house, which is not so much in harmony with the country.

In Prussia the system of schools is national. The school includes the children of all parents. In Bavaria, where the majority of the population is Catholic, under a Catholic royal family, the Roman bishops made a representation against the establishment of schools composed of children of all confessions; but the government has decided against their demand, a new advantage gained for the principle of the Prussian system.

Switzerland shows no sign of receding from its comprehensive measures against the ultramontane usurpations; and the spirit and courage of these republicans have something of the same effect on the population of Germany that was exercised by their forefathers in the time of the Reformation.

I remain, &c.,

GEO. BANCROFT.

No. 252.

Mr. Bancroft to Mr. Fish.

[Extract.]

No. 553.] AMERICAN LEGATION,
Berlin, December 22, 1873. (Received January 12, 1874.)

SIR: The President's message, in full, reached Berlin on Friday last. That part of it which related to foreign affairs has met with the most perfect and universal approbation that I have ever known accorded to a public document. The conduct of the United States toward Spain and Cuba is acknowledged to be marked by strict respect for public law, by moderation, by wise forbearance, by dignity and firmness. There is division of opinion on the subject in public or in private circles.

* * * * * * *

The finances of the United States are here a subject of the intensest interest, owing to the very large amounts which Germans have invested in our national and other securities. The use of paper-money in the United States has led to many purely speculative undertakings, which have sought a market for their securities in this country. Between fifty and sixty separate securities—I think the exact number is fifty-eight—which sought and found a market here have failed to pay their interest as it became due. This has had an unhappy effect upon the public financial opinion. Four years ago this public believed the United States were about to return without delay to a specie currency. As a conse-

quence, public confidence in our stocks was constantly on the increase. When such marvellously large payments of our debt were made, it was taken for granted that those payments would be accompanied by a return of the Government, through all its obligations, to specie payments, according to the pledge of the first act of the Forty-first Congress. Nations are here divided into those which have a forced paper circulation and those which have a specie basis, and the difference in the prices of the stocks of the two is amazingly great. Our 6 per cent. stocks were rising, and there was every reason to hope that the price would soon be far above par.

The remoteness of the United States had come to be thought lightly of, and there was even a rising belief that there was a peculiar safety attending their stock resulting from the very fact that they stood apart and beyond the reach of convulsions in Europe. There still remains unshaken confidence in their determination and in their ability to pay their bonded debt, but the seemingly indefinite postponement of the epoch when they intend to remove the use of force in keeping their notes in circulation seriously affects financial opinion. This change manifests itself in various ways. Where purchases are made of stocks, those falling due first are most sought after by those who have safety in view, and there is less disposition to engage in any new loans which the United States might be disposed to invite.

You will not be surprised, therefore, when I say that the judgment of the President "that we can never have permanent prosperity until a specie basis is reached," is responded to here with absolute unanimity, coupled further with the idea, which is, indeed, involved in the President's words, that we never can attain the credit which we have a right to hope for in the financial market of the world until that specie basis is reached. The next point in our finances on which public opinion in Germany is perfectly unanimous is, in the language of the report of the Secretary of the Treasury which accompanies the President's message, that "a constant increase of coin in the Treasury would, ere long, lead to the desired result." There is not one single well-wisher to the United States in these parts that does not cordially welcome and approve that suggestion of the Secretary of the Treasury, and it is the *absolutely unanimous* opinion of all financial men. I hear it in all circles, from men of all political parties, but most earnestly expressed by those who are our truest friends. Severest economy and an accumulation of gold in the Treasury can alone bring us back to specie payments; and they can do it, and with less difficulty and less delay than are anticipated. As the country is constantly increasing in business, it is the further universal belief here that the earlier the country returns to specie payments the less will the debtor class suffer.

Thus far I have given you a candid and exact statement of what is the universal financial opinion in this region. There is another suggestion of the Secretary of the Treasury, that "there should be a gradual accumulation of gold in the banks," which meets with approbation wherever it has engaged attention, but it is not every one who has turned his attention to that branch of the subject. But all who have given attention to it are of the opinion expressed by the Secretary on that point, and not as a temporary but as a permanent measure.

I remain, &c.,

GEO. BANCROFT.

No. 253.

Mr. Bancroft to Mr. Fish.

No. 558.] AMERICAN LEGATION,
Berlin, January 9, 1874. (Received January 26.)

SIR: In my No. 5 to Mr. Seward of September 12, 1867, and No. 519 to yourself, September 15, 1873, I have carefully stated the condition of the negotiation between Denmark and Germany on their boundary in Jutland. Both those dispatches were written with the very best information, and you will not be misled if you give to them your entire confidence. There is no reserve here on the part of the government in speaking with me on the subject. The assurances made to me are—

Nothing has passed between the two governments on the subject of the North Schleswig boundary for several years. We were glad that the Crown Prince on his return from Sweden was well received by the royal family in Denmark. We desire in return to take every opportunity to manifest our respect and regard for that royal family. We shall do everything to cultivate with them the most friendly relations, having common interests. The produce of Jutland seeks its market in Hamburg, and its business relations are with Germany. A better disposition is gradually manifesting itself. It would have been well if, in 1866, immediately after the peace, the question of boundary had been settled. But the Danes demanded too much. The military officers say that Alsen must on no account be given up, for strategical reasons. The Emperor cannot bear the idea of parting with a place which was purchased so dearly. Nothing has since been done, nothing is now doing, on the boundary question.

This information you will receive as perfectly trustworthy from an unquestionable and authoritative source.

As to Saint Thomas, Germany does not want it, would not accept it as a gift; has no hankering after that or any other West India colony; from principle avoids them; wishes at most a coaling station in Asiatic seas, and that only in case it can be enjoyed in security without being made a military post. This statement I have had often from every member of the government that could by any possibility have charge of any negotiation made for the acquisition of territory. They have said it to me over and over again. This much in answer to a telegram received night before last through General Schenck.

I remain, &c.,

GEO. BANCROFT.

No. 254.

Mr. Bancroft to Mr. Fish.

No. 560.] AMERICAN LEGATION,
Berlin, January 12, 1874. (Received January 30.)

SIR: On the 6th instant I received the following telegram in cipher from our minister at London:

I have just received the following which I am instructed to transmit to you and Kramer at Copenhagen. A report reaches here that Germany is in treaty with Denmark for the acquisition of her West India Islands, proposing to fulfill her existing treaty and to cede North Schleswig. Inquire discreetly and ascertain the truth of the report. Transfer of the possession of those islands to another European power could not be regarded with favor by this Government.

I had just time to send you, by the Bremen steamer of Saturday, an answer on the subject, and to-day I can only affirm what I have written on former occasions.

It is on the highest authority that I assure you that the boundary negotiations between Denmark and Germany have not been renewed.

Further, in time past I am very certain that the idea has never been entertained on either the side of Denmark or of Germany to transfer Saint Thomas to the latter power. As to the present I cannot find the slightest reason to believe that any such negotiation is on foot or even in contemplation.

The decisions in the Alabama case respecting the extent to which a neutral power may furnish coals to a war-ship of a belligerent have naturally brought home to the German navy department a sense of the feebleness of their position in foreign seas in the event of a war, and so may have given rise to the wish for the possession of coaling stations, especially in the eastern Asiatic seas. But it does not change their general policy not to hold in foreign seas posts that would but be new points for attack for a fleet in time of war.

I remain, &c.,

GEO. BANCROFT.

No. 255.

Mr. Fish to Mr. Bancroft.

No. 648.] DEPARTMENT OF STATE,
Washington, February 11, 1874.

SIR: Referring to your No. 562, of the 16th ultimo, relating to the final denial by the proper authorities of reports concerning negotiations between Germany and Denmark respecting the cession of the Danish West Indies, I have to request you to be watchful in case any negotiation of that character should occur.

I am, &c.,

HAMILTON FISH.

No. 256.

Mr. Fish to Mr. Bancroft.

No. 650.] DEPARTMENT OF STATE,
Washington, February 18, 1874.

SIR: I learn from a source entitled to respect that a statement has been recently published by the Ulmer Schrellpost, and other German newspapers, to the effect that one Rohrer, who nine years ago had been convicted of a triple murder in the kingdom of Würtemberg, was now offered his discharge upon the condition that he should emigrate to the United States.

You will please make inquiries in the proper quarter to ascertain the truth of this report, and if it should be verified on good authority you will represent the matter to the proper authorities, and, on the part of the United States, protest against the granting of pardons on these or similar conditions.

I am, &c.,

HAMILTON FISH.

No. 257.

Mr. Fish to Mr. Bancroft.

No. 655.] DEPARTMENT OF STATE,
Washington, March 4, 1874.

SIR: I have laid before the President your dispatch No. 566, of the date of the 2d of February, in which you tender your resignation of the office of envoy extraordinary and minister plenipotentiary of the United States to Germany, to take effect on or about the 1st day of July next.

In accepting the resignation which is to terminate a mission of more than ordinary duration, which has been marked by many most important events, and has been characterized throughout by eminent ability, intelligence, and patriotic devotion to the interests of your country, the President bears in mind the previous services rendered by you, both in official capacities of high trust, and in the distinguished paths of literature and of history which you have adorned, and feels that you are entitled to the repose which you seek, and trusts that you will experience the grateful appreciations of your fellow-citizens for the many years during which he hopes that your life may be spared.

He fixes definitely the last day of June next (the close of the fiscal year) as that with which your mission will cease.

In conclusion let me add the expression of my own high appreciation of your services and of the great and uninterrupted pleasure which I have experienced in the official relations which, for the past five years, have existed between us.

I am, &c.,

HAMILTON FISH.

