GREAT BRITAIN.

Mr. Lincoln to Mr. Blaine.

No. 475.]

LEGATION OF THE UNITED STATES,
London, June 17, 1891. (Received June 25.)

SIR: Referring to your circular instruction of May 8th inclosing copies of our new copyright act for communication to Her Majesty's Government, I have the honor to inclose herewith for your information copies of my note transmitting the documents in question to the foreign office, and of the reply thereto, which I have just received from the Marquis of Salisbury.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 1 in 475.]

Mr. Lincoln to Lord Salisbury.

LEGATION OF THE UNITED STATES,
London, May 27, 1891.

My LORD: I have the honor, in accordance with instructions from my Government, to transmit herewith three copies of an act of Congress approved March 31st, 1891, entitled "An act to amend title sixty, chapter three, of the Revised Statutes of the United States relating to copyrights."

Your lordship will observe that the benefits of the Statute in question are only extended to citizens of foreign countries after a proclamation of the President of the United States shall have been issued under conditions specified in section 13 of the act.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 2 in 475.]

Lord Salisbury to Mr. Lincoln.

FOREIGN OFFICE, June 16, 1891.

SIR: In reply to your note of the 27th ultimo, in which you inform me that the benefit of the American copyright Act, approved March 31st, 1891, are only extended to citizens of foreign countries by proclamation of the President issued under the conditions specified in section 13 of the act, I have now the honor to state to you as follows:

Her Majesty's Government are advised that under existing English law an alien by first publication in any part of Her Majesty's dominions can obtain the benefit of English copyright, and that contemporaneous publication in a foreign country does not prevent the author from obtaining British copyright.

That residence in some part of Her Majesty's dominions is not a necessary condition to an alien obtaining copyright under the English copyright law, and that English law permits to citizens of the United States of America the benefit of copyright on substantially the same basis as to British subjects.

I have, etc.,

SALISBURY.
Mr. Lincoln to Mr. Blaine.

LEGATION OF THE UNITED STATES,
London, June 20, 1891. [Received June 30.]

Sir: Referring to my dispatch, No. 475, of 17th instant, transmitting a copy of the note of the Marquis of Salisbury on the subject of international copyright, I now have to state that I refrained from cabling the essential part of the note, although I was aware of its pressing importance, for the reason that it seemed advisable for me to call Lord Salisbury's attention informally to the possibility of some question being raised by the employment of the words "British" and "English" in a way which might be deemed antithetical.

I was able to mention the matter to his lordship on the evening of the same day, and he said he would at once have it examined. In consequence I have to-day received the amended note, of which a copy is inclosed, bearing the same date as the former one, which comes to me with a private note calling my attention to the fact that "the last paragraph has been altered so as to make the assurance comprise the whole of the British Possessions," and asking me to substitute it for and to return the former note.

There is of course no territorial adjective for "the United Kingdom," but personally I have no doubt that the legal official who is responsible for the language of the note used the adjective "English" in that enlarged sense, though I rather expected, after my conversation with Lord Salisbury, that an amended note would contain merely an additional line to the effect that the word "English" wherever used, was to be taken as referring to "the United Kingdom."

I have, etc.,

ROBERT T. LINCOLN,

[Inclosure in 477.]

Lord Salisbury to Mr. Lincoln.

FOREIGN OFFICE, June 16, 1891.

Sir: In reply to your note of the 27th ult., in which you inform me that the benefits of the American copyright act, approved March 31, 1891, are only extended to citizens of foreign countries by proclamation of the President under the conditions specified in section 13 of the act, I have now the honor to state to you as follows:

Her Majesty's government are advised that under existing English law an alien by first publication in any part of her Majesty's dominion can obtain the benefit of English copyright, and that contemporaneous publication in a foreign country does not prevent the author from obtaining English copyright.

That residence in some part of her Majesty's dominions is not a necessary condition to an alien obtaining copyright under the English copyright law, and that the law of copyright in force in all British Possessions permits to citizens of the United States of America the benefit of copyright on substantially the same basis as to British subjects.

I have, etc.,

SALISBURY.
Mr. Lincoln to Mr. Blaine.

No. 488.]

LEGATION OF THE UNITED STATES,
London, July 3, 1891. (Received July 14.)

SIR: I have the honor to acknowledge receipt of the Department’s cablegram of the 1st instant, as follows: “Copyright proclamation to-day includes British subjects,” and to inclose the copy of a note which I theretofore addressed to the Marquis of Salisbury on the subject.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure 1 in No. 488.]

Mr. Lincoln to Lord Salisbury.

LEGATION OF THE UNITED STATES,
London, July 2, 1891.

MY LORD: With reference to your lordship’s note of the 16th ultimo, informing me of the status of the law of copyright in force in all the British Possessions, in respect to the acquisition of its benefits by citizens of the United States of America, I have the honor to acquaint you that I lost no time in communicating the same to my Government, and I have now the pleasure of notifying to your lordship that on yesterday, the 1st instant, it was determined by the President of the United States, by proclamation, that the first condition specified in section 13 of the act of Congress approved March 3, 1891, in relation to copyright, is now fulfilled in respect to British subjects.

I will have the honor of transmitting to your lordship a copy of the above-mentioned proclamation as soon as it arrives by post.

I have, etc.,

ROBERT T. LINCOLN.

Mr. Blaine to Mr. Lincoln.

No. 656.]

DEPARTMENT OF STATE,
Washington, December 19, 1891.

SIR: I inclose for your information, having reference to your dispatches numbered 475 and 477, of June 17 and 20 last, respectively, in relation to copyright, a copy of a note which I have addressed to the British minister at this capital on the 19th instant in the matter of the refusal of the Canadian Government to grant copyright protection in that country to citizens of the United States. The fourth section of the Canadian copyright act provides that copyright may be obtained by “any person domiciled in Canada or in any part of the British possessions, or any citizen of any country which has an international copyright treaty with the United Kingdom.”

The question now, however, would seem to be not whether the Dominion Government correctly applies its own law of copyright, but rather whether the assurance given in Lord Salisbury’s amended note of June 16, 1891, and upon which the President’s proclamation rests in granting reciprocal copyright privilege to all subjects of Great Britain, correctly represents the treatment accorded to American citizens by “the law of copyright in force in all British Possessions.”

As the President’s proclamation now stands citizens of the Dominion of Canada enjoy full privilege of copyright in the United States equally with all British subjects whatever, and on a footing of perfect equality with citizens of the United States. If the reciprocal arrangement
which was thus entered into rests on a grave misapprehension in an important particular, it is very desirable that the true facts of the situation should be promptly and fully understood, to enable the President to execute the act of March 3, 1891.

If a prompt disposition of the matter is likely to be thereby aided, you are authorized to bring the subject directly to the attention of Lord Salisbury, laying stress upon the urgency of the inquiry that has been addressed to Sir Julian Pauncefote.

I also inclose a letter from Messrs. Munn & Co., of the 11th instant, which served as a basis to my note to the British Minister.

I am, &c.,

JAMES G. BLAINE.

[Inclosure in No. 656.]

Munn & Co., to the President.

NEW YORK, December 11, 1891.

SIR: We learn from your official message to the Senate and House of Representatives, dated 9th instant, that international copyright has been secured with Great Britain and the British Possessions, the laws of those countries permitting to our citizens the benefit of copyright on substantially the same basis as to their own citizens and subjects.

We inclose an official letter from the Canadian registrar, dated August 22, 1891, which denies the right of American citizens to obtain copyright protection in Canada, and is to that extent contradictory of the message.

The matter is one of considerable importance to our citizens who at present are unable to obtain any protection in Canada, although registration is allowed to Canadians in this country.

Very respectfully, etc.,

MUNN & CO.

[Inclosure to inclosure in No. 656.]

Mr. Jackson to Messrs. Munn & Co.

OTTAWA, CANADA, August 22, 1891.

GENTLEMEN: You ask to be advised whether, under section 4 of "The copyright act," chapter 62, of Revised Statutes of Canada, citizens of the United States can be admitted to the privileges of registration of copyright in Canada on their complying with the conditions of printing and publishing in Canada, in view of the provisions of the United States copyright act of March last, and the proclamation of the President.

In reply I am directed to say that the enactment and proclamation referred to do not constitute an "International copyright treaty," and that therefore citizens of the United States can not register under our act.

I remain, etc.,

J. B. JACKSON,
Registrar.

Mr. Lincoln to Mr. Blaine.

No. 594.]
LEGATION OF THE UNITED STATES,
London, January 9, 1892. (Received January 19.)

SIR: Referring to your instruction numbered 656 of the 19th ultimo, in relation to the denial by the Canadian government of the right of citizens of the United States to the benefit of copyright in Canada, I have the honor to acquaint you that yesterday in an interview with the
Marquis of Salisbury I brought the matter to his notice directly. While I think his lordship had already heard something of it, I don't think that it had been presented to him so as to arrest his attention properly. He indicated great interest at once, and without expressing any opinion as to the result said that he would cause the business to be looked into immediately. I did not in any way press for an immediate expression from him as to the solution of the difficulty, as I could hardly expect to learn anything further at the moment than that I already knew that the assurances in his note of June 16, 1891, were the official opinions of the law officers of the Crown, and that they must again be consulted prior to further action.

I did not fail to suggest the urgency of the subject, orally, and again to-day in a note, of which a copy is herewith transmitted, and which I have addressed to his lordship, inclosing at his request a copy of the communication from the registrar in Canada to Messrs. Munn & Co., of New York, dated the 22d of August, 1891.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 594.]

