

AUSTRIA-HUNGARY.

No. 12.

Mr. Lee to Mr. Bayard.

No. 211.]

LEGATION OF THE UNITED STATES,
Vienna, October 4, 1886. (Received October 25.)

SIR: I have the honor to report that a short time since I received from Mr. Antonio Chirighin a petition, asking for the protection of the United States against an order of expulsion, a copy of which is inclosed, with a translation.

I also inclose a copy of a note which I at once addressed to the foreign office here, and to which I have as yet received no answer.

The inclosures present all the material facts as far as I have been made acquainted with them.

* * * * *

The order of expulsion admits the fact of American citizenship, and, by giving the alternative of leaving the country or reassuming the former status of Austrian citizenship, seems also to admit not only that Mr. Chirighin has committed no offense against the laws of the Empire since his return, but that he is a desirable person to have as a citizen.

His only offense appears, from these papers, to be that he became an American citizen without having fulfilled the obligations of the Austrian conscription laws, and returned to his former home.

The difficulty and delicacy of this class of cases arises from the undoubted legal rights possessed here by the chief local officers to decree, in the exercise of their police duties, the expulsion of any foreigner who disturbs, or who they believe will disturb, the public weal.

While I should not feel disposed to dispute the right of one government to expel the citizens of another country for cause, I do not see that we can accept as sufficient cause the doing of acts which our treaty provides shall be legal.

The order having been brought to my official notice, I deemed it proper to assert, in the broadest way, our treaty rights, * * * and I hope that the course pursued may meet with your approval.

I have, etc.,

JAMES FENNER LEE.

[Inclosure 1 in No. 211.—Translation.]

Order of expulsion of A. Chirighin.

To ANTONIO CHIRIGHIN, of *Girolomo, Merce*:

As a result of the suggestion of the 3d of September, 1886, which contained four propositions, the I. and R. district captain decides to inform you that, according to the interpretation of the last line of Article II of the state treaty of 20 September, 1870, B. L. I., 1871, No. 74, no penal procedure will be taken against you concerning your military (conscriptional) duties.

Considering, however, that the obtaining of the rights of American citizenship does not exclude the idea (point) that it was but a subterfuge to release you from the duties of the conscription which were imposed upon you by law as a citizen of Austria;

In view that the adoption of such a course might serve as a public scandal and suggest to others to follow the bad example:

I, by these presents, invite you to take *immediately* the steps necessary to reacquire your original (ancient) citizenship, and subsequently to present yourself voluntarily to answer the requirements of the law of conscription, or, on the other hand, to quit the countries represented in the councils of the Austrian Empire; to which end I name the 1st day of October of this year as the last day for your sojourn in those countries; this date having elapsed without your having departed, it will become my duty to proceed, out of respect for the public order, against you according to the fifth line of paragraph 2 of the law of July 27, 1871 (B. L. L., No. 88); that is to say, I must proceed to your expulsion from the above-named countries.

The inclosed 38 soldi are the residue of the money paid by you in advance for the purpose of telegraphing to the gendarmerie at San Pietro.

SPALATO, 3 September, 1886.

The I. and R. district captain,

TRUXA.

Here follows a certificate that the above is a true copy.

[Inclosure 2 in No. 211.]

Mr. Lee to Count Kalnoky.

LEGATION OF THE UNITED STATES,
Vienna, September 25, 1886.

The chargé d'affaires *ad interim* of the United States of America has the honor to invite the attention of his excellency Count Kalnoky, imperial and royal minister of foreign affairs and of the imperial household, president of the council, to the inclosed copy of an order of expulsion addressed to Mr. Antonio Chirighin, a naturalized citizen of the United States.

According to Mr. Chirighin's statement to this legation, he, an Austrian subject, left his country in 1868, emigrated to the United States, and after a residence of eleven years was naturalized and became a citizen of the United States;

Having some family business to attend to at Merce, in the island of Brazza, Dalmatia, he returned to Austria-Hungary, apparently quite recently, as his passport is dated at Washington, July 26, 1886.

His conduct does not appear to have been in any manner subject to criticism, and his only offense, as your excellency will see by the inclosed order of the local authorities, seems to have been that he has availed himself of the privileges distinctly accorded to the subjects of Austria-Hungary by the convention between Austria-Hungary and the United States of 1870 relating to naturalization.