No. 258.

Mr. Bancroft to Mr. Fish.

No. 573.] AMERICAN LEGATION,
Berlin, March 9, 1874. (Received March 27.)

SIR: The council of the empire has under consideration the amount of governmental bills which they will allow to be put in circulation, and they have limited it at one thaler, or seventy-two cents, per head of the population of the German Empire, viz, 40,000,000 thalers, or less than $30,000,000. This sum is to be issued not by the government of Germany, but is to be distributed among the several German states.

This decision of the council must come before the Diet, and if it there should be modified I will not fail to notify you of it.

The Diet has had under consideration the amount of pay they hold it right for them to receive, and they have fixed the sum of five thalers for each member for every day of his attendance.

I remain, &c.,

GEO. BANCROFT.

No. 259.

Mr. Bancroft to Mr. Fish.

No. 577.] AMERICAN LEGATION,
Berlin, March 23, 1874. (Received April 11.)

SIR: In reply to your instruction No. 650, received on the 8th of March, I have the honor to state that I at once addressed a note of in-

quiry to the acting minister of foreign affairs of Würtemberg as to the truth of the statement that a criminal named Rohrer had been offered a pardon upon condition of emigration to America.

I send you to-day a translation of the reply of the acting minister, Count von Uxkull, which seems to convey an explicit denial not only as to the case reported, but in general as to any practice of granting such pardons in Würtemberg.

I shall therefore, unless otherwise instructed, not pursue the matter further.

I remain, &c.,

GEO. BANCROFT.

[Inclosure.—Translation.]

Mr. Von Uxkull to Mr. Bancroft.

ROYAL WÜRTEMBERG MINISTRY OF FOREIGN AFFAIRS,
Stuttgart, March 17, 1874.

His excellency the envoy extraordinary and minister plenipotentiary, Mr. Bancroft, has been pleased, in his esteemed note of the 9th of this month, to express to the undersigned the wish to receive more exact information respecting a statement contained in the Ulmer Schnellpost, that a criminal by the name of Rohrer, condemned for triple murder, had received a pardon upon condition of emigration to America.

The undersigned has not failed to request of the royal ministry of justice information on the subject, and has the honor, as the result of his inquiry, to communicate to his excellency that neither to a criminal by the name of Rohrer, nor to any other criminal condemned for murder, has a pardon under condition of emigration to America been either offered or granted; and, moreover, that pardons on this condition *are not granted.*

The undersigned has the honor respectfully to add that possibly the statement in question may have confounded the case of Johannes Roser, of Laupheim, condemned to imprisonment for eighteen years, to whom, after serving out the half of this term, in consideration of his exemplary conduct in the prison, and upon occasion of the birthday of His Majesty, the remainder of his sentence was by royal decree of the 4th of this month remitted upon condition of *permanent absence from the German Empire.*

The undersigned takes with pleasure this occasion to renew the assurance of his most distinguished consideration.

For the minister of foreign affairs.

The Counselor of State,
VON UXKULL.

No. 260.

Mr. Bancroft to Mr. Fish.

[Extract.]

No. 578.] AMERICAN LEGATION,
Berlin, March 30, 1874. (Received April 18.)

SIR: The Imperial Diet has adjourned, to meet again on the first Thursday after Easter.

The bill for establishing compulsory civil marriage for all the German Empire passed the Diet by a considerable majority.

The measures enforcing the authority of the state over the pretensions of a foreign potentate to higher allegiance is also made a matter of legislation for the general government. I have often reminded the Department of the fact that in several of the separate German states the old nobility has power enough to stop the progress of liberal legislation. It is, therefore, natural to choose to bring liberal measures before the German Diet, where the old nobility has no prerogatives whatever.

A desire has been manifested to make some change in the form of proceeding against bishops and archbishops who set themselves above the jurisdiction of the state.

Attaching and selling their property, shutting them up in prison, have too much the appearance of persecution; it is proposed to imitate the example set by Switzerland, and instead of imprisonment, to forbid any recusant prelate to reside in his diocese.

There is every reason to believe that the measure will be adopted. Even Catholic Bavaria accepts the laws, which, however, in the present state of Bavarian legislation, will never be applied to a Bavarian prelate.

But the great measure of the session is the bill for the organization of the imperial army.

The government desires larger appropriations for the army, an increase of its numbers, and a character of permanence to its organization.

The Diet desires modifications on all these points; but every one of those with whom I have spoken has assured me that the bill will pass with no other amendments than such as the government could readily accept. Yet anxiety prevails, especially in the mind of the Emperor, and it will prevail until the question is settled.

* * * * * * *

The Emperor, I am glad to say, is very much himself again. He received a multitude of visits on his birthday, and in the evening staid with his guests till long after midnight, going around among them all, as of old, and having a cheerful word for every one.

I remain, &c.,

GEO. BANCROFT.

No. 261.

Mr. Bancroft to Mr. Fish.

No. 583.] AMERICAN LEGATION

Berlin, April 13, 1874. (Received May 1.)

SIR: The all-important question which has agitated the mind of the German people for the last two months has been the manner in which the standing army of the empire should be established. The government, in its anxiety on the score of its foreign relations, desired to see it voted once for all, without limitation of time, and therefore independent of the action of future legislatures. On the other hand, the number of the army was considered as a question to be discussed annually on occasion of the grant of supplies, as in England, France, and Italy. During the recess of the Diet for the Easter holidays the threatened collision was very thoroughly discussed with the people, and everywhere deprecated. A strong sentiment of gratitude to the Emperor for his resistance to ultramontane influences was manifested, and is evidently increasing in depth and vigor. The constant menace on the part of France, and the uncertainty of affairs in the Orient, had their influence. A very strong wish, therefore, prevailed to give to the imperial government sincere, hearty, and efficient support. On the other hand, to vote an army of 400,000 men for an indefinite period seemed to the people a dangerous surrender of the first principles of constitutional government.

As a consequence, the national liberal party, acting with perfect

unanimity, have offered to vote the numbers of the regular army thought necessary by the government for a period of seven years.

* * * * * * *

The government measure, with this amendment, is now sure of being adopted by a considerable majority. The Diet will, therefore, have but a very short session.

The ultramontanes may bring on acrimonious debates; they can neither defeat nor alter the measures which they oppose.

I am, &c.,

GEO. BANCROFT.

No. 262.

Mr. Fish to Mr. Bancroft.

No. 666.] DEPARTMENT OF STATE,
Washington, April 21, 1874.

SIR: Your dispatch of the 28th of March, marked "*Separate*," in relation to the presentation by you at the courts of Bavaria, Wurtemberg, Baden, and Hesse of letters of recall on the occasion of your retirement from the post at Berlin, has been received, and the subject has been carefully considered.

On examination of the precedent established in the case of Mr. Wheaton, who while minister at Berlin was empowered to conclude treaties with other German states, it is found that it was not deemed expedient at that time to authorize Mr. Wheaton to present special letters of recall. The Department regards the decision then made as correct, and adheres to it in the present case.

Letters of recall to the Emperor of Germany are inclosed, and in presenting them you will express to the Emperor the satisfaction with which the President entertains the conviction that your mission has tended to cement the cordial relations of amity and good feeling which he desires to maintain and preserve between two powers which have become kindred in every sense of the word.

I am, &c.,

HAMILTON FISH.

No. 263.

Mr. Bancroft to Mr. Fish.

No. 586.] AMERICAN LEGATION,
Berlin, April 27, 1874. (Received May 13.)

SIR: The Emperor in person prorogued the Imperial Diet yesterday. Four of its measures are of high importance. The army bill was passed finally by a majority of more than ninety. The number of the army was fixed for a period of seven years. The Emperor, in his speech on closing the Diet, could not withhold an expression of his regret that it had not been voted without limit. All agree that Germany must show that she is strong, if she will maintain herself in independence and peace.

Several of the separate states had issued a disproportionate amount

of current notes. They are all now subjected to one rule. The circulating notes of them all, collectively, are not to exceed 40,000,000 of thalers, or 28,800,000 of our dollars. But time is allowed to those states whose issues are in excess of the average to reduce their emissions by persistent, gradual reductions. The German paper notes are therefore to be a little less than 72 cents per head of the population of the empire. The late proposal for American greenbacks was an average of about fourteen dollars per head, or nearly twenty times the amount which is thought safe in Germany; and even the amount allowed in Germany is a concession to what was found existing rather than an original and independent measure. A very considerable proportion of the house and of the country are opposed to this sort of measure altogether; and on behalf of the government an excuse has been put forward that, if it tolerates the circulation of forty millions of paper money, it has set apart in its vaults forty millions in gold not to be touched for the annual expenses in time of peace.

A third important measure was the law regulating the press, in which all the changes are for the better. Hitherto, in Prussia, the police had power to suppress an issue of a newspaper, and the proprietors had no redress but by an appeal to the tribunal, which could really furnish no reasonable and sufficient relief. This power is now limited to cases of high treason. A sort of stamp-tax has been remitted, which was so heavy that on the leading newspaper in Cologne it amounted to more than 50,000 thalers a year.

The fourth law relates to ecclesiastics who set themselves up above the laws. They may now be sent out of the country, but with a proviso giving power to the courts to protect them against capricious acts of the magistrates. The law was carried by almost absolute unanimity, except the ultramontanes and the Poles. The Department will at one glance see the importance of the measure. There are in Prussia twelve Catholic bishoprics. One of these bishops has already been deposed. Should he continue to exercise his functions in spite of his deposition by the temporal authority, he will be immediately sent out of the country. The other eleven must respect the laws, or they will be dealt with in the like manner. To leave the Catholic population of the country without bishops opens the way for many chances of change; and the Catholic hierarchy must die out, or, as has happened in Russia, exercise its functions in subordination to the power of the state.