Mr. Lincoln to Lord Salisbury.

LEGATION OF THE UNITED STATES,
London, January 9, 1892.

MY LORD: With reference to our conversation of yesterday, I have the honor to transmit a copy of a communication, dated August 22, 1891, from the registrar in charge of the copyright and trade-mark branch of the department of agriculture of the Dominion of Canada, addressed to Messrs. Munn & Co., publishers, of New York, by which the latter are given officially to understand that citizens of the United States can not have the benefit of copyright in Canada.

It will be observed, as I indicated to your lordship yesterday, that the communication itself negatives the possibility of the official action being based upon any failure or refusal to comply with the provisions of Canadian law as to printing and publishing in Canada. I venture also to point out that the registrar, while appearing to have before him the proclamation of the President, omits, as though unimportant, consideration of the statute and of the official assurances upon which the proclamation was based, and which are set forth in its preamble.

Inasmuch as under the proclamation, as it now stands, Her Majesty's Canadian subjects enjoy full privilege of copyright in the United States, as do all British subjects, on a footing of perfect equality with citizens of the United States, Mr. Blaine, upon receipt of the information of the attitude of the Canadian Government, denying the existence of a reciprocal right of our citizens in respect to Canadian copyright, addressed a note to Sir Julian Pauncefote, but in view of the importance of the immediate removal of any misapprehension on the subject, he has instructed me to suggest to your lordship directly the urgency of the matter.

I have the honor to inclose, for your lordship's convenience, additional copies of the President's proclamation, above mentioned, and of sundry other papers printed therewith.

I have, etc.,

ROBERT T. LINCOLN.

Mr. Blaine to Mr. Lincoln.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 14, 1892.

Express deep regret and sincere condolences of the President by reason of the lamented death of the Duke of Clarence and Avondale.

BLAINE.
Mr. Lincoln to Mr. Blaine.

No. 595.]

LEGATION OF THE UNITED STATES,
London, January 15, 1892. (Received January 25.)

SIR: Referring to my dispatch No. 594 of the 9th instant, inclosing a copy of my note of the same date addressed to the Marquis of Salisbury on the matter of the refusal of the Canadian Government to admit citizens of the United States to the privilege of registration of copy right in Canada, I have the honor to inclose herewith a copy of a communication which I have just received from the foreign office in reply.

I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 595.]

Lord Salisbury to Mr. Lincoln.

FOREIGN OFFICE, January 13, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, in which you call attention to the action of the Canadian Government in refusing to admit citizens of the United States to privilege of registration of copyright in Canada; and I beg leave to inform you in reply that I have requested the secretary of state for the Colonies to obtain, as soon as possible, a report on the matter from the Canadian Government.

I have, etc.,

SALISBURY.

Mr. Blaine to Mr. Lincoln.

No. 677.]

DEPARTMENT OF STATE,
Washington, January 22, 1892.

SIR: Your dispatch No. 594 of the 9th instant relative to the denial of copyright in Canada to American citizens has been received. Your treatment of the matter in your communication to Lord Salisbury is fully approved by the Department.

Adding that no reply has as yet been received from Sir Julian Pauncefote,

I am, etc.,

JAMES G. BLAINE.

Mr. Lincoln to Mr. Blaine.

No. 597.]

LEGATION OF THE UNITED STATES,
London, January 23, 1892. (Received February 2.)

SIR: I have the honor to inclose herewith the copy of a telegram which I received from you on the 14th instant, instructing me to express the President's deep regret and sincere condolences on the occasion of the death of the late Duke of Clarence and Avondale, and to acquaint you that I lost no time in communicating the same to the Marquis of Salisbury in a note dated the 14th instant.

I have, etc.

ROBERT T. LINCOLN.

FR 92—15
Mr. Lincoln to Mr. Blaine.

LEGATION OF THE UNITED STATES,
London, February 2, 1892. (Received February 12.)

SIR: Referring to my dispatch numbered 597 of the 23d ultimo, I have the honor to inclose herewith a note which I have received from the Marquis of Salisbury requesting me, in behalf of the Queen, to return Her Majesty's warmest thanks to the President for his expressions of sympathy on the occasion of the death of the Duke of Clarence and Avondale.

I have, etc.

ROBERT T. LINCOLN.

[Inclosure in No. 694.]

Lord Salisbury to Mr. Lincoln.

FOREIGN OFFICE, January 30, 1892.

SIR: I am commanded by the Queen, my sovereign, to request you to return to the President of the United States of America Her Majesty's warmest thanks for the kind expressions of sympathy conveyed through you to Her Majesty, to their Royal Highnesses the Prince and Princess of Wales, and to the royal family, on the occasion of the great sorrow which has fallen upon them, and upon the whole nation, by the death of His Royal Highness the Duke of Clarence and Avondale and Earl of Athlone.

I have, etc.

SALISBURY.

Mr. Lincoln to Mr. Blaine.

LEGATION OF THE UNITED STATES,
London, April 29, 1892. (Received May 9.)

SIR: I have the honor to acquaint you that on the 26th instant Mr. Sigmund Ehrenbacher made an application at this legation for a passport, of which a copy is inclosed, which was unsigned for the reason that upon the taking down of his statement it was at once submitted to me.

It appears that Mr. Ehrenbacher is the native-born son of a naturalized citizen of the United States, and left the United States as a minor at the age of 20, and has since been continuously abroad, and is permanently residing and engaged in business in London as a hop merchant. His declaration is that he intends to return to the United States within five years, but I was told that when he came to that point in the declaration he first said that he intended to go back when he had made enough money, and that he hoped that would be within ten years. Upon that being suggested as remote, he said that perhaps he could do it in five years, and asked that time to be inserted.

Upon examination of his application, dated May 2, 1889, it was found that he had then stated the time to be "a few months."

I then had a conversation with him myself and learned that his father (who, as above stated, was a naturalized citizen of the United States) had himself left the United States in 1869; that is, ten years before the son, and has never returned and has no intention of returning there. At some time, the date of which I did not get, the father established a hop business in London, into which he took his son, but
has himself retired and lives somewhere on the continent. The applicant told me that in his business he received hops from correspondents at San Francisco and New York. Our archives show that since his departure from America he has been assiduous in keeping himself furnished with a passport. I inclose a list of them. He said that he has relatives in the United States, but no home there, and that he has no idea of giving up or losing his American citizenship. The personal impression he made upon me was that he has in fact no definite intention of ever returning to the United States, and that he is as firmly settled here in business as anyone.

In view of the premises I felt so much doubt of the propriety of the continued issuance of passports to him that I informed him that I deemed it necessary to take your instructions; and I have therefore the honor of requesting them.

I have, etc.,

ROBERT T. LINCOLN.

No. 754.] Mr. Blaine to Mr. Lincoln.

DEPARTMENT OF STATE,
Washington, May 12, 1892.

SIR: Your dispatch No. 659 of the 29th ultimo, relative to the application of Mr. Sigmund Ehrenbacher for a passport, has been received.

This is one of those cases in which the residence abroad is not in the country of paternal allegiance and no possibility of a conflict of jurisdiction is imminent. The applicant has been assiduous in retaining the evidence of a right to protection by renewing his passport every two years during his twelve years' sojourn abroad. While the circumstances of his stay in England may not be inconsistent with a floating intention to return to the United States as soon as circumstances permit, it is lacking in that definiteness which is desirable. Indeed, the personal impression made upon you is that "he has, in fact, no definite intention of ever returning to the United States, and that he is as firmly established in business here [London] as any one."

Should Mr. Ehrenbacher succeed in dispelling this unfavorable impression, or even materially lessening it, there might be no objection to your renewing his passport for two years longer, with distinct notification that its further renewal thereafter will depend on positive establishment of a definite intention to return to the United States as to a permanent home. If you shall decide to issue a passport upon a further hearing of the case, the Department would be pleased to receive a report as to the grounds of your action.

I am, sir, your obedient servant,

JAMES G. BLAINE.

No. 761.] Mr. Blaine to Mr. Lincoln.

DEPARTMENT OF STATE,
Washington, May 19, 1892.

SIR: I inclose for your information a copy of a dispatch from the American consul at Sydney, Australia, communicating a copy of a letter from the copyright register of New South Wales inquiring as to whether the President's proclamation of the 1st of July, 1891, includes "the British Possessions," as well as Great Britain.
As you are aware, this Government holds that the proclamation applies to all the British Possessions, as well as Great Britain; and this is the view of the subject taken by the Librarian of Congress, as appears from his letter of the 18th instant, a copy of which is herewith inclosed, which states that his office "has recorded, and continues to record, claims of copyright in this country made by British subjects and complying with the American law wherever such subjects may reside."

Referring to my instruction No. 656, of the 19th of December last, to you, relative to the denial of copyright in Canada to American citizens, and to your reply thereto, No. 594, of the 9th of January last, you are instructed to communicate to Lord Salisbury the information that this Department has received as to the doubts of the register of copyrights of New South Wales as to the proper construction of the President's proclamation of July 1, 1891. You may also inform him of the fact that this Government continues to record claims of copyright in this country made by British subjects wherever such subjects may reside.

As the important American interests concerned make it desirable that an early decision should be reached as to the right of our citizens to copyright in Canada, you will avail yourself of this opportunity to recall that subject to the attention of Lord Salisbury with a view to arriving at a settlement of the question.

I am, sir, your obedient servant,

JAMES G. BLAINE.

[Enclosure 1 in No. 761.]