The undersigned believes that on an examination of the subject his excellency the imperial and royal minister of foreign affairs will cause to be issued such instructions as will secure to Mr. Chirighin such hospitality and protection as is accorded by the United States to subjects of Austria-Hungary visiting that country for purposes of business or pleasure, and such as will enable him to transact freely and fully that business which caused his visit to the province of Dalmatia.

The undersigned avails, etc.,

JAMES FENNER LEE.

No. 13.

Mr. Lee to Mr. Bayard.

No. 217.]

LEGATION OF THE UNITED STATES,
Vienna, October 24, 1886. (Received November 6.)

SIR: The petroleum question, which has been the source of trouble in the adjustment of the new treaty between Austria and Hungary, is one that has great interest for us.

The position of matters is as follows :

The treaty which went into force in 1877 established for petroleum a specific-gravity test based upon the relative specific gravity of American and Russian petroleum, the two rates of duty being 1.10 florins and 2 florins per 100 kilograms.

The basis of this standard was the relative amount of illuminating oil contained in each, to be ascertained by specific-gravity test.

The law worked well enough for us for a few years, when the Russian exporters, finding that they could not compete with the crude American product, began distilling their crude and shipping the result, colored with refuse and mixed in such a manner as to maintain the legal specific-gravity standard for the low rate of duty, while introducing an unfinished manufactured article containing nearly three times the quantity of illuminating oil as is contained in their natural petroleum.

Our trade in petroleum has naturally steadily declined.

* * * * *

The opposition to the renewal of the old treaty comes from two sources ; on the one side the Galicians, who are, in a moderate way, petroleum producers, find their industry unprofitable under the competition of the Russian article ; and on the other hand, the finance minister of Austria (that is, the Austrian division of Austria-Hungary).

Under the internal-revenue laws, the internal-revenue tax on refined petroleum is collected at the refinery, and nearly all the refineries are at Fiume, in the Hungarian division, so that the so-called consumption tax is collected there and goes into the Hungarian treasury, while the Austrian treasury loses what was formerly collected at Trieste on imported refined, as Fiume oil, on account of its disproportionate cheapness, has driven most other oil out of the Austrian market. The language of the law does not discriminate against American crude, but the interpretation of it by the customs officials, whereby the Russian semi-manufactured article, containing 85 per cent. of oil, pays a duty of 1.10 florins per 100 kilos and American crude, containing about 75 per cent. of oil, is made to pay 2 florins on the same quantity, discriminates.

There has been a disagreement between the Parliaments of Austria and Hungary on the subject of renewing the treaty of 1877 in that item referring to petroleum.

The Austrian ministry had decided to make the concession to Hungary, but the Austrian Parliament refused to ratify it, creating such a crisis as threatened either a resignation of the ministry or a dissolution.

The settlement will probably be made before March next, and may be compromised within a few weeks so as to place the result before the two Parliaments when they meet in December.

* * * * *

Within the next few days I shall have an interview with Count Kalnoky or Mr. Szögyènya, and shall represent verbally the injustice done to American interests, which I believe to be in contravention of the "most favored nation" clause of our treaty.

* * * * *

I have requested a statement of facts embodying the discriminative policy from our consular agent at Fiume, to be used as a basis of diplomatic action:

I have, etc.,

JAMES FENNER LEE.

No. 14.

*Mr. Bayard to Mr. Lee.*DEPARTMENT OF STATE,
Washington, November 3, 1886.

No. 46.]

SIR: Your dispatch No. 211, of the 4th ultimo, reporting your action in relation to the case of Mr. Antonio Chirighin, a naturalized American citizen who was expelled from Dalmatia by the local authorities, has been received.

In reply I have to inform you that your course is approved by the Department. * * *

I am, etc.,

T. F. BAYARD.

No. 15.

Mr. Porter to Mr. Lee.

No. 47.]

DEPARTMENT OF STATE,
Washington, November 9, 1886.

SIR: I have to acknowledge your No. 217, of the 24th ultimo, giving your views and action in regard to the specific-gravity test of petroleum imported into Austria, and to say that your proposed presentation of the subject to the minister of foreign affairs is approved.