There is no political question on which the great majority of Germany is so determined as on this. The new law was borrowed from the example of Switzerland. How widely the movement is extending in Europe is seen by what is passing in England, where choice has been made of a ministry disinclined to further concessions to the demands of the Catholic hierarchy, and where the archbishops of the Anglican church are proposing measures to drive all Romanizing tendencies out of the forms of public worship in the establishment. Here in Germany, where the question takes the form of a conflict between the authority of the state at home, within its own precincts, and the influence of an alien ecclesiastical power, it is certain that the party of the state is consolidating its strength; and I see nothing either in the history of the country or in the present state of public opinion, or the development of public legislation, which can raise a doubt as to the persistency of the German government in the course upon which it has entered.

I remain, &c.,

GEORGE BANCROFT.

No. 264.

Mr. Bancroft to Mr. Fish.

No. 599.] AMERICAN LEGATION,
Berlin, June 26, 1874. (Received July 17.)

SIR: I have the honor to inclose to you herewith the translation of a note received to-day from the secretary of state for foreign affairs, dated June 24, calling attention to an order issued by the district court of the United States at New York, directing the sworn testimony of German citizens at Aix-la-Chapelle and other places in Germany to be taken by the United States consuls at those posts, and objecting to the same as attributing to said consuls functions not warranted by the provisions of Article IX of the American-German consular convention.

I remain, &c.,

GEO. BANCROFT.

[Inclosure.—Translation.]

Mr. Von Bülow to Mr. Bancroft.

BERLIN, *June* 24, 1874.

According to intelligence which has reached the undersigned, the district court of the United States for New York has, in a suit brought by the officers of the custom-house at New York against the branch there established of the firm of S. U. Wolff & Co., of Cassel, issued an order, upon motion of the United States district attorney, directing that the American consuls at Aix-la-Chapelle, Frankfort, Berlin, and Leipsic, or their authorized agents, with assistance of United States commissioners to be specially sent to Europe for that purpose, shall take the sworn testimony of German subjects in the said cities and other places within the German Empire.

The undersigned believes that no elaborate representation is requisite to make it clear that the functions attributed to the consular officers of the United States in the German Empire by this order of the court cannot be derived from the provisions of Article IX of the German-American consular convention.

The undersigned, satisfied that his ardent wish that every cause for difference of opinion between two so friendly governments may be avoided will be in the fullest degree shared by the envoy extraordinary and minister plenipotentiary, Mr. Bancroft, believes that he may restrict himself to the present statement, and seizes with pleasure this occasion to renew to Mr. George Bancroft the expression of his most distinguished consideration.

VON BÜLOW.

No. 265.

Mr. Bancroft to Mr. Fish.

No. 600.] AMERICAN LEGATION,
Berlin, June 29, 1874. (Received July 23.)

SIR: The ministry of the interior is becoming every day more strict in searching out those who evade their military duty in Germany by passing time enough in America to become nominally citizens of the United States, with the intent to use that right of citizenship only as a plea to escape military duty in the country of their birth and domicile. When the treaties were negotiated with South Germany, Bavaria insisted on an article that its citizens, if they became citizens of the United States, though they may visit Bavaria on business, cannot establish themselves permanently there, until the years of liability to military duty shall have come to an end. This provision I recommended at the time to our Government for adoption, and it received the approval of the President and Senate of that day. The result has been excellent; the treaty has been carried out in Bavaria without the slightest difficulty or

complaint on either side during the years that have passed since its ratification.

The Prussian government is now inclined to gain the same security for itself, against fraudulent naturalization, by applying the fourth article of the naturalization treaty of North Germany to cases of that kind.

To a young man from the Rhenish Provinces who applied to me for protection, with a frank avowal that his only object in retaining his American citizenship was to escape military duty here, but for which he should have returned to his allegiance to Prussia, I replied that our Government could not allow its citizenship to be thus fraudulently used; and I limited my offer of protection to procuring for him the free right of returning to the United States.

In another case from Alsace there seemed every appearance that our citizenship had been gained with no other view than to avoid duties of citizenship in Europe, and I therefore in like manner limited my offer of interference.

A third case has come up, where certainly the appearances implied that our citizen-papers were abused for the simple purpose of escaping military duty here. But this time the government threatened to seize the young man and put him into the army. To this I have demurred. It seems to me that we can never consent to put such a construction on the fourth article as this procedure would imply. I have had repeated conversations with Mr. President Delbrück, and with Mr. Von Bülow, the secretary of state, and have taken the ground that the article of the treaty cannot be so interpreted. The last half of the fourth article is permissive, not mandatory. The words are: "The intent not to return *may* be held to exist when the person naturalized in the one country resides more than two years in the other country." The United States secure to themselves by the article the right of avoiding complications with the German government in cases where it is plain that the naturalized citizen has no just claim to its interference; and in like manner, the German government has an acknowledgment of its right to look into the circumstances of the case where every appearance implies that the naturalization is fraudulent. I have therefore insisted that the naturalized American, who has the appearance of having obtained naturalization solely to escape military service, should have a right to establish his sincerity by electing to take up his residence in the United States.

The instance of Mr. Mentheim Cohn, respecting whom I annex a translation of a letter from Mr. Von Bülow, is the only one in which the claim has been put forward of a right to summon at once to military duty a person who gives every appearance of having been insincere in his naturalization. Both the minister for foreign affairs and Mr. Delbrück appeared to me to accord with me. My interpretation is warranted by the constant practice since the treaty was formed, and by the interpretation of the fourth article in the protocols of every one of the four southern states. I may say, in the very case of Mr. Cohn, it has received the approbation of the government. I gave him a passport for the United States, and, as far as I know, he has not been further interfered with.

In this manner I hope that the seeming discrepancy of opinion is reconciled, and that my successor, on entering on the duties of his office, will find no question left for discussion between the legation and the German government.

I remain, &c.,

GEO. BANCROFT.

[Inclosure.—Translation.]

Mr. von Bülow to Mr. Bancroft.

BERLIN, *May* 29, 1874.

In pursuance of the note of the envoy extraordinary and minister plenipotentiary of the United States of America, Mr. Bancroft, under date of the 28th ultimo, the undersigned hastened to take the necessary steps to cause an investigation to be made into the proceedings taken against Mendel Cohn, with regard to his call into military service in Prussia.

The undersigned has now the honor most respectfully to inform the minister that, from the preliminary result of the examination, so far as yet carried, the person in question was, it appears, born at Tchwente, in the district of Flatow, and emigrated to America about eight years ago, but returned to Germany in January, 1872, married at Flatow, and settled there.

It thus seems that article 4 of the treaty of February 22, 1868, applies to the case, and that there can be no doubt of the competency of the Prussian authorities to summon the said Cohn to military service, without regarding his naturalization as an American citizen.

While the undersigned reserves a definite reply in the matter, until the receipt of the full report of the provincial authorities, he was unwilling to omit to bring these facts at once to the knowledge of Mr. Bancroft, and avail himself at the same time of this occasion to renew the assurance of his most distinguished consideration.

VON BÜLOW.

No. 266.

Mr. Bancroft to Mr. Fish.

No. 602.] AMERICAN LEGATION,
Berlin, June 30, 1874. (Received July 23.)

SIR: My last act of public duty before leaving Berlin shall be to ask you to express to the President my grateful sense of the honor which he has done me in the language which he used in granting me my discharge from the public service. I can receive it with a good conscience, for I have never, so far as I know, missed an opportunity of carrying out the instructions of the Department, and promoting to the best of my ability the honor and the welfare of the country. You in Washington can hardly conceive the degree of comfort secured to our German fellow-citizens by the peaceful security which they obtain for their visits in Germany by the treaty of naturalization. From 10,000 to 15,000 of them come yearly to their mother country now, without suffering the least anxiety, where before many of them, in order to see their friends, were obliged to remain on the other side of the frontier or come into Germany stealthily, running the risk of arrest every hour.

During the war between Germany and France, great efforts were made to turn the current of opinion and the feeling of the German government against the United States on account of sales of arms to one of the belligerents. It was to me a very great source of satisfaction that complaints were happily prevented. Our happy co-operation in the San Juan arbitration led to the most pleasing and satisfactory results. Take it for all in all, my mission to Berlin has rounded off in the pleasantest manner the years of my life that have been devoted to the public service, and I may say that my unsolicited appointment by Mr. Johnson and my new commission from Mr. Grant have made to me the years of my great old age the flower of my life.

Yours, &c.,

GEO. BANCROFT.

No. 267.

Mr. Nicholas Fish to Mr. Fish.

No. 4.] UNITED STATES LEGATION,
Berlin, July 15, 1874. (Received July 30.)

SIR: I have presumed that I was carrying out the wishes of the President in writing a congratulatory letter to Prince Bismarck on his narrow escape from the hands of the assassin at Kissengen.

It does not yet appear to be clearly proved that there is any connection between the ultramontane party and the deed, but there are not wanting certain reported incidents which may, on closer investigation, confirm the belief that there is such a connection.

The wound itself does not appear to be of any importance, but the general condition of the prince's health is such that the incident may prove more serious to his system than is now anticipated. I telegraphed you in cipher as follows: "Congratulated Bismarck in name of President."

I hope that the Department will approve my action in sending the note of which a copy is herewith annexed.

I also inclose an article from the "Spenersche Zeitung," which quotes the opinions of the press of various parties.

I remain, &c.,

NICHOLAS FISH.