Mr. Cameron to Mr. Wharton.

No. 423.] CONSULATE OF THE UNITED STATES,

Sydney, March 19, 1892. (Received April 20.)

Sir: I have the honor to inclose herewith a letter with questions received from the registrar of copyrights in this city, and I shall feel obliged if you can furnish me with the information asked for in that communication.

I remain, sir, yours, very respectfully,

ALEXANDER CAMERON,
 Vice and Acting Consul.

[Enclosure in inclosure 1 in No. 761.]

Mr. Spruson to Mr. Cameron.

OFFICE OF COPYRIGHT REGISTRY OF NEW SOUTH WALES,

Chancery Square, Sydney, March 19, 1892.

Sir: With reference to the question of international copyright, I do myself the honor to inclose a copy of a proclamation issued by the President of the United States of America, on July 1, 1891, extending to the citizens and subjects of Great Britain and certain other countries therein named, the benefits of the amended act of Congress relating to copyright dated March 3, 1891, and setting out that this has been done because "satisfactory assurances have been given" of reciprocal action having been taken by the countries named.

As I have received this proclamation through a private channel, and have no official knowledge of such arrangements having been made in either England or the United States, I should esteem it a particular favor if you would furnish me with authentic information on the subject, by answering the following questions:

(1) What steps have the British Government actually taken to place American subjects on the same footing as their own subjects in relation to copyright?

(2) Does the new status extend to "Great Britain" only, or to "Great Britain and the British Possessions"? You will perceive the proclamation is not clear on the point.

I have, etc.,

JOS. J. SPRUSON,
Registrar of Copyright.
Mr. Spofford to Mr. Adee.

Library of Congress,
Washington, May 19, 1892.

Sir: Referring to your letter of 7th instant, covering a copy of inquiries as to copyright registry in the United States by British subjects in Australia, permit me to say:

(1) Under the President’s proclamation of July 1, 1891, certifying that in “Great Britain and the British Possessions” satisfactory official assurances have been given that the law permits to citizens of the United States the benefit of copyright on substantially the same basis as to British subjects, this office has recorded and continues to record claims of copyright in this country made by British subjects, and complying with the American law, wherever such subjects may reside.

(2) Notwithstanding the fact that the Government of Canada refuses copyright registry in the Dominion to United States citizens, thus contravening Lord Salisbury’s assurance of reciprocity to “all British Possessions,” copyrights are still entered for Canadians, pending declarations understood to have been made to Her Majesty’s Government by the Government of the United States.

Very respectfully,

A. R. Spofford,
Librarian of Congress.

Mr. Foster to Mr. Lincoln.

No. 806.

Department of State,
Washington, July 12, 1892.

Sir: I transmit for your information copies of two notes, respectively, addressed to the Department by Mr. Deprez and Mr. Patenôtre, the representative of France here, on November 3 and January 6 last, in regard to the protectorate announced by France over certain territory hitherto recognized as belonging to and administered by Liberia, and copy of an instruction recently sent to Mr. Coolidge directing him to acquaint the French Government with the views of this Government in regard to the menace of encroachments upon Liberian territory.

Her Majesty’s Government some months ago made verbal inquiries, through Sir Julian Paunceforte, touching the attitude of the United States in this regard. Sir Julian stated that a similar announcement of the assumption by France of a protectorate over the territory between the San Pedro and Cavally Rivers had been received by Her Majesty’s Government, which was indisposed to act upon it without first knowing whether such a protectorate would be recognized by the United States. Sir Julian was told that the position of this Government as the next friend of a republic founded in Africa by American enterprise was well known, and had on former occasions been evidenced by our frank and friendly intervention, not only with France but with Great Britain as well, to avert any diminution of such just rights to African territory as Liberia possessed, and that due representation would be made against the apprehended encroachments of France westward of the long recognized boundary of the San Pedro River.

It is proper therefore to instruct you to acquaint Lord Salisbury with the purport of the present instruction to Mr. Coolidge.

The occasion may also be availed of by you to make discreet inquiry relative to the action proposed to be taken by the Government of Her Majesty, either alone or concurrently with that of France, with respect to the country stretching inland from the coast toward the navigable water courses behind to which territory Liberia lays claim through original
exploration and which under the "Hinterland" doctrine is the normal avenue of Liberian expansion. Advices from Monrovia indicate considerable disquietude in the mind of the Government of the Republic as to the apprehended encroachments in that quarter also even to the extent it is reported of a movement on the part of Great Britain and France to close in behind Liberia and reduce her domain to a narrow strip of territory along the coast. This Government is unwilling to share the fears of the President of Liberia that an understanding to that end may actually exist between Great Britain and France, by which Liberia may be eventually shorn of the rights of territorial expansion flowing from her long occupancy of the coast and her original foundation of the first independent government in Africa.

The information possessed by this Department in regard to any such inland movement of circumscription about Liberia is meager. The Government of Liberia has not so far furnished evidence of the existence of such an understanding.

I am, &c.,

JOHN W. FOSTER.

No. 733.] Mr. Lincoln to Mr. Foster.

LEGATION OF THE UNITED STATES,
London, July 27, 1892. (Received August 8.)

SIR: I have the honor to acquaint you that to-day Mr. Theodore Rosenberg, president of the Standard Varnish Works of New York, applied at this legation for a passport, bearing one issued by the Department of State in January, 1890. He was properly introduced, and, upon his statement that he was a native-born citizen of the United States, the taking down of his application was begun upon the appropriate form, and it was at once disclosed that he was born out of the United States, and was the son of a father who was a citizen by naturalization prior to the birth of the son. It therefore became necessary to use the form for a "person claiming citizenship through naturalization of husband or parent," upon which he stated that it was impossible to produce the certificate of naturalization, and from further remarks it was quite clear that he knew nothing of his father's naturalization except by hearsay; and I did not therefore think it a proper case for even the application, much less the slightest straining of the provision, in the last clause of section 120 of the "personal instructions," which authorizes the taking of a Department passport, within two years from its date as prima facie evidence of citizenship. Whatever may be the contents of the application upon which his Department passport was granted, he, according to his own express statement, was not called upon to prove the naturalization of his father by the production of the usual certificate, and this leads me to think it probable that his application to the Department was in some respect inaccurate in his statement of his personal history.

He stated that it was his intention to apply at once to the Department to over-rule my declination to issue a passport to him without proof of the naturalization of his father, and if he does so, it may perhaps be well that it should be known that a person calling himself his clerk said yesterday that Mr. Rosenberg intended to reside permanently abroad. That question was not reached in conferring with him to-day.

I have, etc.

ROBERT T. LINCOLN.
Mr. Lincoln to Mr. Foster.

Legation of the United States,
London, August 5, 1892. (Received August 15, 1892.)

Sir: I have the honor to acknowledge the receipt of your Instruction No. 806, of the 12th ultimo, in reference to the protectorate announced by France over a region including certain territory hitherto recognized as belonging to Liberia and inclosing a copy of an instruction, dated June 4, ultimo, upon the subject, sent to Mr. Coolidge.

I took immediate steps to have an interview with Dr. Blyden, the Liberian minister here; and on the 28th ultimo I had a long and interesting conversation with him.

The result of it in substance is that after I had confidentially acquainted him with the purport of the above-mentioned instruction to Mr. Coolidge he expressed his great gratification upon the friendly action of the United States on behalf his country, and proceeded to give me an account of the present status of the matters mentioned in your instruction. As to the French threatened encroachment upon the territory between the River San Pedro and the river Cavally, he said that the president of Liberia was vigorously maintaining the Liberian actual occupation and that he (Dr. Blyden) greatly hoped that this fact, in connection with the representations of the United States to the French Government, would avert any actual aggression in that particular quarter.

As to the "Hinterland," the situation is peculiar. Dr. Blyden told me that it is under the sway of a powerful native ruler, a Mohammedan called the Almamy Samadu (called Samory by the French), with whom the Liberians are on friendly terms, and with whom they have old treaties, giving them an outlet for settlement. The French, however, claim a protectorate over Samadu's territory by virtue of treaties of 1887 and 1889, which he disputes on the ground that their provisions were misinterpreted to him as giving to the French only certain rights of trade; and the dispute has resulted in an actual war now being carried on.

Dr. Blyden expressed himself as believing that there was no good ground for apprehending any British encroachment upon Liberia, or its "Hinterland," but he called my attention to the British acquiescence in the French claim upon the territory of Samadu. This is seen in the Parliamentary paper, "Africa, No. 7 (1892)," issued in June last, of which I inclose two copies herewith.

I have endeavored, without success, to obtain a map which would elucidate all the points of this paper; the best that I can find is called "The British Possessions in West Africa," by Edward Stanford, published in 1890, a copy of which is also inclosed.

It will be seen in the above-mentioned paper; that in December, 1891, and in January, 1892, Lord Salisbury directed Mr. Edgerton, then in charge of the British embassy at Paris, to explain to M. Ribot that the acknowledgment of the notification of the treaties on the Ivory Coast and of the French protectorate resulting therefrom, which covered the Liberian territory between the Rivers San Pedro and Cavally, was not to be taken as prejudicing the claim of Liberia to the territory between those rivers.