The Austro-Hungarian Government can be no less concerned than we are at the existence of a state of things which on the one hand permits the revenues of the state to be defrauded by the importation of so-called crude oil of 85 per cent. strength at the rates of duties intended to be assessed on a production of much lower grade, and which on the other permits a discrimination, in fact, against the American production which we can not for a moment suppose to have been intended, and against which, whether designedly established or not, we must feel called upon to remonstrate.

It is evident that the specific-gravity test of crude petroleum is illusory, and a direct invitation to fraudulent evasion. It clearly needs to be replaced by a more modern and equitable test, resting on the percentage of illuminating oil, which is the only rational basis.

Modern processes necessarily work great changes and render obsolete tests which, at the time they were devised, may have been sufficient to protect the revenues, prevent fraud, and avert palpably unjust discriminations. An analogy is found in the color test of sugars, which for many years was adequate to determine the saccharine richness of the product and its real commercial value for the imposition of duties. But with the advance in mechanical methods of separation by the invention of the centrifugal treatment the color test became deprived of value, and so-called "crude" sugars, with a high crystallizable percentage, actually equal to low grades of refined sugars, were indistinguishable from pan sugars of very low grade, so that the aid of modern science had to be called in to apply the new test of the polariscope by which the true percentage of the crystallizable elements of the product is determined.

The Austrian specific-gravity test for petroleum has in like manner become untrustworthy, and needs to be replaced by a test which shall ascertain the intrinsic value of the illuminant element as the basis of taxing the crude oil intended for refining.

I am, etc.,

JAMES D. PORTER,
Acting Secretary.

No. 16.

Mr. Lee to Mr. Bayard.

No. 220.]

LEGATION OF THE UNITED STATES,
Vienna, November 20, 1886. (Received December 13.)

SIR: Referring to my dispatch No. 217, concerning our petroleum interests, I have the honor to report that I have had with Baron Pasetti, of the foreign office, a very pleasant interview, in which he showed great interest, and said that he would have the question thoroughly examined and brought to the attention of the ministry if I would write him a personal letter on the subject.

I then suggested to Mr. Libby to write to me, and I now have the honor to inclose a copy of my letter to Baron Pasetti, in which I forwarded a similar copy of Mr. Libby's letter, inclosed.

The matter is now as much before this Government as if I had protested, and in a way much more likely to receive favorable consideration, as everything has been done in a personal and friendly way, with no antagonisms, such as a formal protest always produces.

* * * * *

I do not think for the present any further action is necessary beyond advising me of the views of our Government, until the compromise is reached between the Austrian and the Hungarian ministries. I ought then to be in a position to protest at once if a protest is to be made and is expected to accomplish anything before the compromise is ratified by the separate Parliaments.

I, however, believe that a compromise will be reached which will at least better our position even if it should not render it a perfectly equitable one.

* * * * *

I have, etc.,

JAMES FENNER LEE.

[Inclosure 1 in No. 220.]

Mr. Libby to Mr. Lee.

VIENNA, October 27, 1886.

SIR: Responding to your inquiries, I have the honor to define as follows the position of the American petroleum industry:

American petroleum has been gradually excluded from the markets of Austria-Hungary. Were this traceable to inferiority of product, geographic position, or to any other natural incident of competitive commerce, it would have been a source of regret, but not a ground for complaint, or had this exclusion been due to the protection of a home industry or an increase of the internal revenue it would have been again an occasion of regret, but again no ground for complaint.

The American industry has, however, a grievance, and it is an emphatic one, viz, a product coming from another foreign country (it matters not by what technical or trade name the said product may be designated), but which is practically and actually

a *semi-refined* petroleum, is admitted into Austria-Hungary upon the payment of about *one-half* the duty exacted from American crude, viz, 1.10 and 2 florins per 100 kilos, respectively.

In the full belief that this inequitable discrimination against the American product (and which has driven it from these markets, where it should naturally compete for public favor) is in conflict with the spirit and intent and language of the treaty existing between Austria-Hungary and the United States, the petroleum industry of America have solicited the friendly interposition of the Department of State in submitting their grievance to the Government of Austria-Hungary in the hope that its justice may be recognized and the discrimination complained of may be removed.

I have, etc.,

WM. H. LIBBY.