[Inclosure 1 in No. 4.]

Mr. Nicholas Fish to Prince Bismarck.

UNITED STATES LEGATION,
Berlin, July 14, 1874.

The undersigned, chargé d'affaires of the United States of America, has the honor, in the name of the President of the United States, to express to his serene highness Prince Bismarck the heartfelt gratitude and joy with which all ranks of the people of the United States have learned of his providential escape from the attack of an assassin, and to assure his serene highness of the universal abhorrence of the criminal action which so nearly deprived the German Empire of its chancellor, the United States of one of its warm friends, and the world of one of its greatest statesmen.

The undersigned begs leave to avail himself of this opportunity to add the expression of his own congratulations upon this providential escape, and to renew to his serene highness the assurance of his highest consideration.

NICHOLAS FISH.

[Inclosure 2 in No. 4.]

[From the Spenersche Zeitung, Berlin, July 15, 1874.—Translation.]

THE ATTEMPTED ASSASSINATION OF THE CHANCELLOR OF THE EMPIRE.

Detailed accounts have already been published of the attempt, which was so happily frustrated, to assassinate Prince Bismarck. The National Zeitung publishes the following letter, dated Kissengen, July 13, 4 p. m.:

In order to give an idea of the localities, I must premise by saying that Prince Bismarck occupies rooms in the house of Dr. Diruff, which is situated on the other side of the Saale, on the right-hand side of the bridge. Close by the bridge is a garden in which refreshments are served, kept by one Braun, and here, at the hour of noon, a large number of people usually assemble for dinner; in the immediate vicinity of this garden is a large house, the rooms of which are rented to visitors; this house also belongs to Braun. Next to this is Dr. Diruff's house, the first story of which is occupied by Prince Bismarck. On the other side of this latter building is a hotel, (Holzmann's,) which is also visited by many guests at noon-time. The place where the attempt at assassination took place therefore usually presents a lively appear-

ance at noon, and, as the chancellor is in the habit of going to the saline (salt-bath) in his carriage at this time, the crowd of people desiring to see the renowned and popular man is then unusually large. A large crowd was thus collected to-day when Prince Bismarck entered the royal carriage, at half past 1 o'clock, on the south side of Dr. Diruff's garden, while an attendant for the bath took his seat by the side of the coachman on the box. When the carriage entered the main-road a man, *wearing a coat of the kind worn by Catholic priests, stepped before the carriage*, (as I am informed by Schmidt, the royal Bavarian coachman, who was driving,) so that the coachman was obliged to slacken his pace and tell the man to get out of the way; the latter, however, did not deign to comply until he had been several times ordered to do so. The carriage, meanwhile, had advanced as far as Braun's refreshment-garden, and at that moment a pistol was fired at the prince by some one standing very near to him. The coachman, almost petrified with fright, still had the presence of mind to look around. Seeing that the prince was apparently unhurt, he was about to drive on, and turned about toward his horses again, when he caught sight of the assassin, who, throwing his pistol away, was endeavoring to disappear among the crowd of people who had collected from the neighboring restaurants and houses. The coachman now dealt the would-be assassin a severe blow in the face with his whip, and, at the same time, a guest at one of the hotels (Mr. Lederer, an actor in the court theater at Darmstadt) seized him by the throat. The assassin struggled furiously to get away, (Lederer's hand is badly bitten,) but the crowd held him securely; he was seized by every part of his body; and so great was the indignation which prevailed that the people were almost ready to tear him to pieces. The prince, fortunately, was little hurt; a slight scratch on his right wrist was the only visible indication of the attempted assassination. Prince Bismarck stepped down among the crowd and endeavored to quiet them, saying that they must "give the man up to the authorities." When it appeared evident that the chancellor was not dangerously wounded, all crowded around him. Every one desired to express his sympathy, indescribable confusion prevailed, and some time passed before it became possible to clear a path for the prince, so as to enable him to reach his lodgings.

Meanwhile the assassin was rather dragged than led to the city prison by the crowd. He gave his name as Kullmann, and said that he was a journeyman-cooper from Magdeburg; in answer to further questions, he said that he had done the deed solely of his own accord. He is a young man, nineteen or twenty years of age, and of a very coarse appearance; he looked to me, however, like a crafty fellow and hardened villain, but by no means like a fanatic. In the first excitement every one was inclined to believe that he had been hired to commit the crime. How correct this opinion was, I will not undertake to determine; it is, however, certainly remarkable that the attempt was made so soon after the disappearance of the person wearing a priest's coat, to whom I have referred above.

Notwithstanding the mental excitement which was very naturally produced by the occurrence, Prince Bismarck was able to visit the court-house at 3 o'clock in the afternoon, wearing his arm in a sling. He desired to converse with his assailant. What was said during the interview, as well as the result of the preliminary examination, will not be made public just yet. When the assassin's person was searched, a piece of paper, it is said, was found in his possession, on which, in an elegant hand, were written the words, "In the house with the name of Dr. Diruff, jun., on the door-plate."

As I write this, an excited crowd surges in the street and in front of the prince's lodgings. The prince has several times been obliged to show himself to the people, who keep continually shouting and calling for him.

A telegram to the same paper, dated this morning, says: "It appears that Prince Bismarck was preserved by a kind of miracle. It was only because in saluting he had kept his hand raised that he was not hit in the head. The prince suffers severe pains in his hand, and finds it very difficult to write. His general condition, however, is very favorable."

A letter addressed to the Norddeutsche Allgemeine Zeitung says that just as the prince's carriage had passed the house, a short man, in the garb of a priest, stepped in front of the horses in such a way that it became necessary for the coachman to rein in his horses. It is elsewhere stated in the same paper that the house occupied by the prince stands on the right bank of the Saale, overlooking the valley, and is only separated from the bridge across the Saale by a house and garden. The carriage had scarcely reached the house which adjoins the bridge when, by order of the prince, the driver turned his horses in the opposite direction; the prince sprang out and entered his lodgings, while the coachman drove into the yard. The people were so taken by surprise, and the whole thing happened so in a moment, that it was not till then that any one started in pursuit of the assassin, while the priest was lost sight of in the chase, and thus escaped, leaving no trace behind him. (Has since been arrested.—EDITOR.) The assassin ran toward the bridge, and right into the arms of Mr. Lederer, brother of the well-known tenor. This gentleman, whose attention was attracted by the report of the pistol, was just coming out of the restaurant which adjoins the

bridge, and seized the fellow. Several gentlemen rushed to Lederer's assistance, and rescued him from the hands of the assassin. One of his thumbs had been badly bitten, and he himself almost strangled by the wretch. The latter was then conveyed, or rather dragged, by the people to prison. Another suspicious individual, who was about to leave by the 2 o'clock train, and who was heard cursing Prince Bismarck, was also arrested.

The priest, who had been walking back and forth since 11 o'clock in front of the prince's lodgings, in company with the assassin, and who, just before the shot was fired, sprang before the horses, is still at large. It is, however, absolutely certain that the person arrested is not the party who really planned the attack. It is to be hoped that the examination of the prisoner will throw light upon this subject. The ball slightly scratched the place mentioned in the telegram; that is, the part between the fleshy portion of the thumb and the palm of the hand. The prince appeared at the window several times, in answer to the shouts of the multitude. The wound was somewhat swollen, and bled, but did not prevent the free movement of the thumb.

We will add that the little village of Walchsee, of which the arrested priest Hanthaler is a native, is situated in the extreme northwestern part of Tyrol, a few leagues to the northwest of the well-known fortress of Kufstein.

For our own part we hesitated to hold the ultramontane party responsible for the crime of the Kissengen assassin, so long as we had no convincing evidence of their guilt. The Norddeutsche Allgemeine Zeitung is not so considerate. It says:

"Those who planned the deed of whose execution the person arrested was only the half-purposeless instrument, can now boast that they have brought a disgrace upon the German name which is not eclipsed even by the brilliancy of our recent history.

"We cannot anticipate the sentence of the judge, and cannot know what has been planned in the Catholic societies and conventicles of which the criminal is a member, for the purpose of hastening the 'favorable moment.' This last occurrence, however, considered in connection with the facts which have already been proved, with the dark threatenings and the passionate expressions of the ultramontane press, and other things which have come to light, give good ground for the belief that the hands which armed Ravaillac and Gerard, the assassins of Henry the Fourth and William of Orange, also loaded Kullmann's pistol."

The same paper hopes, in conclusion, that the nation, recognizing and casting out its unsound elements, will stand firm in the great policy of our time, rallying with enthusiasm around the emperor and his government, and says:

"This attempt at assassination was committed on the anniversary of the day of Ems. The day of Ems led Germany to unity and political greatness, and the day of Kissengen will furnish a new point of departure for freedom and intellectual greatness."

The Germania (Catholic) says: "All Germany, without distinction of party, will unanimously condemn, with the deepest indignation, the criminal who raises his hand to commit a deed of murder. The history of the world shows but too many murders and attempts at murder which had their origin in political animosity. The horrible nature of this crime is, however, in no wise mitigated thereby. And particularly may one feel indignant at such an undertaking when any one apparently a Christian, who even imagines that he is laboring for the faith and for the church, allows himself to be so blinded by passion or ambition as to disregard the teachings of his faith, and commit the greatest violation of the divine order of the world. We do not know how correct the reports may be in relation to Kullmann's membership of a Catholic society, or to his "suspicious association with a Catholic priest," or to the arrest of Rev. Mr. Kotteler, and we shall therefore await the result of the judicial investigation. It is not incredible that, in consequence of the many persecutions of our party and of our church, an amount of hatred, passion, and rage may be bred in the breasts of some individuals, which may at length burst forth in rebellion against all law, both human and divine; but it is incredible that a dispassionately thinking man should recklessly impute to a party an excess committed by one or by several individuals belonging to that party; for that, among fourteen millions of Catholics, there should be one madman or one infatuated lunatic will not, perhaps, appear so passing strange even to the chancellor of the empire himself. A portion of the press, however, will of course not hesitate for an instant to lay the blame due to one person upon the whole party, or even upon the church, which, in her teachings, declares such a crime to be one of the greatest. We already have some evidences of this."