I was not able, after my interview with Dr. Blyden, to secure an interview with Lord Salisbury until yesterday, when I acquainted him orally with the purport of the instructions to Mr. Coolidge, and asked him whether Her Majesty's Government had made any representation
to the French Government on the subject beyond what was shown in
the above-mentioned paper, and to which I have referred. He replied
that nothing further had been done. I did not, in view of the expected
immediate change of the Government, enter upon the subject of any
possible future action of Her Majesty’s Government in that direction.
I did, however, mention the subject of a possible extension of British
interests in the country behind Liberia, and he gave me to understand
that Her Majesty’s Government had no intention of going beyond the
limits indicated in the parliamentary paper already referred to. As I
have already said, this seems to recognize distinctly as under a French
protectorate all the “Hinterland” of Liberia.
Since my interview with Dr. Blyden, I have received from him a
communication, dated the 30th ultimo, of which a copy is inclosed
herewith. As he did so personally, I venture to call special attention
to his suggestion as to the resumption of visits of our naval vessels to
Liberia.
I have, etc.,

ROBERT T. LINCOLN.

[Inclosure in No. 795.]
Mr. Blyden to Mr. Lincoln.
LEGATION OF LIBERIA,
London, July 30, 1892.

MY DEAR COLLEAGUE: I sent you yesterday a correct map of Liberia, officially
authorized.
The portion of West Africa occupied by the Republic is considered the most im-
portant, so far as productiveness and commercial possibilities are concerned, of all West
African countries, and is rapidly improving by the industry and energy of the col-
onists, both in agriculture and commerce. Two or three steamers a week, from Liv-
erpool, Hamburg, and Havre visit the Liberian coast for purposes of trade, besides
sailing vessels from the United States, Holland, and Norway. They bring European
and American merchandise, and carry away coffee, sugar, palm oil, palm kernels, rub-
er, ivory, hides, various gums, palm sap, and a little gold.
The scramble by European powers for African territory threatens to curtail our
already limited domain, especially in our “Hinterland,” and prevent the expansion of
the Republic eastward, the direction which the immigrations into Liberia from the
United States are taking.
If the French succeed in conquering Almamy Samadu, or Samory, and taking his
country, they will claim territories over which Samadu has nominal jurisdiction,
but which were connected by treaty to Liberia several years ago. This would be a
very serious matter, considering the constant immigrations, though now on a small
scale, of American negroes into Liberia, seeking room in the land of their fathers,
and the prospects of much larger immigration in the not distant future.
It was with considerable satisfaction, therefore, that I read the extracts from the
dispatches from your Government which you confidentially submitted to me, showing
the stand they had taken as Liberia’s next friend.
I think that, in view of the qualified acceptance by the United States Government
of the action of the Brussels conference, it might be in the range of its privileges to
suggest to the powers such an arrangement as shall allow Liberia, considering its
origin and character, the right of expanding interiorward, as far and as fast as ac-
cessions of civilized negroes from the Western Hemisphere will permit, and enable
the Republic to exercise effective control, in the interest of commerce and civilization
and of regular government, over tribes of the same race on that portion of the
continent. I do not think that any European power could, in fairness or justice,
object to such an understanding, especially if the extension is to be within the spheres
of their influence not effectively occupied.
I hope that you will be able to induce your Government to afford Liberia the ad-
vantage of the presence on her coast of a United States vessel of war for a fortnight
at least twice a year—say in the months of March and October—not to take part in
enforcing any of the laws of Liberia, but simply in a complimentary and friendly
manner. Some years ago this custom was observed by the United States Govern-
ment, and was a great help in establishing the prestige of the Liberian Government among the native tribes, and in the eyes of foreign traders, whose constant effort in those days it was, through their opposition to the revenue laws, to undermine the authority of the Government among the aborigines.

The new President of Liberia, Hon. J. J. Cheeseman, is making every effort to liberalize the commercial policy of Liberia and to bring the aborigines more and more within the operation of that policy; and the visible interest of the United States Government in the progress of Liberia would do a great deal to strengthen his hands and to deter a few foreign traders in remote districts, who are still disposed to infringe the revenue laws of the Republic. I hope it may be possible for an American man-of-war to visit Monrovia and other ports of Liberia in the month of October next.

Believe me, etc.,

EDWARD W. BLYDEN.

Mr. Foster to Mr. Lincoln.

No. 833.]  

DEPARTMENT OF STATE,  
Washington, August 10, 1862.

SIR: Your No. 733, of July 27, in relation to the application of Theodore Rosenberg for a passport, has been received.

Mr. Rosenberg, having presented himself to obtain from you a passport in lieu of one issued to him February 25, 1890, by this Department, declared himself to be a native-born citizen, but your inquiries having disclosed that he was "the son of a father who was a citizen by naturalization prior to the birth of the son," he was unable to produce the record of his father's naturalization, as required by the appropriate form in such cases. From his want of knowledge on this important subject, and his denial of any obligation to produce the prescribed proof, you were very naturally led to think it probable that his former statement to this Department may have been in some respects inaccurate in its statement of his personal history.

An examination of the records shows that the passport issued to Theodore Rosenberg February 25, 1890, was in renewal of one issued May 13, 1887, and this in turn a renewal of the original passport here issued to him April 2, 1881, No. 310. The application upon which it was granted is found to be regular and sufficient in its statements. Theodore Rosenberg swears that he was born June 21, 1853, at Siezen, Prussia, and claims citizenship through the naturalization of his father, David Rosenberg, whose record of naturalization was exhibited and noted, from which it appears that he was admitted to citizenship by the Chambers County circuit court, of Alabama, September 18, 1858. The son's birth was, therefore, prior to the father's naturalization, not subsequent, as he seemed to have averred to you. It may therefore be necessary, if Mr. Rosenberg should renew his application, for you to secure evidence that he himself resided in the United States at some time during minority. Naturalization of the parent here does not confer citizenship on his minor children born abroad before that event and continuing to reside and attain their majority abroad.

It is probable, however, that you may be spared the necessity of obtaining exact autobiographical details from Mr. Rosenberg if, as the concluding paragraph of your dispatch indicated, he intends to reside permanently abroad. Should that fact appear, it would of itself warrant you in declining to issue a passport to him.

I am, etc.,

JOHN W. FOSTER.
FOREIGN RELATIONS.

Mr. Foster to Mr. Lincoln.

No. 840.]  
DEPARTMENT OF STATE,  
Washington, August 23, 1892.

SIR: I have to acknowledge the receipt of your No. 735, of the 5th instant, in relation to the Liberian boundary question, and to say that a copy of the same has been communicated to your colleague at Paris for his information and files.

The extract from Dr. Blyden's note of July 30, in regard to the presence of a vessel of war of the United States on the coast of Liberia during the months of March and October in each year, has been submitted to the Secretary of the Navy in the hope that it may receive his favorable consideration.

I have not inclosed to Mr. Coolidge copy of Parliamentary Paper Africa, No. 7, 1892, and of the map showing the British Possessions of West Africa, which accompanied your dispatch to the Department, and you will at once send these two documents to Mr. Coolidge to complete your dispatch.

I am, sir, etc.,

J O H N  W. FOSTER.

Mr. Foster to Mr. Lincoln.

No. 906.]  
DEPARTMENT OF STATE,  
Washington, October 6, 1892.

SIR: I transmit for your information copies of correspondence that has lately passed between this Department and the Legation of Great Britain in regard to the alleged action of the Canadian Pacific Railway Company in transporting Chinese persons into the United States in violation of existing law.

In my note of August 10, last, to Mr. Herbert, I presented the matter as it was here understood, and referred to the ineffectual negotiations which you were charged to enter into, pursuant to instructions of October 22, 1890, based upon the concurrent resolution of the Senate and House of Representatives, inviting negotiations with Great Britain with a purpose of securing treaty stipulations for the prevention of the entry of Chinese laborers from the Dominion of Canada contrary to our laws.

Mr. Herbert's note of September 20, in reply, disclaims any act on the part of the Canadian Pacific Railway Company violative of our statutes respecting the introduction of Chinese persons, and with reference to my intimation that the action complained of seemed to show an indifference or lack of friendliness on the part of the Canadian Government it was observed that while the Canadian Government was entirely friendly to the United States in such matters it could not charge itself with executing or enforcing our laws.

To this note I made answer on the 3d instant, expressing the Department's gratification at this denial of the Canadian Pacific Railway Company and saying that if the reply of the Government of Canada had communicated, with friendly acquiescence, the sentiments and purposes of the railway authorities—the purport of which had previously been made known to me—my acknowledgment thereof would
have been an agreeable duty. After commenting upon the statements of the Canadian Privy Council, I referred to the friendly and neighborly interests that prompted the treaty proposal of October, 1890, and substantiated my statements touching the indifference with which it had been treated by Canada.

On the 4th instant I received Mr. Herbert’s note, dated the 2d, supplementing his previous one of September 29 last, by communicating a copy of an approved minute of the Canadian Privy Council further relating to the alleged action of the Canadian Pacific Railway Company.

I replied to this note on the 4th instant, expressing my pleasure at the character of the communications of the vice-president of that railway company, which fully bore out my understanding of the good disposition of the company and of its desire to respect our laws by taking all necessary precautions to prevent the unlawful introduction of Chinese into the United States.

It is my wish that you communicate copies of these notes to Earl Rosebery and inquire whether the declarations of the Government of Canada, as conveyed in Mr. Herbert’s note of September 29, that “the Government of the Dominion does not charge itself with the duty of enforcing measures of restriction adopted by a foreign government with regard to access to its territories by persons of other nationalities,” is to be taken as a declination by Her Majesty’s Government of the overthrow of that of the United States for a treaty regulating the border immigration of Chinese persons inhibited by our laws.

I am, etc.,

JOHN W. FOSTER.