[Inclosure 2 in No. 220.]

Mr. Lee to Baron Pasetti.

LEGATION OF THE UNITED STATES,
Vienna, October 27, 1886.

EXCELLENCY: As suggested by you at an unofficial interview, I inclose in an entirely unofficial way a copy of a letter received by me from Mr. Libby concerning the effect which has been produced on our export trade in petroleum by the present rendering of existing laws.

Mr. Libby is in Europe in the interest of the American petroleum industry, and any statement of his with regard to that trade is entitled to attentive official consideration by me.

I venture to ask you in this unofficial way to look into the subject, because I believe that an investigation of the question at this particular time will develop so intimate a relation between the interests of this country and those of the American petroleum trade that any official action will become unnecessary on my part.

With assurances, etc.,

JAMES FENNER LEE.

No. 17.

Mr. Lee to Mr. Bayard.

No. 230.]

LEGATION OF THE UNITED STATES,
Vienna, March 1, 1887. (Received March 16.)

SIR: Referring to my No. 211, dated October 4, 1886, on the subject of the order of expulsion directed against Mr. Antonio Chirighin, a naturalized citizen of the United States of Austro-Hungarian birth, I have the honor to report that my action in the case as therein reported has resulted in the rescinding of the said order of expulsion.

I have informed Mr. Chirighin of the result and cautioned him to be very prudent in his conduct, as I believed it would not be possible to secure a like result a second time in the same case.

I have, etc.,

JAMES FENNER LEE.

No. 18.

Mr. Lee to Mr. Bayard.

[Extract.]

No. 239.]

LEGATION OF THE UNITED STATES,
Vienna, April 25, 1887. (Received May 7.)

SIR: I have the honor to report in the matter of the Austro-Hungarian petroleum tariff, that this Government still adheres to the specific gravity test, and has established its rates of duty at 2 florins per 100

kilos on light oils and 2 florins and 40 kreutzers on heavy oils. The crude and unfinished oils exported by the United States have heretofore ranked as heavy. My action has aided in securing this reduction in the proportionate discrimination between the two.

I have, etc.,

JAMES FENNER LEE.

No. 19.

Mr. Lee to Mr. Bayard.

No. 252.]

LEGATION OF THE UNITED STATES,
Vienna, June 23, 1887. (Received July 9.)

SIR: I have the honor to inclose a copy of the application of Mr. Charles László for a passport, with the request that I may be instructed as to the proper action to be taken in the case. Admitting that the issue of naturalization papers and identity could be properly proven, his statement of facts raises the following doubts as to the bona fides of his intention to return to the United States with a purpose of residing and performing the duties of citizenship there.

Mr. László left his native land (Hungary) an outlaw, resided sixteen years in the United States, and was naturalized. At the first opportunity, viz, the proclamation of amnesty, he returned to his native land and has remained there uninterruptedly for twenty years, having what is apparently permanent employment. The desire to remove the legacy to his children from the jurisdiction of the United States to that of his native country does not suggest an early permanent return. One would also suppose that an indefinite intention of a permanent return on the part of a man now seventy-one years old was not very likely to be carried out. I may also add that his children, having been born in Hungary since his naturalization, will depend for their status upon that now accorded to the father by the Department of State, and I consider it important for this legation that the case should now receive the attention of the Government.

I have, etc.,

JAMES FENNER LEE.

[Inclosure in No. 252.]

Mr. László to Mr. Lee.

DEAR SIR: I, undersigned, a born Hungarian, but adopted citizen of the United States, lived and had business there for sixteen years. In 1867, amnesty having been proclaimed, I returned to Hungary with my American wife with the intention to take out with me my aged mother, at that time seventy-two years old, but as she did not want to leave Hungary, I remained here with her to support her for the few years. I thought she would live, and to return to the United States. But my mother lived until last year, when she was ninety years old, and during that time I became father of three children, and I am employed at a Theiss regulating private company as director engineer; and I still think of returning with my family to the United States as soon as my circumstances will allow me to do so.