The Germania then refers to the articles of the Börsenzeitung and of the Berliner Tageblatt as thus casting the blame upon the party and the church, and says, in conclusion:

"Fortunately, those papers still remember the attempt of Karl Blind, of May 7, 1866, and what they say in relation to that will be regarded by the thinking portion of their readers as nonsense. The Tageblatt even seems to think that the attempt at assassination which was made by the adopted son of the democrat Blind, is somewhat disturbing in the cursing of the ultramontane party; it therefore seeks to excuse Blind's attempt, so as to be enabled to paint Kullmann in still blacker colors. 'There

was a time,' it says, 'when it was possible to be mistaken as to his (Bismarck's) genius, his grand patriotic idea, and the lofty goal that he had in view. At that time a similar attempt was made. Now, however, the repetition of such an attempt at assassination must seem threefold, nay, tenfold atrocious.' We entertain the same feelings toward both Blind and Kullmann, and would merely remind the Tageblatt that, according to its way of measuring the guilt, Kullmann has decidedly the advantage, for Blind had hardly been so deeply, so systematically, and so cruelly wounded in his convictions and feelings as Kullmann, supposing the latter to have acted from fanaticism, and not from other motives. We would, moreover, remind those 'liberals' who may be pleased to chime in with the tone of the Börsenzeitung, that pretty much *all of the attempts at assassination that have been made of late years*, (we refer to those directed against Napoleon III, the Emperor Francis Joseph, the Prince Regent of Prussia, and against Bismarck in 1866,) are to be attributed to 'liberalism' or *national ideas*, and, therefore, to anything but Catholic motives. As regards the attempt made by Oscar Becker, it has been proved that he desired to become a martyr to those German ideas which 'liberalism' has encouraged, both before and after the crime, and which it has partially carried into effect."

The Kreuzzeitung is very sparing in the description of the impression made upon it by the attempt to assassinate Prince Bismarck. It is glad, however, that "this criminal attempt to take the life of the chancellor of the empire has also failed, and that the hand of the wretch, which, impelled by hatred and revenge, sought to do that which belongs to God alone, was not permitted to pollute the soil of Germany and to burden the conscience of the people of Germany by a political assassination." It says nothing more on the subject.

The Post reminds its readers of the difference between the state of things which prevailed in 1866 and that which prevails in 1874. The love and respect which Germany feels for the chancellor of the empire were not easily earned, it says. No; they were obtained step by step; it was only by degrees that the ice of misunderstanding was thawed which lay between Germany and Germany's most faithful son; the offense that was committed in those days of misunderstanding by a stripling whose mind was full of the erroneous ideas of German fanatics who had sought refuge on a foreign soil, could not now be committed again. The Post then refers to the causes of the crime, and although it does this but indirectly, holds the clerical agitation responsible for it. We now know exactly what are the consequences of this continued agitation. Such exciting of the popular passions should not be tolerated in a well-regulated state. *Quousque tandem?*

With regard to the view taken by the foreign press of the matter, we are as yet able to say nothing definite. Our readers have already seen the telegram which appeared in our last evening's number, and which announced the warm sympathy expressed by the London papers for Prince Bismarck, and spoke of the effect which those papers expect the crime to have upon party affairs in Germany.

No. 268.

Mr. Nicholas Fish to Mr. Fish.

No. 6.] UNITED STATES LEGATION,
Berlin, July 20, 1874. (Received August 6.)

Sir: I have the honor to inclose a translation of the acknowledgment from the secretary of state of the note which I addressed to Prince Bismarck relative to his attempted assassination.

I am, &c.,

NICHOLAS FISH.

[Inclosure.—Translation.]

Mr. Von Bülow to Mr. Nicholas Fish.

FOREIGN OFFICE, *Berlin, July* 19, 1874.

In reply to the note of the 14th instant, of the American chargé d'affaires, Mr. Fish, addressed to the chancellor of the empire, his serene highness Prince Bismarck, the undersigned, acting under instructions, has the honor to bespeak the kind offices of

Mr. Fish in communicating to His Excellency the President of the United States the expression of the heart-felt gratitude of his serene highness for the sympathy shown him upon the occasion of his escape from deadly peril. Prince Bismarck desires at the same time to express his warmest thanks for the words of sympathy which the American chargé d'affaires has had the kindness to utter in his own name, as well as in the name of his countrymen. The undersigned embraces this opportunity to renew to the chargé d'affaires the assurance of his most distinguished consideration.

VON BÜLOW.

No. 269.

Mr. Nicholas Fish to Mr. Fish.

No. 9.] UNITED STATES LEGATION,
Berlin, July 27, 1874. (Received August 13.)

SIR: Referring to Mr. Bancroft's dispatch No. 599, of the 26th of June, I have the honor to transmit herewith a note of Mr. Von Bülow upon the same subject, together with a copy of my reply.

The language of the note of Mr. Von Bülow is such as to indicate a very firm determination to prevent the performance of such acts by our consular officers.

If this intention should be carried out it may cause very serious embarrassments to our system of consular verification of invoices. Mr. Von Bülow does not state whether the objection extends to the taking of testimony of German subjects who appear and testify without opposition on their part. In the expectation of your reply to Mr. Bancroft's question I have not asked the views of this government on this point.

According to the consular regulations, in the execution of a commission to take testimony the consular officer acts simply as a citizen of the United States. The question thus arises as to how far he can be held liable in his official capacity for such action.

I hope I may receive the views of the Department at an early day, as the government here seems anxious to have the question determined.

In regard to the particular case that has led to the correspondence, I have written to each of the consular officers mentioned therein, except to the consul-general in Berlin, intimating to them the difficulties any further action on their part might create.

In the case of Consul-General Kreismann, I have communicated the same verbally.

I remain, &c.

NICHOLAS FISH.

[Inclosure 1 in No. 9.—Translation.]

Mr. von Bülow to Mr. N. Fish.

FOREIGN OFFICE, *Berlin, July* 25, 1874.

The undersigned has heretofore, under date of the 24th ultimo, had the honor to make known to Mr. George Bancroft that, according to reliable information, it was intended, in pursuance of a judicial order of the United States district court of New York, to take the testimony of a number of German citizens or their representatives, through the instrumentality of the American consuls at Aix-la-Chapelle, Frankfort-on-the-Main, Berlin, and Leipsic, assisted by commissioners sent to Europe for this purpose, in the matter of an action instituted by the customs authorities in New York against a branch house in that city of the firm of S. N. Wolff & Co., of Cassel. He at the same time expressed the hope that that communication would suffice to prevent the actual exercise of the functions claimed for consular officers in the German Em-

pire in the said judicial order, but not warranted by the provisions of Article IX of the German-American convention of December 11, 1871.

The undersigned has not been favored with an answer thereto. On the other hand, intelligence has just reached him that the vice-consul of the United States at Barmen, Mr. Ernst Greef, accompanied by Mr. Roger M. Sherman, assistant United States attorney, southern district of New York, had presented himself on the 16th instant at the bureau of the steel and copper-ware manufacturers, Brothers Lüttger, at Petersmühle, and on the 18th instant to Mr. F. C. Lurmann. at Iserlohn, in order to take the testimony of the representatives of these firms in reference to certain facts bearing upon said action. True, in both instances the information demanded was refused, but in both instances the vice-consul of the United States had notified the above-named gentlemen that citations before the American consulates at Aix-la-Chapelle and Frankfort-on-the-Main, respectively, would be issued against them at an early day.

In one instance the matter had been carried so far that it was intimated that a refusal to give the desired information would entail upon the respective firm increased difficulty in the transaction of its American business.

To the undersigned it seems indubitable that in accordance with the said consular convention, American consular officers are only entitled throughout the German Empire to take the testimony of citizens of the United States within the bounds prescribed in Article IX, and that all official action exceeding the limitations contained therein appears to be a trespass irreconcilable with the lawful rights and duties of the German authorities.

Instructions will therefore be immediately issued to the competent tribunals to cause investigation to be made into the action of the above-mentioned American vice-consul at Barmen, as well as into the proposed official proceeding of the above-mentioned consulates, and to make report of the result of said investigation.

The undersigned, while he has the honor to bring the above to the notice of Mr. Fish, cannot of course claim to be in possession of an accurate knowledge of the facts of the case, established by both sides.

These complaints of German citizens are, however, probably not without foundation in fact, and in this case, the matter being as urgent as his desire is sincere and earnest to see every occasion for a difference of opinion avoided, he takes the liberty to request the chargé d'affaires on his part to consider what is proper to be done to provide against the consequences to the said consular officials necessarily following the transcending of their functions as limited by treaty and exequatur.

Respectfully awaiting an answer to this note, the undersigned gladly avails himself of this occasion to renew, &c., &c.

VON BÜLOW.

[Inclosure 2 in No. 9.]

Mr. Nicholas Fish to Mr. von Bülow.

UNITED STATES LEGATION,
Berlin, July 27, 1874.