Mr. White to Mr. Foster.

No. 891.]

LEGATION OF THE UNITED STATES,
London, October 19, 1892.

Sir: Referring to your predecessor’s instruction, numbered 734, of May 12 last, I have the honor to acquaint you that Mr. Sigmund Ehrenbacher called at this legation on the 15th instant and renewed his application for a passport.

I informed him that the statements he had previously made here with respect to his return to the United States had failed to convince us of any certain intention on his part to reside and perform the duties of citizenship therein, and that I did not see how under those circumstances a passport could again be granted to him.

He at once replied that, since applying for a passport in April last, he had fully made up his mind to open an office next year in New York, and that he was willing to make an affidavit to that effect, which he did. I inquired whether that implied an intention to reside there permanently, and Mr. Ehrenbacher said that it would undoubtedly involve the necessity on his part of residing there very frequently and for considerable periods of time; but that, as he did not contemplate closing his London office, he would, in all probability, often have to return to London.

After a careful perusal of Mr. Blaine’s instruction aforesaid, I decided, in view of the affidavit made by Mr. Ehrenbacher and of the fact that he was born in the United States and that his business is the sale of American hops, to issue a passport to him.
In handing the passport to Mr. Ehrenbacher, I gave him distinctly to understand, however, that its further renewal, at the expiration of the two years for which it is valid, would depend upon the production of evidence satisfactory to this legation of his having at that time established his permanent home in the United States.

I have, etc.,

HENRY WHITE.

Mr. White to Mr. Foster.

No. 815.] LEGATION OF THE UNITED STATES,
London, October 31, 1892.

SIR: Referring to your instruction, numbered 906, of the 6th instant, I have the honor to inclose herewith a copy of a note which I addressed to the Earl of Rosebery on the 20th instant, transmitting the correspondence between yourself and Her Majesty's chargé d'affaires at Washington, relative to the alleged action of the Canadian Pacific Railway Company in transporting Chinese into the United States in violation of our laws, and inquiring whether the declarations of the Government of Canada, as conveyed in Mr. Herbert's note of September 29, that "the Government of the Dominion does not charge itself with the duty of enforcing measures of restriction adopted by a foreign government with regard to access to its territories by persons of other nationalities," are to be taken as a declination by Her Majesty's Government of the overture of that of the United States for a treaty regulating the border immigration of Chinese persons inhibited by the laws of the United States.

I also inclose herewith the copy of a note which I have received from Lord Rosebery in reply.

I have, etc.,

HENRY WHITE.

[Inclosure 1 in No. 815.]

Mr. White to Lord Rosebery.

LEGATION OF THE UNITED STATES,
London, October 20, 1892.

MY LORD: I have the honor to inclose herewith copies of correspondence which has recently taken place between the Secretary of State and Her Majesty's chargé d'affaires at Washington, relative to the alleged action of the Canadian Pacific Railway Company in transporting Chinese persons into the United States in violation of existing law.

It will be observed that Mr. Foster, in his note of August 10 last, to Mr. Herbert, presented the matter as it was then understood at the Department of State, and referred to the ineffectual negotiations which this legation was charged to enter into, pursuant to instructions from the Secretary of State, in October, 1890, based upon the concurrent resolution of the Senate and House of Representatives of the United States, inviting negotiations with Great Britain with a view to securing treaty stipulations for the prevention of the entry of Chinese laborers from the Dominion of Canada, contrary to our laws.

Mr. Herbert's note of September 29, in reply, disclaims any act on the part of the Canadian Pacific Railway Company violative of our statutes respecting the introduction of Chinese persons, and, with reference to Mr. Foster's intimation that the action complained of seemed to show indifference or lack of friendliness on the part of the Canadian government, he observes that, while the Canadian government is entirely friendly to the United States in such matters, it does not charge itself with executing or enforcing our laws.
To this note Mr. Foster replied on the 3d instant, expressing his gratification at the denial of the Canadian Pacific Railway Company and saying that if the reply of the government of Canada had communicated, with friendly acquiescence, the sentiments and purposes of the railway authorities, the purport of which had previously been made known to him, his acknowledgment thereof would have been an agreeable duty. After commenting upon the statements of the Canadian privy council, Mr. Foster refers to the friendly and neighborly interests that prompted the treaty proposal of October, 1890, which I had the honor to lay before Lord Salisbury in an interview with his lordship on the 5th November, 1890, and substantiates his statements touching the indifference with which it had been treated by Canada.

On the 4th instant Mr. Foster received Mr. Herbert's note, dated the 2d, supplementing that of September 29 last, by communicating a copy of an approved minute of the Canadian privy council further relating to the alleged action of the Canadian Pacific Railway Company; and he replied thereto on the 4th instant, expressing his pleasure at the character of the communications of the vice-president of that railway company, which fully bears out Mr. Foster's understanding of the favorable disposition of the company and of its desire to respect our laws by taking all necessary precautions to prevent the unlawful introduction of Chinese into the United States.

I have the honor to acquaint your lordship that I am instructed by my Government to communicate the inclosed correspondence to your lordship and to inquire whether the declarations of the government of Canada, as conveyed in Mr. Herbert's note of the 29th ultimo, that "the government of the Dominion does not charge itself with the duty of enforcing measures of restriction adopted by a foreign government with regard to access to its territories by persons of other nationalities," are to be taken as a declination by Her Majesty's Government of the overture of my Government for a treaty regulating the border emigration of Chinese persons inhibited by our laws.

I have, etc.,

HENRY WHITE.

[Inclosure 2 in No. 815.]

Lord Rosebery to Mr. White.

FOREIGN OFFICE, October 28, 1892.

Sir: I have the honor to acknowledge the receipt of your note of the 20th instant, forwarding copies of correspondence which has recently taken place between the Secretary of State and Her Majesty's chargé d'affaires at Washington, relative to the alleged action of the Canadian Pacific Railway Company in transporting Chinese subjects into the United States in violation of existing laws.

The question raised in your note will receive due consideration, and I shall have the honor of addressing you a further communication on the subject.

I have, etc.,

ROSEBERY.

Mr. Foster to Mr. White.

No.951.]

DEPARTMENT OF STATE,
Washington, November 5, 1892.

Sir: The United States commercial agent at Butariti, in the Gilbert Islands, reports to this Department that on the 11th of June last Her Majesty's ship Royalist, commanded by Capt. E. H. M. Davis, Royal Navy, arrived at that port, and on the same day hoisted the British flag and declared the island to be under Her Majesty's protection. The other islands of the Gilbert group had also thus been previously visited and similarly declared under British protection.

This proceeding was marked by certain acts on the part of Capt. Davis in contrast with the conduct of other agents of foreign governments when declaring under foreign protection islands and territories where the Government of the United States maintained a representa-
tive accredited to the local authority; and in the interest of good feel-
ing it becomes necessary to invite the attention of Her Majesty’s Gov-
ernment to such conduct with a view to a friendly understanding.

Citizens of the United States have during the last fifty years estab-
lished themselves in several of the islands of the Gilbert group. Ac-
quiring property and vested interests therein, they have won the con-
fidence and esteem of the natives by their exemplary dealings and by
their self-sacrificing labors as missionaries; and, supported by the
benvolent contributions of the Christian churches of the United States,
they have raised that remote island community to a stage of civilized
order alike notable and commendable.

These interests, thus firmly established, called for due recognition
and protection on the part of the United States Government, and on
the 25th of May, 1888, Adolph Rick was duly commissioned as com-
mercial agent of the United States for the Gilbert Islands, with resi-
dence at Butaritari.

Capt. Davis appears to have supposed, contrary to the usage which
this Government has observed on other occasions and in other quar-
ters, that the acceptance by Her Majesty of a protectorate over the
local rulers of those islands annulled the relations of other govern-
ments thereto; and he appears to have treated the United States com-
mercial agency as nonexistent from the 27th of May, 1892, when his
proclamation of assumption of British protection over the Gilbert Is-
lands was issued at Apamama, fifteen days before he arrived at Buta-
ritari on the 11th of June. Mr. Rick was not lacking in courtesy to
Capt. Davis, and on the next day, June 12, sought an introduction
to him through a reputable resident of Butaritari, Mr. J. F. Luttrell,
but Capt. Davis took no notice of the introduction although Mr. Rick’s
name and office were distinctly announced, and turned abruptly away.
Owing to this misunderstanding, Mr. Rick and Capt. Davis did not
meet until July 6, when the captain informed him orally that he could
not recognize him as a consular representative until he should be ac-
credited to Her Majesty the Queen; a statement repeated the next day
in writing.

Availing himself of the usual courtesy of forwarding home-bound
mails by returning war vessels, Mr. Rick, on Friday, July 8, tendered
to Capt. Davis several sealed letters and, in particular, official dis-
patches to the Department of State, inclosed in the prescribed printed
envelope supplied to consular officers for their business correspondence.
Capt. Davis demanded that the printed heading, “United States Con-
sole, Butaritari,” should be erased, claiming that its appearance
there was “not courteous” on the commercial agent’s part. He, how-
ever, accepted the letters the next day, without erasure. The corre-
spondence on the subject between Mr. Rick and Capt. Davis is inclosed.

The trivial character of this incident makes it unworthy of notice,
save as an indication of the temper in which Capt. Davis appears to
have executed the high mission confided to him. It can not for an in-
stant be supposed that Her Majesty’s Government could have intended
to give a naval commander the function of censorship over the official
correspondence of an officer of a friendly power with the government he
serves. In regard to this whole proceeding I quite fail to share Capt.
Davis’s views as to what constitutes discourtesy.