Joseph Gressak, also an adopted citizen of the United States, who was the godfather of one of my children, and died in New York, June 26, last year, before his death left by testament to my children \$900 (as I am informed by the executor of his last will, a notary public). As I think the simplest way to get this money would be for me to go to New York personally, I beg you, dear sir, to do me the great favor of giving me a new passport instead of this old one, which inclosed I send into your hands, and send it to me by mail, 20 florins, as charges to be collected by post-office on delivery, and I will be thankful to you.

You most obedient servant,

CHAS. LÁSZLÓ.

P. S.—I will send you, if needed, my naturalization paper.

No. 20.

Mr. Lee to Mr. Bayard.

No. 253.]

LEGATION OF THE UNITED STATES,
Vienna, June 30, 1887. (Received July 18.)

SIR: I have the honor to inclose the application for a passport of Mrs. Antonia Mundé, and the papers submitted to establish her claim thereto.

Mrs. Mundé's right to the protection of the Government of the United States depends upon the international status of her husband at the time of his death.

She was a Bavarian, married in Switzerland, and has never been in the United States. The papers which she submits to the legation show, provided they be correct, which is not at all proved, that Dr. Mundé, after having resided in the United States for several years, became a citizen of Northampton, Mass., having originally been a citizen of Saxony, a part of Germany, and that in 1866 he returned to Europe and resided in Würzburg, Stuttgart, and subsequently in Switzerland, where he married the applicant.

As far as I can gather from the papers, there does not appear ever to have been any intention to return to the United States, but, on the contrary, the fact of becoming the purchaser of a home in Goritz when nearly eighty years of age, would appear to indicate an intention not to return, and would seem, on general principles, to raise the presumption that he had renounced his acquired citizenship in the United States.

But the fact that residence renewed in Würzburg and Stuttgart (both in Germany), without any evidence that the intent to return to America ever existed, would seem to be sufficient to show that his naturalization in the United States had been renounced. See treaty of 1868 with North Germany, Article IV.

The correspondence will show that I have refused passport. There are many technical links wanting in the evidence which could, however, probably be supplied, but if my view of the law is correct it is not worth while putting the lady to the expense.

I request that the papers submitted, being the original, be returned to this legation with the decision of the Department in the case.

I have, etc.,

JAMES FENNER LEE.

[Inclosure 1 in No. 253.]

Application for passport.

NATURALIZED.

No. 1. Issued May 18, 1887.

Applicant: Antonia Mundé.

I hereby apply to the consulate of the United States at Trieste for a passport for myself and minor child, as follows: I was born at Nuremberg (Bavaria) on the 6th day of April, 1850, and was married to Dr. Charles Mundé at Aigle, Switzerland, in the year 1874. The minor child, Erich R. J., was born in Goritz (Austria) in 1880.

In support of the above application I do solemnly swear that I was born at _____ on or about the _____ day of _____, 18____; that I emigrated to the United States on or about the _____ day of _____, 18____, sailing on board the _____ from _____ the _____ day of _____, 18____; and arriving at _____ the _____ day of _____, 18____; that I resided five years uninterruptedly in the United States, from _____ to _____ at _____; that I was naturalized

as a citizen of the United States before the _____ court of _____ at _____ on the _____ day of _____, 18____, as shown by the accompanying certificate of naturalization; that I am the bearer of passport No. 33, issued by John M. Francis on the 21st day of May, A. D. 1885, which is returned herewith; that I am the identical person referred to in said certificate and passport; that I last left the United States on the _____ day of _____, 18____, on board the _____, arriving in _____ the _____ day of _____, 18____; that I have resided in _____ since the _____ day of _____, 18____; that I am now temporarily residing at Goritz, and that I intend to return to the United States in about fifteen years with a purpose of residing and performing the duties of citizenship there.

I desire the passport for the purpose of residing at Goritz, Austria.

Oath of allegiance.

Further, I do solemnly swear that I will support, protect, and defend the Constitution and Government of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without mental reservation or purpose of evasion: So help me God.

ANTONIA MUNDÉ.

CONSULATE OF THE UNITED STATES AT TRIESTE.

Sworn to before me this 18th day of May, 1887.

HENRY W. GILBERT, *Consul*.

Description of applicant.

Age: 37 years.
Stature: 5 feet 3½ inches.
Forehead: Low.
Eyes: Brown.
Nose: Straight.

| | |
|--|--------------------|
| | Mouth: Small. |
| | Chin: Round. |
| | Hair: Brown. |
| | Complexion: Light. |
| | Face: Round. |

Identification.