The undersigned, chargé d'affaires of the United States of America, has the honor to acknowledge the receipt of the note of his excellency Mr. von Bülow, secretary of state for foreign affairs, of the 25th instant, and he finds from the archives of the legation that the note of his excellency of the 24th ultimo was referred by Mr. Bancroft to his Government.

There has not yet been time for a communication in return, and, as the undersigned is without any exact or official knowledge of the case, he has referred the note which he himself received in like manner.

In the mean time the undersigned, sharing as he does most fully the desire expressed by his excellency to see every occasion for a difference of opinion avoided, believes that the views of his Government, which he will have the honor hereafter to transmit, will be conceived in like spirit.

The undersigned feels persuaded that the actual facts in the case, when ascertained, will show that whatever may have been done in the premises by the consular officers of the United States has been done under an order of a court of law of the United States and for the sole object of subserving the cause of truth and justice.

The undersigned gladly avails himself, &c.

NICHOLAS FISH.

No. 270.

Mr. Cadwalader to Mr. Nicholas Fish.

No. 689.] DEPARTMENT OF STATE,
Washington, August 1, 1874.

SIR: Your dispatch of the 15th ultimo, No. 4, inclosing, with extracts from the German press, a copy of your note of the 14th ultimo to Prince Bismarck, congratulating him upon his escape from assassination, has been received.

Your action in congratulating the prince, as communicated by telegraph, has already been approved in No. 684, from the Department.

I am, &c.,

JOHN L. CADWALADER,
Acting Secretary.

No. 271.

Mr. Fish to Mr. Nicholas Fish.

No. 697.] DEPARTMENT OF STATE,
Washington, August 17, 1874.

SIR: I have to acknowledge your dispatch No. 3 of the date of the 11th of July last, transmitting the correspondence between Mr. Bancroft and the minister of foreign affairs in relation to the interpretation and application of the fourth article of the naturalization treaty of February 22, 1868, between the United States and the North German Union.

Mr. Bancroft's note of 28th June to Mr. von Bülow correctly sets forth the interpretation of that article of the treaty as understood by this Government, and it is with much satisfaction that the President learns that that interpretation is not controverted by the German government, which declares its intention to execute the treaty at all times with the greatest moderation and respect for the rights of individuals.

The point suggested by Mr. von Bülow that the treatment of each case must depend entirely upon the circumstances of the same, is in accord with the position which this Government holds. The value of American citizenship must not be trifled with; this high right must not be invaded by fraud or by false representations; and when honestly acquired, and faithfully maintained, must carry with it to its possessor all the privileges and the protection which a great government can give to its citizens.

The case of Mentheim Cohn seems to be disposed of without admitting the inference drawn by Mr. von Bülow. From his recital of the facts of the case, it cannot be denied that that inference is, at the least, plausible.

The legation will in the future continue carefully to watch the rights of all naturalized citizens of the United States who may visit or temporarily tarry in Germany, and will assert for them all the privileges and immunities to which they are entitled by treaty or by public law. At the same time it will be careful not to commit the Government of the United States in a demand for its protection in behalf of one who may be manifestly presenting a false or fraudulent claim of citizenship, or who may have already forfeited his right of citizenship in accordance with the letter and spirit of the treaty.

I am, &c.,

HAMILTON FISH.

No. 272.

Mr. Fish to Mr. Nicholas Fish.

No. 698.] DEPARTMENT OF STATE,
Washington, August 18, 1874.

SIR: Referring to Mr. Bancroft's dispatch No. 599, inclosing a copy of a note addressed to him by Mr. von Bülow in reference to an order issued out of the district court for the southern district of New York, naming certain consuls of the United States to take testimony in an action therein pending in behalf of the Government, against the firm S. N. Wolff & Co., and to your dispatch No. 9, inclosing a second note from Mr. von Bülow on the same subject, I now inclose you a copy of a letter addressed to this Department by the Attorney-General, with a copy of a letter from Mr. Bliss, the United States district attorney at New York, in reference to the question, and a copy of the order complained of.

It appears to this Department that the German Government has labored under a serious misapprehension in the matter.

The minister of foreign affairs objects to the taking of the desired testimony by the consuls, under the commission in question, on the ground that it is an exercise of functions by consular officers in the German Empire not warranted by Article IX of the German-American convention of December 11, 1871.

Under our system of jurisprudence, where the testimony of persons beyond the limits of the United States is desired by either party to an action pending in the courts, the same is taken on commission. For this purpose application is made to the court in which the action is pending, and when granted, a person is agreed on by the parties, or named by the court, to take the evidence, and an order is entered in the court to that effect.

Questions are prepared by each party, which are propounded to the witnesses by the person so named, or an oral examination is sometimes provided for, at which both parties are represented by counsel.

The answers to the questions are taken, and the evidence thus taken is certified by the commission named, and returned to the court to be read at the trial.

No claim is made that a consul of the United States, as such, has, by treaty or by convention, the right to take such testimony. It is no part of his official duty, nor does he act as consul in so doing. He acts in the matter as a private individual, at the request of the parties or the appointment of the court. The Government in no case takes any part in these appointments, they are made by the courts in the independent discharge of their functions as a matter of practice, and with the sole view of the administration of justice and the ascertainment of the facts of the case at issue between the parties litigant. The person named may be a subject of the German Empire, an American citizen, or may belong to any other nationality. He is selected in each particular case as an individual, who, from character, residence, or other qualification, will fairly propound the questions and certify the answers. His services are purely ministerial and entirely voluntary. He has no power to compel the attendance of witnesses or to punish them for contempt. No authority is given except to put questions and certify answers, and no other is claimed for him. The same proceedings are taken and the same rule applies in every case, whoever the parties to the action may be. The fact that the Government is a party or has an interest in the action in no respect alters the rule. It is a proceeding in the interest

of justice, to arrive at the truth between disputed facts in an action pending in the court.

The testimony in any particular case may be necessary to save a private person, whether German or American, from penalties to which he would otherwise be liable. On the other hand, it may be required in the interest of good government here or elsewhere to punish attempted frauds upon the public revenue.

These are objects of common interest to all commercial powers, which the government of Germany from its well-known character will be the first to appreciate and to vindicate.

Upon an examination of the particular order in question, it will be seen that it provides for the taking of testimony for the benefit of either party, and from this fact and from the letter of the district attorney it will be found to be an order made for the benefit of both parties, and obtained by consent or upon their joint application.

So far as any objection may be made to the execution of this particular commission, therefore, by the branch house of the defendants in Germany, it appears that the order was made on the solicitation or consent of the house in New York. Any obstacle thrown in the way of the taking of this testimony by the German government amounts to a refusal to permit two parties to ascertain the truth to be used for their mutual benefit in a legal proceeding.

It is confidently believed that an explanation of the matter will be entirely satisfactory to the German government.

The United States has no desire to obtain for its consuls in Germany any authority or functions except such as rightly belong to them; and at the same time this Government will be extremely reluctant to admit that a person becoming a consul of the United States is thereby excluded from privileges which are allowed to unofficial persons, or becomes disqualified for the discharge of duties to his fellow-citizens which may be performed by any other reputable person, of whatever nationality, but which are likely to be asked of him by reason of his official position, making him more likely than others to be known to those needing such services.

You will fully explain this matter to the minister of foreign affairs, and it is confidently hoped and expected that on this full explanation all objection to the action of the consuls in question will be withdrawn, and that the German government will view it as an act of comity, and in aid of the proper administration of government and justice, to facilitate the ascertainment of the facts in the case now at issue between this Government and the Messrs. Wolff. A continued objection or obstruction to such ascertainment would be the cause of very serious regret to this Government.

You may, in your discretion, read and give a copy of this dispatch, to this point, to the minister of foreign affairs, for the purpose of explanation.

Under the circumstances set out in your No. 9, your action in intimating to the several consuls the difficulties which might arise from action on their part until the matter should be adjusted, was a wise precaution, and is approved.

Should the German government withdraw the objections now raised, you will so inform the several consuls, and inform this Department by telegraph. You will also instruct the consuls, in executing any such commission, to assume no authority as consuls, and to be careful in their action to give as little offense to the German government and to its subjects as possible.

I am, &c., HAMILTON FISH.

[Inclosure in No. 698.]

Mr. Williams to Mr. Fish.

DEPARTMENT OF JUSTICE,
Washington, August 4, 1874.

SIR: Referring to your letter of the 20th ultimo, inclosing a dispatch from the minister of the United States at Berlin, and other papers, I now have the honor to inclose, for your information, a copy of a letter addressed to this Department, under date of the 27th ultimo, by the United States attorney for the southern district of New York, and a copy of the *dedimus potestatem* issued by the district court of the United States for that district in the case of the United States *vs.* S. N. Wolff *et al.*, of Neidheim, authorizing United States consuls and their representatives to take testimony in said case.

Very respectfully, your obedient servant,

GEO. H. WILLIAMS,
Attorney-General.

[Inclosure 1 to inclosure in No. 698.]

Mr. Bliss to Mr. Williams.

OFFICE OF THE DISTRICT ATTORNEY OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF NEW YORK,
New York, July 27, 1874.

SIR: I beg to acknowledge the receipt of your favor of 21st, transmitting a copy of letter of the Secretary of State and a copy of a dispatch addressed by the minister of the United States at Berlin to the State Department, the several papers relating to an order to take testimony issued by the district court for this district.