Neither is it readily supposable that Capt. Davis’s powers included
the abrupt rupture and outlawry of the relations maintained by the
United States Government with the Gilbert Islanders through its de-
puted agent. Had the islands been annexed by Great Britain as con-
quered territory, the sudden breaking off of the representative functions of the agent of a friendly state might perhaps have found excuse as an act of military necessity; but in the present case it wears an unfriendly aspect, which I am confident Her Majesty's Government will hasten to disavow.

In the course of the last few years foreign protectorates have been asserted over territories where this Government had established consular representation, without interruption thereof, until a new appointment required a new act of recognition. Were the British protectorate over the Gilbert Islands deemed to be of a different character, involving the substitutory credence of the United States commercial agent forthwith to Her Britannic Majesty, this Government would have cheerfully considered the point on due intimation being given by Her Majesty's Government through the regular channels. I am unable to accept the action of Capt. Davis as such usual, timely, and friendly notice as is due from one power to another, nor can I suppose Her Majesty's Government desires or expects that it should be so accepted.

An important fact remains and should not be dwarfed by the petty details which, to my great regret, encumber this dispatch.

As I have already said, the germs of civilization were planted in the Gilbert group by the zealous endeavor of American citizens more than half a century ago. The result of this work, carried on by American citizens and money, has been, in fact, to change the naked barbarism of the island natives into enlightened communities and to lay the foundations of the trade and commerce which have given those islands importance in the eyes of Europe to-day. Wrought by the agents of a colonizing power, this development would have naturally led to a paramount claim to protection, control, or annexation, as policy might dictate. This country, however, has slept upon its rights to reap the benefits of the development produced by the efforts of its citizens; but it can not forego its inalienable privilege to protect its citizens in the vested rights they have built up by half a century of sacrifice and Christian endeavor.

I feel certain that no country will more readily acknowledge our rights in this regard than England, which has so largely shared with the United States in the work of carrying progress and civilization to the islands of the Pacific.

You will take an early occasion to make these views known to the Earl of Rosebery. You will say to him that this Government believes that it has a right to expect that the rights and interests of the American citizens established in the Gilbert Islands will be as fully respected and confirmed under Her Majesty's protectorate as they could have been had the United States accepted the office of protection not long since solicited by the rulers of those Islands. You will point out to his lordship the expediency and, indeed, in view of the strange conduct of Capt. Davis, the necessity of continuing the consular representation of the United States in that quarter under such superior sanction as Her Majesty's Government may deem fitting by reason of the function of protection which it has assumed.

It is to be noted that the representation of the United States in the Gilbert Islands takes the form of a commercial agency, an office already established at many points in Her Majesty's dominions.

I am, etc.,

John W. Foster.
FOREIGN RELATIONS.

[Inclosure 1 in No. 851.]

Mr. Rick to Capt. Davis.

BUTORITARI, July 8, 1892.

Dear Sir: This morning I respectfully asked you to take certain United States official mail and private mail, which I then tendered you. You declined taking it upon certain grounds. I would like to have these grounds in writing. Will you kindly, by the messenger bringing this or otherwise, state in writing your objections and greatly oblige.

Most respectfully, yours, etc.,

A. RICK.

[Inclosure 2 in No. 851.]

Capt. Davis to Mr. Rick.

H. M. S. ROYALIST, July 8, 1892.

Dear Sir: After informing you that your position as United States commercial agent could not be recognized by me—Her Britannic Majesty having assumed a protectorate over the Gilbert Islands—you sent me, for conveyance, letters marked United States Consulate at Butoritari, Gilbert Islands.

This I hold is not courteous on your part and I informed you so. At your request I now place the same in writing.

I requested you to erase the words “United States Consulate, Butoritari, Gilbert Islands,” as it has ceased to exist. This you have not done and you again send the letters.

I shall take them with pleasure, as I previously informed you. I regret you were unable to make the alteration suggested by me. I have no course open now but to report what I consider want of courtesy on your part to my Government.

I am, etc.,

ED. H. M. DAVIS, Captain.

Mr. White to Mr. Foster.

No. 838.]

LEGATION OF THE UNITED STATES,
London, November 16, 1892. (Received November 28, 1892.)

Sir: Referring to the Department’s instruction numbered 656, of December 9, last, with respect to the refusal of copyright in Canada to citizens of the United States, I have the honor to inclose herewith the copy of a note which I have just received on the subject from the Earl of Rosebery, in reply to that which Mr. Lincoln addressed to the Marquis of Salisbury on the 9th of January last, and of which a copy was transmitted, in his dispatch No. 594 of that date, to your predecessor.

I also inclose herewith a copy of the British International copyright act (1886) referred to in Lord Rosebery’s note.

I have, etc.,

HENRY WHITE.

[Inclosure in No. 838.]

The Earl of Rosebery to Mr. White.

FOREIGN OFFICE,
November 12, 1892.

Sir: Her Majesty’s Government have given the most careful consideration to Mr. Lincoln’s note of the 9th of January last relative to the refusal to grant registration of copyright in Canada to citizens of the United States.

Before an answer could be returned to that communication it has been found necessary to institute a thorough and exhaustive inquiry into the exact bearing of the
Imperial and Canadian laws upon copyright and to communicate at some length with the Dominion authorities upon the subject.

I regret that some delay has thus occurred in replying to Mr. Lincoln's communication, but I have now the honor to state to you as follows:

A work simultaneously first produced in the United States and in Canada by a citizen of the United States is entitled to copyright in Canada by virtue of Section 8 (1) of the international copyright act, 1886, of which I have the honor to inclose a copy.

My predecessor has already assured Mr. Lincoln, in his note of the 16th June, 1891, that residence in some part of Her Majesty's Dominion is not a necessary condition to an alien obtaining copyright under the English copyright law.

If registration cannot be effected in Canada under section 8 (1) (a) of the international copyright act, 1886, any person, whether a British subject or an alien, whose work has been first published in Canada, can entitle himself to a remedy against infringement by registering at Stationers' Hall, in London, under the English copyright act.

I have, etc.,

ROSEBERY.

Mr. White to Mr. Foster.

No. 841.]

LEGATION OF THE UNITED STATES,
London, November 21, 1892. (Received December 1.)

SIR: Referring to your instruction No. 951, of November 5 last, relative to the conduct of Capt. Davis, of H. M. S. Royalist, to our commercial agent at Butaritari, I have the honor to acquaint you that I brought the matter to the attention of the Earl of Rosebery in an interview with his lordship on the 16th instant, and I stated to him that the United States Government believes "that it has a right to expect that the rights and interests of American citizens established in the Gilbert Islands will be as fully respected and confirmed under Her Majesty's protectorate as they could have been had the United States accepted the office of protection not long since solicited by the rulers of those islands." I also pointed out to his lordship the expediency and, indeed, in view of the strange conduct of Capt. Davis, the necessity of continuing the consular representation of the United States in that quarter, under such superior sanction as Her Majesty's Government may deem fitting by reason of the function of protection which it has assumed.

Lord Rosebery said that he would give the matter his attention as soon as he should receive the note which I told him I proposed addressing to him on the subject.

I herewith inclose the copy of a note which I have to-day written to Lord Rosebery.

I have, etc.,

HENRY WHITE

[Inclosure No. 841.]

Mr. White to the Earl of Rosebery.

LEGATION OF THE UNITED STATES,
London, November 21, 1892.

MY LORD: I have the honor to acquaint your lordship that the United States commercial agent at Butaritari, in the Gilbert Islands, has reported to the Department of State that on the 11th of June last Her Majesty's Ship Royalist, commanded by Capt. E. H. M. Davis, Royal Navy, arrived at that port, hoisted the British flag on the same day, and declared the island to be under the protection of Her Britannic Majesty. The other islands of the Gilbert group had also been previously visited and similarly declared under British protection.

F R 92——16
I regret to add that this proceeding was marked, as I stated to your lordship at the Foreign Office on the 16th instant, by certain acts on the part of Capt. Davis, which are in contrast with the conduct of other agents of foreign governments when declaring under the protection of such governments islands and territories in which the United States maintained a representative accredited to the local authority, and my Government feels it to be necessary, in the interests of good feeling, to invite the attention of Her Majesty’s Government to such conduct, with a view to a friendly understanding.

Citizens of the United States have, during the last fifty years, established themselves in several of the islands of the Gilbert group. Acquiring property and vested interests therein, they have won the confidence and esteem of the natives by their exemplary dealings and by their self-sacrificing labors as missionaries; and, supported by the benevolent contributions of the Christian churches in the United States, they have raised that remote island community to a stage of civilized order alike notable and commendable.

These interests, thus firmly established, called for due recognition and protection on the part of the United States Government, and on the 25th of May, 1888, Mr. Adolf Rick was duly commissioned as commercial agent of the United States for the Gilbert Islands, with residence at Butaritari.

Capt. Davis appears to have supposed, contrary to the usage which my Government has observed on other occasions and in other quarters, that the acceptance by Her Majesty of a protectorate over the local rulers of these islands annulled the relations of other governments to the latter; and he appears to have treated the United States commercial agency as nonexistent from the 27th of May, 1892, when his proclamation of assumption of British protection over the Gilbert Islands was issued at Apamana, fifteen days before he arrived at Butaritari on the 11th of June. Mr. Rick was not lacking in courtesy to Capt. Davis, and on the next day, June 12, sought an introduction to him through a reputable resident of Butaritari, Mr. J. F. Luttrell; but Capt. Davis took no notice of the introduction, although Mr. Rick’s name and office were distinctly announced, and he turned abruptly away. Owing to this misunderstanding, Mr. Rick and Capt. Davis did not meet until July 6, when the captain informed him orally that he could not recognize him as a consular representative until he should be accredited to Her Majesty the Queen, a statement repeated the next day in writing.