TRIESTE, AUSTRIA, May 18, 1887.

I hereby certify that I know the above named Antonia Mundé personally, and know her to be the identical person referred to in passport No. 33, and that the facts stated in her affidavit are true to the best of my knowledge and belief.

HENRY W. GILBERT, *Consul*.

[Inclosure 2 in No. 253.]

Mr. Vervega to Mr. Gilbert.

GORITZ, June 17, 1887.

DEAR SIR: Mrs. Mundé has shown me the correspondence with the United States consulate about her passport. I have explained to her the purport of the same. I believe the papers which she will hand you will satisfy the United States legation at Vienna. I have never met the late Dr. Charles Mundé in the United States, but knew him here for years, and we had many conversations about New York. He seemed well posted up in politics, and knew well some leading men in the State. His son is a well-known medical authority in New York, and has a very large practice. I have no doubt that the Dr. Mundé who died here is the one and same Dr. Mundé described. I give this letter to Mrs. Mundé in the hope it may add, if needed (which I very much doubt), to her proving the identity of the late Dr. Mundé.

I am, etc.,

R. M. VERVEGA,

[Inclosure 3 in No. 253.]

Mr. Lee to Mr. Jussen.

VIENNA, May 25, 1887.

SIR: In the matter of Mrs. Antonia Munde's application, I beg to say that this legation declines to issue a passport upon the statement of facts and papers presented in this case.

It is material that all the dates connected with Dr. Charles Mundé's emigration to the United States, the location of his domicile, the length of his stay therein, the date of his departure therefrom, the location and duration of his stay abroad, the object of his absence, and his occupation, if any, while abroad—everything, in fact, from which intention can be ascertained—should be obtained.

Mrs. Mundé's right to the protection of the United States depends entirely upon the international status of her deceased husband at the time of his death, and everything that can throw any light on that subject should be gone into thoroughly now, in order to protect both this legation and the child "Erich" from future difficulties when he arrives at the age at which this Government calls upon its citizens to do military duty. *Prima facie*, the child being born under the Austrian jurisdiction, under the laws of this country would be an Austrian, and the onus would be upon him to prove his right to citizenship in another country. Further, there should be convincing evidence of the identity of the Dr. Mundé, deceased, in Goritz, with the Dr. Mundé, of Northampton, Mass., mentioned in the exhibited certificate of naturalization; also convincing evidence of a legal marriage between the said Dr. Charles Mundé and the present applicant for a passport, and sufficient evidence that the said Mundé had not, during his long absence, forfeited his acquired citizenship. It is better that the identification should be by some person other than the consul. When presented in such a manner I will submit the question to the Department of State to decide upon the sufficiency of the evidence and the propriety of granting a passport. I beg, herewith, to return both the certificate of naturalization and the old passport issued by Mr. Francis, also the sum of 13 florins.

I am, etc.,

JAMES FENNER LEE.

[Inclosure 4 in No. 253.]

Mr. Lee to Mr. Jussen.

VIENNA, June 27, 1887.

SIR: Your favor inclosing papers in the matter of the application for a passport of Mrs. Mundé is received.

I will forward the matter to Washington for the decision of the Department of State as to whether a passport should issue in this case or not. I am decidedly of the opinion that it should not, but will give Mrs. Mundé the opportunity of having the case passed on by the Department.

Inote what Mr. Gilbert says with regard to the identification of applicants for passports by the officer through whom the application is made. While such officer may be a competent witness, it is contrary to the practice in the United States that he should testify in a case in which he is acting in a judicial capacity, and such action is open to several objections which it is not necessary that I should at present consider in detail, as within a short period the direction of this legation will be in other hands, and it seems unnecessary for the short time that remains to me here to issue any general instruction on the subject.

Respectfully,

JAMES FENNER LEE.

P. S.—I return herewith the inclosure marked 13 florins.

[Inclosure 5 in No. 253.]

Mr. Gilbert to Mr. Jussen.

TRIESTE, June 22, 1887.

SIR: I have the honor to transmit herewith inclosed papers relating to the application for a passport lately made by Mrs. Charles Mundé.