In reply to your inquiry, I beg to say that the United States has a suit pending against the firm of Wolff & Co., to recover about $75,000 penalties for alleged undervaluation in the importation of goods to this port. In that suit both parties desire to procure the testimony of persons residing in various places in Europe. It was therefore agreedbe tween the respective attorneys that an order should be entered, allowing the testimony to be taken orally at places named. It has long been the practice in this district to designate as commissioners to take testimony in foreign parts the persons who, from time to time, happen to be the consuls of the United States at the places where the testimony is to be taken, and in this case the parties agreed that this course should be followed. The consuls are not, in such case, supposed to act as consuls, but to act as commissioners, agreed upon by the parties, having, of course, no power to compel the attendance of witnesses, unless the head authorities choose to grant it, which some countries do and others do not.

I inclose a copy of the order issued in this case. You will perceive that it is an *authority* to the persons named to take the testimony. Nothing is *required* of them, as seems to be supposed, and they can, of course, refuse to act. As they are paid for their services, they are, however, usually quite willing to act.

I may be permitted to add that, though the order is, in form, issued upon my motion, it was really issued by consent of parties.

Your obedient servant,

GEORGE BLISS,
United States Attorney.

Hon. GEO. H. WILLIAMS,
Attorney-General.

[Inclosure 2 to inclosure in No. 698.]

ORDER OF THE COURT.

At a stated term of the United States district court for the southern district of New York, held at the United States court building in the city of New York, on the 13th day of April, 1874: Present, the honorable Samuel Blatchford, the district judge.

THE UNITED STATES
vs.
S. N. WOLFF *et al.*

On reading and filing affidavit of plaintiff's attorney and notice of motion, with proof of due service thereof on attorneys for the defendant, Alphonse de Riesthal,

who only has appeared herein, George Bliss, esq., appearing for the plaintiff, and W. J. A. Fuller, esq., for the defendant, Alphonse de Riesthal:

It is, on motion of George Bliss, esq., United States attorney, ordered that a *dedimus potestatem* be issued in this cause out of this court, directed to the United States consul and to such deputy or representative of said consul as may be authorized by him to act in his place and stead, at the following-named places, respectively, viz: To E. P. Beauchamp, United States consul at Aix-la-Chapelle, (Aachen,) Germany, and his deputy or representative; to W. P. Webster, United States consul at Frankfort-on-the Main, and his deputy or representative; to H. Kreisman, United States consul at Berlin, Prussia, and his deputy or representative; to J. A. Stuart, United States consul at Leipzic, Germany, and his deputy or representative; to Daniel McM. Gregg, United States consul at Prague, Austria, and his deputy or representative; to S. H. M. Byers, United States consul at Zurich, Switzerland, and his deputy or representative; to examine the following-named persons under oath as witnesses herein, viz: A. Amberg and the person or persons composing the firm of A. Hirsch & Co., of Cassel, Germany; S. N. Wolff, of Neidheim, near Cassel, aforesaid; the person or persons composing the firm of Lüttger Brothers, of Petersmühle, near Solingen, Germany; Carl Aufermann, of Losenbach, near Liedenscheid, Germany; V. T. Pospichel, of Wiesenthal, Bohemia; and the person or persons composing the firm of Leopold Czech & Co., of Haida, Bohemia; the person or persons comprising the firm of E. Kreimer & Co., Berlin, Prussia; W. Wagner, jr., of Plattenberg, Switzerland, and T. L. Lurman, and J. W. Maes, of Iserlohn, Germany.

It is further ordered that the examination above provided for shall take place during the months of July and August, 1874, and at such times within said months as is hereinafter designated.

It is further ordered that either party to this action shall have liberty to examine not only the witnesses herein named, but any other witnesses that either party may desire to examine at the aforesaid places of Aix-la-Chapelle, Frankfort-on-the-Main, Berlin, Leipzig, Prague, or Zurich, before either of the persons herein authorized to take testimony; provided, however, that the names of said witnesses and their places of residence shall be given to the attorney of the opposite side in New York, before June 6, 1874, or such notice be given in Europe to the opposite counsel acting there for either party to this action, in either of the aforesaid places of Aix-la-Chapelle, Frankfort-on-the-Main, Berlin, Leipzig, Prague, or Zurich, where such other witnesses are to be examined, two days before such examination.

It is further ordered, that prior to June 6, 1874, the attorneys for the respective parties shall give notice in New York, each to the other, of the names and European address, for the last week in June, 1874, of the counsel for the respective parties who are to take testimony under this commission.

It is further ordered that the examination of witnesses shall be had at the following places in the following order, and not otherwise, viz: first, at Aix la-Chapelle, next at Frankfort-on-the-Main, next at Berlin, next at Leipzic, next at Prague, and last at Zurich; that four weeks shall elapse between the examination of witnesses at Prague and Zurich; that the examination shall commence at Aix-la-Chapelle on the 6th day of July, 1874, or within two days thereafter; and that no examination shall be had of witnesses at any place after the examination has been finished at that place, or the examination of witnesses commenced at another place.

It is further ordered that the counsel for the plaintiff shall have with him at any and all said examinations of said witnesses, or either of them, all the original invoices mentioned in the declaration herein, or copies or duplicates thereof, and which are in the possession of the plaintiff, and that counsel for defendant shall have full and free inspection thereof, and liberty to take copies of the same.

It is further ordered that all directions herein contained as to time, place, order, and manner of examination of said witnesses may be changed or modified by the written consent of the counsel for the respective parties in Europe or in New York.

It is further ordered that the examination of all witnesses under this commission shall be oral, and taken by question and answer, in the usual manner of taking oral depositions, by examination, cross-examination, and redirect examination; that the testimony given under such examination shall be reduced to writing, signed by the witnesses, and certified by the commissioners respectively, and by them transmitted by mail to the clerk of this court at the city of New York, unless otherwise mutually agreed upon by said counsel for both parties.

It is further ordered that all testimony taken under the commission provided for herein shall be taken subject to all legal objections at the trial of this action.

SAM. BLATCHFORD.

No. 273.

*Mr. Fish to Mr. Nicholas Fish.**

No. 703.] DEPARTMENT OF STATE,
Washington, September 2, 1874.

SIR: I transmit herewith an extract of an instruction, (No. 35,) of the date of the 20th April last, to Mr. Bingham, the representative of this Government in Japan; also, a copy of another instruction to him, (No. 65,) of the date of the 26th of August last.

The President is impressed with the importance of continued concert between the treaty powers in Japan, at least until after the revision of the treaties, and until the government of Japan shall have exhibited a degree of power and capacity to adopt and to enforce a system of jurisprudence, and of judicial administration, in harmony with that of the Christian powers, equal to their evident desire to be relieved from the enforced duties of exterritoriality.

He is also impressed with the importance that the several treaty powers should be informed of the determination of each other to adhere to the policy of co-operation.

You are, therefore, authorized to read to the minister of foreign affairs the extract of the instruction No. 35, and also the instruction No. 65.

* * * * * * *

I inclose, also, for your information, a copy of an instruction (No. 409†) to Mr. George F. Seward, the consul-general of the United States at Shanghai, with two accompaniments, in relation to citizens of the United States connected with the Japanese expedition to Formosa, or who may enter the military or naval service of a foreign power; also, a copy of an instruction, (No. 43,‡) of the date of the 6th of June last, addressed to Mr. Bingham, on the same general subject.

I am, &c.,

HAMILTON FISH.

No. 274.

Mr. Davis to Mr. Fish.

No. 33.] LEGATION OF THE UNITED STATES,
Berlin, October 30, 1874. (Received November 14.)

SIR: I asked Mr. von Bülow at the foreign office to-day when an answer might be expected to the representations respecting the right of consuls to take testimony, which I had made under your instructions on the 7th of last month. I said to him that commissions from the courts of the United States in some important cases were now in the hands of consuls awaiting the decision of this government.

He answered that Mr. von Schlözer had been instructed a fortnight ago to communicate the answer of this government; that when the testimony of Germans should be required the consuls would not be permitted to act as judges, but that the courts of Germany would facilitate the execution of the commissions in the presence of the consuls. And he

* A similar instruction was sent to the minister to Russia.

† See correspondence with the consul-general in China, *ante*.

‡ For instructions 35, 43, 65, to Mr. Bingham, see under Japan, *infra*.

added that in the particular case which had given rise to the discussion he was satisfied that the complaining Germans were in the wrong.

I replied that as the case had been transferred to Washington I should leave it to my Government to reply; but that, without entering on a discussion, I would take the liberty to call his attention to the fact that consuls were never in such cases made "judges;" that they were merely scribes, appointed by the courts, not as consuls, but as Americans residing at a convenient distance from the witnesses, to reduce to form the evidence, which would be subsequently passed upon by judges in America. And I repeated that this was no new custom; that it had existed from the commencement of the Government.

He spoke of attempts by consuls to compel Germans to appear before them. To which I replied that no such authority was claimed; that it was optional with all the witnesses whether they would appear or stay away.

I have, &c.,

J. C. B. DAVIS.

No. 275.

Mr. Fish to Mr. Davis.

No. 24.] DEPARTMENT OF STATE,
Washington, November 14, 1874.

SIR: Your No. 33, under date of the 20th of October last, narrating your interview with Mr. von Bülow at the foreign office in relation to the objection interposed by the German government to allowing consuls of the United States to serve as commissioners to take testimony to be used in judicial proceedings pending in this country, has been received.

Your representations to the minister are approved.

Although Mr. von Bülow stated to you that instructions on the subject had been sent to Mr. von Schlözer a fortnight prior to your interview and conversation, nothing has been heard from that gentleman in this connection. The objection interposed by the German government to the obtaining of testimony in Germany to be used in the courts of this country is much to be regretted, and as appears from the admission made to you by Mr. von Bülow, the Germans whose interests led them to resist the taking of the testimony, and who invoked the interposition of their government to prevent it, are now known to have been in the wrong. It would have been quite as satisfactory to this Government had the reply of the German government on a subject presented to their consideration, through the representative of this Government at Berlin, been communicated also through him, and, as is shown, some delay which has occurred might have been avoided.