Availing himself of the usual courtesy of forwarding homebound mails by returning war vessels, Mr. Rick, on Friday, July 8, tendered to Capt. Davis several sealed letters and, in particular, official dispatches to the Department of State, enclosed in the prescribed printed envelopes supplied to consular officers for their business correspondence. Capt. Davis demanded that the printed heading, “United States Consulate, Butaritari,” should be erased, claiming that its appearance there was “not courteous” on the commercial agent’s part. He however accepted the letters the next day, without erasure. The correspondence on the subject between Mr. Rick and Capt. Davis is inclosed.

The trivial character of this incident makes it unworthy of notice, save as an indication of the temper in which Capt. Davis appears to have executed the high mission confided to him. It can not for an instant be supposed that Her Majesty’s Government could have intended to give a naval commander the function of censorship over the official correspondence of an officer of a friendly power with the Government he serves; and in regard to the entire proceeding the Secretary of State quite fails to share Capt. Davis’s views as to that which constitutes discourtesy.

Neither is it really supposable that Capt. Davis’s powers included the abrupt rupture and outlawry of the relations maintained by the United States Government with the Gilbert Islanders through its deputed agent. Had the islands been annexed to Great Britain as conquered territory, the sudden breaking off of the representative functions of the agent of a friendly state might perhaps have found excuse as an act of military necessity; but in the present case it bears an unfriendly aspect which my Government is confident that Her Majesty’s Government will hasten to disavow.

In the course of the last few years foreign protectorates have been asserted over territories in which the Government of the United States had established consular representation without interruption thereof until a new appointment required a new act of recognition. Were the British protectorate over the Gilbert Islands deemed to be of a different character, involving the substitutionary credence of the United States commercial agent forthwith to Her Britannic Majesty, this Government would have cheerfully considered the point on due intimation being given by Her Majesty’s Government through the regular channels; but my Government is unable to accept the action of Capt. Davis as such usual, timely, and friendly notice as is due from one power to another nor that the Secretary of State suppose Her Majesty’s Government desires or expects that it should be so accepted.
Mr. Foster to Mr. White.

No. 970.]  

DEPARTMENT OF STATE,  
Washington, November 21, 1892.

SIR: In the judgment of the President the time is opportune for an explicit assertion of the views of the Government of the United States with respect to its rights in the harbor of Pago Pago, as secured by treaty with the Samoan Islands and as now in process of accomplishment. The good concurrence of the treaty powers hitherto touching their mutual rights and obligations in regard to the Samoan Islands has precluded occasion for formal insistence upon the rights and policy of the United States as respects its naval and coaling station in those islands; but a recent occurrence constrains a definite and frank statement in this relation.

In June last the consular representative of the United States at Apia reported the visit of Her Majesty's ship Curacao to Pago Pago, taking on board the British land commissioner in Samoa for the announced purpose "of looking at the land claimed by the United States Government in that harbor." The commissioner, Mr. Haggard, landed there for a few hours and returned to Apia forthwith.

This proceeding might have been passed over without notice but for the circumstance that it has been stated, without contradiction, in the British press of the Australian colonies, that the object of Mr. Haggard's visit was to select a place for a British coaling station in Pago Pago harbor, and that he in fact allotted a piece of land there with that design. While the absence of denial or correction of this statement
from any official quarter may justify taking notice thereof, I should be reluctant to assume that Her Majesty's Government would take such action in a locality where the Government of the United States possessed prior rights, without notification to us or comparison of views.

The United States have possessed continuous rights in the harbor of Pago Pago, for the purpose of a naval and coaling station, since 1872, when the confederated chiefs of the Island of Tutuala offered it to this Government, by a formal letter of the Chief Manga to the President, dated Pago Pago, August 15, 1873, saying: "We give to you exclusive right to our harbor, and we want you to use it." Later, the Taimua and Faipule, representing all the islands of the Samoan group, sent an envoy to Washington, with whom was negotiated January 17, 1878, the first formal treaty between Samoa and any foreign power. That treaty contained express stipulations in regard to the use of Pago Pago harbor as follows:

**Article II.** Naval vessels of the United States shall have the privilege of entering and using the port of Pago Pago, and establishing therein and on the shores thereof a station for coal and other naval supplies for their naval and commercial marine, and the Samoan Government will thereafter neither exercise nor authorize any jurisdiction within said port adverse to such rights of the United States or restrictive thereof.

Upon the ratification and exchange of this treaty, the Taimua and Faipule executed on the 5th of August, 1878, a formal instrument transferring to the Government of the United States the privilege of using the port of Pago Pago and the shores thereof, in accordance with the treaty.

A treaty between Germany and the Samoan Islands was subsequently concluded, January 24, 1879, which distinctly respected the cession of Pago Pago harbor for the use of the United States by conveying to Germany like exclusive rights in another harbor, that of Salufata.

A similar treaty was, still later, signed with Great Britain, August 28, 1879. Like the two preceding treaties with the United States and with Germany, it contained provision for a naval and coaling station, as follows:

**Article VIII.** Her Majesty the Queen of Great Britain may, if she think fit, establish on the shores of a Samoan harbor, to be hereafter designated by Her Majesty, a naval station and coaling depot; but this article shall not apply to the harbors of Apia or Salufata, or to that part of the harbor of Pago Pago which may be hereafter selected by the Government of the United States as a station under the provisions of the treaty concluded between the United States of America and the Samoan Government on the seventeenth day of January, in the year one thousand eight hundred and seventy-eight.

While purporting to respect the rights of Germany to Salufata harbor and equally those of the United States to Pago Pago, this article is so phrased as to convey the suggestion that Her Majesty's government is permitted by that of Samoa to avail itself of the use of Pago Pago harbor, should Her Majesty designate some "part" thereof not "selected" by the Government of the United States as a station under the provisions of the American treaty with Samoa.

At best, were this stipulation valid as against the United States, it is, by its terms, expressly contingent upon their being some part of the harbor or of its shores which this Government under its prior and paramount grant does not desire directly or indirectly for the purpose of the grant.

Under the express provisions, however, of the prior treaty between the United States and Samoa, and by the formal instrument of transfer, the Samoan Government has absolutely conveyed to the United States the privilege of entering and using the port of Pago Pago and
the shores thereof for a coaling and naval station. Any subsequent action of the Taimua and Faipule in entering into a contract with Great Britain, which may be construed as granting to that Government a right of entry and use in respect to the harbor of Pago Pago, similar to and in common with that conveyed to the United States, is void because the grantor is no longer competent to deliver the thing alleged to be granted.

So much for the terms of the grant itself. But the exclusive and complete right of the United States in the premises is further fortified by the solemn covenant between the Samoan Government and the United States, that Samoa "will hereafter neither exercise nor authorize any jurisdiction within said port adverse to such rights of the United States or restrictive thereof." This stipulation, while not necessary to the complete and exclusive validity of the actual grant, nevertheless affords a convenient measure of the obligation of Samoa toward the United States; inasmuch as the injection of any similar and additional right of entry and use, in favor of any foreign power whatsoever in the harbor of Pago Pago, would necessarily constitute the exercise and authorization of another jurisdiction within said port adverse to and restrictive of the rights expressly acquired by the United States.

This Government has on several occasions publicly announced its possession of vested rights in the harbor of Pago Pago. It has taken continuous measures to maintain those rights. Steps are now in progress for the improvement of the harbor to the designed end, and lands on its shore have been from time to time purchased from the owners as required by the development of the plans for a naval and coaling station. So far as this process may suggest, availing of its rights in the premises, it is (presently) continuous and not exhausted. Through no act nor omission of the Government of the United States can its rights and privileges be considered to have lapsed or to have reverted to the Samoan Government.

I am not, in fact, advised that it is the intention of Her Majesty's Government to put forth a claim to enter and use the harbor of Pago Pago as a coaling station, and I shall be glad to learn that the apprehensions excited by the recent action of Her Majesty's Samoan land commissioner were without real foundation. It is, nevertheless, due to the spirit of cordial frankness which it is ever the aim of this Government to observe that this incident should be availed of in order to convey to Her Majesty's Government the views of this Government in this important regard.

You are, therefore, instructed to make known the views herein expressed to Her Majesty's Government through Her Majesty's secretary of state for foreign affairs, adding that, while not anticipating any other than cordial acquiescence therein, it is deemed proper to make known the President's conviction that any attempt on the part of Her Majesty's Government to occupy any part of the port of Pago Pago as a coaling or naval station could not fail to be regarded by this Government as an unfriendly act, because tending to impair our vested rights therein.

You will at the same time say that this Government has at no time had, and has not now, any desire to exclusively occupy the harbor of Pago Pago to the inconvenience of other shipping. The terms and objects of the exclusive cession of the right to use the port and shores for a naval and coaling station are compatible with and may be regarded as implying much of the detailed stipulations found in the German-Samoan treaty and as meaning that, like Saluafata, the harbor of Pago
Pago shall not be closed on account of the rights granted to the United States to the naval or mercantile ships of any such other nations for whom the Samoan Government keep their other ports opened, but the Samoan Government shall not grant to any other nation such rights with respect to the harbor of Pago Pago and its shores as those granted to the Government of the United States.