I beg leave to differ with Mr. Lee, and would say that I think the State Department would consider an identification by one of its consuls as good as that of any other person.

I am, etc.,

W. GILBERT.

No. 21.

Mr. Bayard to Mr. Lee.

No. 66.]

DEPARTMENT OF STATE,
Washington, July 12, 1887.

SIR: I have received your No. 252, of the 23d ultimo, in which you refer to this Department, for instructions, the application of Mr. Charles László for a United States passport.

According to your statement, Mr. László, a Hungarian by birth, who emigrated to this country at the time of the political disturbances in Hungary, thirty-seven years ago, and was here duly naturalized, returned, after residing here sixteen years, to Hungary, where "he has remained uninterruptedly for twenty years, having what is apparently permanent employment."

You state also that his children were born in Hungary, and from this I infer that his family relations were there established. On the face of these circumstances the presumption is he is now domiciled in Hungary. It is true that this presumption may be rebutted by proof on his part that his residence was without *animus manendi*; but until such proof is received the presumption continues in force. Hence, under the established rule of this Department, he can not, as a person domiciled in Hungary, obtain from the Department or its representatives a passport averring him to be entitled to the immunities of a citizen of the United States. Nor is such a passport, you can remind him, in any sense necessary so far as concerns the laws of the United States, to enable him to come to the United States, either for the special temporary purpose you mention, or to resume the citizenship he here acquired by naturalization.

It is desired that the statement of *all* applicants for passports be made and sworn to by them on the forms provided for the purpose, particular attention being paid to the intention of returning eventually to the United States, and a *duplicate* sent to the Department with your dispatch reporting the case when you are in doubt or have refused a passport.

I am, etc.,

T. F. BAYARD.

No. 22.

Mr. Bayard to Mr. Lawton.

No. 4.]

DEPARTMENT OF STATE,
Washington, July 28, 1887.

SIR: Mr. Lee's dispatch No. 253, of the 30th ultimo, relative to Mrs. Mundé's application for a passport, has been received and considered.

It appears that Mr. Mundé, on naturalization in Massachusetts in 1854, renounced allegiance to the King of Saxony. He went in 1866 to Würzburg, Bavaria, and then to Stuttgart, Wurtemberg. Subsequently he went to Switzerland to reside where he married in 1874 the person who is now, as his widow, making application for a passport. Later he went to Goritz, Austria, where he died. Before his death, on May 21, 1885, Mr. Francis, then our minister at Vienna, gave Mr. Mundé a passport as an American citizen.

It is not necessary now to determine the effect on his acquired citizenship of Dr. Mundé's long residence abroad, which was continued up to the time of his death. It is sufficient for the purpose of the present application to say that, assuming that Dr. Mundé always retained the *animus revertendi*, Mrs. Mundé, his widow, who has never been in the United States, does not, on the papers before the Department, show sufficient evidence of intention to come to and reside in the United States to warrant the Department in saying that she has retained the alleged American domicile of her late husband. This is merely a question of evidence, to be determined upon the proofs submitted. The intent to come to the United States must be *bona fide* and actual, with the purpose to perform the duties of American citizenship, and not simply for the purpose of evading responsibilities abroad without incurring any in this country. The only evidence in Mrs. Mundé's application of an intent to come to the United States is her declaration that she expects to do so in fifteen years. In the absence of positive evidence as to her reason for fixing that time, the Department is not disposed to make any inferences adverse to the motives of the present application. It is, however, not improbable that by or before the expiration of that term of years questions might be raised as to the liability of the applicant's son to certain burdens in the country of his birth, and of the *prima facie* domicile of his mother, where he has always lived, and where, as the evidence indicates, it is proposed that he shall remain until he reaches the age of twenty-one years, he being six years of age at the present time. This circumstance, in the opinion of the Department, makes it especially desirable that more definite evidence should be furnished by the applicant in respect to her intentions.

As the evidences before the Department are not sufficient to warrant a final decision on Mrs. Mundé's status, the Department does not intend, in approving your withholdment of a passport in the case as now presented, to prejudice any rights to which Mrs. Mundé may hereafter show herself to be entitled; all that is necessary at present to say is that the evidences now before the Department point to an Austrian rather than an American domicile.

I am, etc.,

T. F. BAYARD.