As Mr. von Schlözer has not communicated the answer of his government, it will not be amiss that you inform Mr. von Bülow that we are still without any reply. You will call his attention to the fact that the suit in which the testimony is sought is one in which the Government of the United States is itself a party.

I inclose herewith copies of existing statutes (which are embodied in sections 4071, 4072, 4073, and 4074 of the Revised Statutes of the United States) enacted by this Government to insure to other powers the opportunity of obtaining testimony in this country in any suit for the recovery of money or property depend ng in any court in any foreign

country with which the United States are at peace, and in which the government of such foreign country shall be a party or shall have an interest.

In these enactments, which have long been in force in this country, this Government has manifested its friendship to other powers, as well as its desire to aid in the administration of justice in all foreign countries with which it may be at peace.

It is hoped that the answer of the German government may soon be communicated, and that it will be such as shall evince a willingness to reciprocate the very liberal and efficient provisions made in this country to enable Germany, in case of need, to obtain the evidence of witnesses in this country in any suit in which that government may be interested and that the facilities which Mr. von Bülow says that Germany will afford in this direction may prove ample and efficacious.

I am, &c.,

HAMILTON FISH.

No. 276.

Mr. Fish to Mr. Davis.

No. 25.] DEPARTMENT OF STATE,
Washington, November 17, 1874.

SIR: In connection with my No. 24, of the date of 14th instant, in relation to the obstructions interposed by the German government to the execution of commissions from the courts of the United States for the taking of testimony important in suits pending in those courts of parties resident or sojourning in Germany, I have now to say that yesterday afternoon I received from Mr. Schlözer a note dated 13th instant, covering a copy of a dispatch from the imperial foreign office, dated 12th ultimo, on the subject.

Mr. Schlözer kindly accompanied it with a translation, but the translation is in some respects idiomatic, and needs a more careful examination than is allowed in order to give you full instructions by this mail, which, however, I shall do by an early mail.

* * * * * * *

I am, &c.,

HAMILTON FISH.

No. 277.

Mr. Schlözer to Mr. Fish.

IMPERIAL GERMAN LEGATION,
Washington, November 13, 1874. (Received November 16.)

SIR: On the 17th of August last I had the honor of a conversation with you about the commissioners appointed by the southern district court of New York for taking testimonies under oath in Germany in the case of S. N. Wolff & Co., in New York.

On the same day I sent to my government your communications in this matter.

In the mean time the legation of the United States at Berlin entered in correspondence with the foreign office on the same question.

The position which the German government occupies in this question,

differing slightly from that of the United States Government, I am now requested to communicate to you a dispatch which the imperial foreign office has directed to me on the 12th ultimo in explanation of such difference of opinion.

I therefore have the honor to inclose herewith the said dispatch, with an English translation of the same.

Accept, &c.,

SCHLÖZER.

[Inclosure.—Translation.]

Mr. von Bülow to Mr. Schlözer.

FOREIGN OFFICE, BERLIN, *October* 12, 1874.

SIR: I herewith respectfully transmit for your information the inclosed note from the Secretary of State of the United States, sent by that honorable gentleman, on the 18th of August last, to Mr. Nicholas Fish, at that time chargé d'affaires ad interim here, and handed to me by the minister of the United States on the 8th of last month; it relates to the taking of testimony within the territory of the German Empire by commissioners appointed by the southern district court at New York, in the case of the custom-house there against the German firm of S. N. Wolff & Co.

The contents of this dispatch have confirmed the impressions made by your communication of August 17th, referring to your interview with Hon. Hamilton Fish, that, namely, the Government of the United States, in reviewing the position taken in this matter by the imperial government, proceeds from a misapprehension of the reasons which induced the opposition on our part to the contemplated taking of testimony *under oath* of subjects of Germany by commissioners appointed by the court at New York.

By communicating the following observations you will doubtless succeed to elucidate and make clearly understood those points by which the action of the imperial government is influenced in taking the position in question.

It is well known to the imperial government that the common law of England is the accepted law of the United States, and that legal proceedings based on the same permit the establishing of facts that may be essential for judicial decisions, through the appointment of commissioners, named by the respective courts at the request of the contending parties, these commissioners having certain well-defined powers, which extend to the taking of depositions *under oath.*

From this it follows as a natural consequence that every court within the jurisdiction of the United States is competent to appoint commissioners for taking such testimony, within every other judicial district of the country, or even to appoint them within such other districts, and also that similar proceedings for the taking of testimony may take place in the different States, and which may be of importance to the decisions of foreign, that is, courts outside of the United States.

If, however, as in the present case, the system for taking testimony is to be put in force in a foreign country, in a country not belonging to the United States, then, according to international law, it can only take place with such limitations and under such restrictions, if not otherwise fixed and arranged by treaty stipulations, as is provided by the existing law-forms of the respective foreign countries.

The imperial government feels assured to be in accord with the United States with regard to the general bearings of this matter, as well as also of entertaining identical views, so that any action arising out of this question can in no wise be influenced by the intentions or possible declarations of either party involved in such litigation, so that any injury to the one or the other might be the consequence.

Now, as regards the putting into practice this legal process for obtaining testimony under oath within the territories of the German Empire, it is admissible according to the laws in force in Germany, and it has not been objected to by the imperial government, that commissioners appointed by courts in the United States may obtain information and make inquiries, provided that the persons who are not American citizens and who give such information do so voluntarily, and that they are protected in so doing.

While, however, the legal system of the United States, as already stated, permits commissioners to act independently in taking testimony under oath, it belongs, according to German law, and according to the laws of the different states constituting the German Empire, exclusively to the jurisdiction of their own proper courts.

This legal fact puts that limit to the action of American commissioners in Germany to which it was the duty of the imperial government to call the attention of the legation of the United States after it had been informed of the appointment of such commissioners by the southern district court at New York with instructions to ascertain certain facts in Germany by their taking testimony under oath.

The circumstance that in this special case consuls were appointed to act as such commissioners, seemed to make it the duty of the imperial government to emphasize, more particularly, that even the exceptional privilege extended to United States consuls by the German-American consular treaty for taking testimony under oath is expressly confined to individuals belonging to their own nationality.

Here also cannot exist any difference of opinion, as if the powers and duties conferred by the American courts on such a commission could enlarge the sphere of action of American consuls, as established by treaty, or work prejudice to the laws of this country.

Our objection, therefore, was not so much to the taking of testimony under oath by American consuls in their official capacity, but against the taking of testimony by American commissioners within the limits of the German Empire altogether, it being incompatible with the legal system of this country.

Nothing was further from the wishes of the imperial government than to throw any obstacles into the way of those very honorable gentlemen appointed by the Executive of the United States as consuls, and who may seem peculiarly fit to exercise the functions of commissioners, or to make it any way more difficult for them to act, only that the imperial government was most anxious to show to the United States the consideration due to them by preventing any acts of American consuls within the territory of the empire, as were ordered by American courts; we drew the attention of the American legation to the fact that the peculiar and exceptional treaty privileges of American consuls did not extend to the taking of testimony under oath so far and in such manner as seemed clearly the intention of the commission appointed by the court at New York.

I will here not fail to state with much satisfaction that in consequence of our statements to the United States legation, as far as any information has reached me, no time has ever been fixed in this case by the commissioners appointed to take testimony under oath within the territories of the empire.

The limitation alluded to before, as put on the action of American commissioners within the German empire, does by no means prevent the carrying out of such interrogations under oath as may be required by the interests of any cause pending before American courts.

The German courts, no less than those of America, recognize under the sanction of German law the principle that the law-courts of all countries are bound to each other to assist in executing law and obtaining justice. They, therefore, make it a practice to comply very cheerfully—without any treaty obligations to that effect—with any requests made by foreign courts of law for the examination under oath of certain designated persons about facts and circumstances. Analogous to such demands, which we call "requisitions," are the "letters rogatory," known to the common law of England, and sanctioned by legislative enactments of the United States.

They afford the proper means to harmonize with our institutions and laws any necessity of American courts or of parties to lawsuits pending before such courts for the taking of testimony in Germany.

The German law permits, moreover, that in examinations of witnesses, brought about in this manner, the parties may be represented, and their attorneys are at liberty to exercise a proper influence by putting questions through the judges.

In the present case, therefore, pending in the southern district court of New York, the respective German courts, within the jurisdiction of which the persons to be examined under oath live, will without any delay comply with all requirements that may be made of them by the said American court; and the American commissioners, or other duly authorized parties, will be at liberty to be present at all times fixed by the competent courts, and to put to these witnesses all such questions, through the respective judges, to which an answer under oath may be of importance or desirable to the court at New York for its judicial decision.

In requesting you respectfully to communicate to the Secretary of State of the United States the foregoing remarks, I feel assured in the conviction that the Hon. Hamilton Fish will recognize the reasons which have been decisive for our stand-point, and he, therefore, will not only acknowledge the lawful and actual necessity of the objection made by the imperial government to the carrying out without any limit of the powers conferred on commissioners appointed by the southern district court at New York, but that the honorable Secretary will also become convinced of the erroneous conclusions regarding the maintenance of our objections, which contains his dispatch of August 18 to the United States legation here.

The honorable Secretary of State will, it is hoped, be convinced that the imperial government could never contemplate to put difficulties into the way of executing law and justice; that, however anxious and earnest to oblige the Government of the United States, it must do its duty in preserving the lawfully established competency of the German courts.

The chancellor of the empire, represented by

BÜLOW.