You will communicate the foregoing to the Earl of Rosebery by reading it to him and, should his lordship so desire, leaving with him a copy.

I am, etc.,

JOHN W. FOSTER.

Mr. White to Mr. Foster.

No. 846.]

LEGATION OF THE UNITED STATES,

London, November 26, 1892. (Received December 6.)

Sir: Referring to my dispatch numbered 841, of the 21st instant, I have the honor to inclose herewith a copy of a note which I have received from the Earl of Rosebery, in reply to the communication which I addressed to his lordship on the 21st ultimo, relative to the conduct of Capt. Davis, of H. M. S. Royalist, to our commercial agent at Butaritari, Gilbert Islands.

I have, etc.,

HENRY WHITE.

[Inclosure in No. 846.]

The Earl of Rosebery to Mr. White.

FOREIGN OFFICE, November 24, 1892.

Sir: It is with sincere regret that I learn from your note of the 21st instant, that the proclamation of a British protectorate over the Gilbert Islands was accompanied by an incident to which your Government considers itself compelled to call attention.

The matter shall receive my immediate and careful consideration. In the meantime, I would beg you to convey to the United States Government an assurance that the rights and interests of United States citizens established in the Gilbert Islands will be fully recognized and respected by the British authorities.

I have, etc.,

ROSEBERY.

Mr. White to Mr. Foster.

No. 852.]

LEGATION OF THE UNITED STATES,

London, November 30, 1892. (Received December 9.)

Sir. Referring to your instruction numbered 970, of the 21st inst., which reached me this morning, with respect to the rights of the United States in the harbor of Pago Pago, I have the honor to acquaint you that I have just had an interview at the foreign office with the Earl of Rosebery, to whom I communicated your views on the subject, by reading to his lordship your instructions, of which I left a copy with him, at his request.

Lord Rosebery promised to give the matter his prompt attention.

I have, etc.

HENRY WHITE.
Mr. Foster to Mr. White.

No. 988.]  

DEPARTMENT OF STATE,  
Washington, December 7, 1892.

SIR: I have read with much satisfaction your No. 846, of the 26th ultimo, reporting the acknowledgment made by Lord Rosebery of your communication relative to the conduct of Capt. Davis, of H. M. S. Royalist, at Butaritari, and to the recognition and protection of American interests and rights in the Gilbert Islands.

His lordship's frank assurance that these rights will be fully recognized and respected by the British authorities is as gratifying as it was confidently to be expected from the friendly sense of justice and regard for international prerogatives which animates Her Majesty's Government.

With regard to the conduct of Capt. Davis I have naturally felt averse to giving to the correspondence on the subject a tone of mere complaint because of his deportment. Many details have reached me, abundantly supported by trustworthy testimony, which suggest that his language and conduct ill reflect that temperate, impartial, and commendable exercise of authority, which it must necessarily be the design of Her Majesty's Government, to observe in assuming this protectorate over the Gilbert Islanders.

It seems due, however, to Her Majesty's Government to submit, in a friendly spirit, for its information a report, which has recently reached me, showing the arbitrary conduct and intemperate manners of Capt. Davis, and his remarkable assumption of power and authority to condemn ex parte and without a hearing a citizen of the United States for an offense alleged to have been committed in one of the islands of the Gilbert group half a year before the announcement of Her Majesty's protectorate.

Feeling assured that Lord Rosebery shares my views that the manifestations of authority under such a protectorate should claim cordial acquiescence and command respect, as well by their intrinsic merits as by the high character and dignified temperance of the agencies by which they are carried out, I feel sure that his feelings of regret and chagrin in reading this graphic statement of Capt. Davis's unseemly profanity and overbearing demeanor will be closely akin to those I myself experience; and that the same doubts will arise in his lordship's mind as in mine, touching the appropriateness of such an instrumentality to fulfill the friendly assurances of recognition and respect for American rights and interests in the Gilbert Islands, which his lordship's note so unhappily gives. 

I am, etc.,

JOHN W. FOSTER.

[Inclosure In No. 988.]

Mr. Kustel to Mr. Foster.

BUTARITARI, GILBERT ISLANDS, July 11, 1892.

DEAR SIR: I beg leave to inform you that I am the master and owner of the American schooner "Fleur de Lis," also owner of two trading stations in the island of Tarawa, of this group. Also that during the month of June, 1892, the British flag was hoisted on Tarawa. Also that during the same month I heard at the various islands touched at that the man-of-war Royalist, H. B. M. S., was looking for me. So
arriving at Butaritari I determined to await the coming of the Royalist. On the arrival of the Royalist, July 7, I received a note addressed to Mr. Albert Kustel, trader, of Tarawa, schooner Fleur de Lis, asking me to come on board the Royalist the following morning, July 8. When about to start for the ship on the following morning, I found my cabin door open and said captain wished to see me ashore at the Kings. I went ashore and met the captain at the Kings with a few natives. He produced a document which he read, accusing me of assaulting a native by pointing a revolver at him in November, 1891, and that he the native, took the revolver from my hand. The captain asked if that was true. I said yes, excepting that the man had jerked the revolver from my pocket while I was trying to make him fast with a handkerchief. He accepted that amendment. Then read evidence of Peter Gran (a Swede) amounting to the same thing. He then asked me in a very blasphemous manner what I meant by such criminal conduct. I told him that there were extenuating circumstances and wished to explain myself. He positively refused to listen to any explanation. He said I should have tried that game in the Salomons and I would have got my throat cut. He then condemned me forthwith—said a trial was unnecessary. I managed to work in that I pointed the revolver to prevent his interfering with my crew. He then asked by what authority did I try to hold any native on board my vessel as a seaman. I told him that my authority was their signatures on my shipping articles. He replied: "Your articles were not worth a damn." Also adding that any king or chief could order any one off of my vessel, articles or no articles. And that if I did anything to prevent their leaving I was amenable to the law (English). He then accused me of intimidating natives; of holding the king under my finger, through giving him liquor; of creating all of the disturbance in Tarawa; that I was brutal to my crew, and a bad character generally, and that I was doting here on the sufferance of these natives. I told him that his informers were unreliable—Swedes and Germans, who hated an American. I asked him why he did not inquire among the natives as to my character. He said: "Damn your character. I don’t care a God damn for your character." I told him that he took no native evidence in Tarawa—only whites: that I treated my crew kindly; that I had neither struck nor permitted them to be struck on board my vessel. He said I had "a damn good reason—that I was afraid of being thrown overboard." I then asked him to go on board my vessel and get my crew and question them; he refused to do so. He then asked "What reparation are you going to make to that native that you assaulted." I then told him that the German man-of-war Speyer had been through the group. That the captain had called us (the whites) together and said that if the King and chief did not do what was right that we should look out for ourselves. That in the absence of any general laws we would have to shift for ourselves. He (captain of Royalist) said that counted for nothing; what did I intend or propose paying the native? I spoke of the place not being under English rule at the time, and I questioned his right to try an American. He said that he had a right to try any case happening at any time. He said that if whites didn’t like it to leave. The sooner they got out the better it would suit him. I then offered $10. He got very insulting, and I got up and said that I would let the case rest on its merits, depending on my own country to help me out or to settle the difficulty. I then wished him a very good morning. He shouted "sit down," and read a document which he said he intended sending to Washington. I then left. During this entire interview I refrained from all swearing, and the captain seemed to take especial pleasure in damning a master of an American vessel as often as possible.

The next morning I received the following:

"H. M. S. Royalist,
"At Butaritari, July 7, 1892.

"Memo.—You, having this day declined to make suitable reparation to Tabautin, the Tarawa native, whom by your own admission you assaulted on Tarawa Island about November, 1891, I shall request the commander-in-chief to communicate with the United States Government on the subject.

"Ed. H. M. Davis,
"Capt. and one of the Deputy Commissioners of the West Pacific.

"To Mr. Albert Kustel,
"Trader, Tarawa."

At the time he was damning me I was A. J. Kustel, master of the American schooner Fleur de Lis. We have been constantly engaged as master of American vessels for the past fifteen years. It is true that I own two trawling stations on Tarawa, but I have never traded nor sold personally, at either of these stations. I beg to leave to offer the following as the defense that was refused to be heard by Capt. Davis:

In November, 1891, the natives of the island of Tarawa were engaged in civil war. There existed no law nor order amongst the natives. Threats against the property
and lives of the white residents of the islands were freely made, and no outside help was available. Therefore we were thrown entirely on our own resources. I laid my schooner up, leaving my crew to look out for her, it being the season of west or dangerous winds, and I stood in readiness to assist the traders should an outbreak occur.

P. Grant, a Swedish trader, sent his wife and family to my station and soon followed himself. I harbored them as long as they desired to stay. The native referred to by Capt. Davis, had been residing in Butaritari till 1889, when he fled to Tarawa to escape punishment for an offense committed against A. Rick, United States commercial agent. He bore a bad reputation, being quarrelsome and addicted to drink. In Tarawa he did not improve, but tried to incite the natives against the whites. In November he had prevented men that I had shipped from going on board the Fleur de Lis. At the time I was on board and went ashore, asking the king to send my men on board, which he refused to do. I then took Peter Grant and began search for this native, and met him on the road. He began to run. I ordered him to halt. On his not stopping I pointed a revolver at him with the intention of frightening him. He stopped when Peter Grant said "Make the scoundrel fast." I put the pistol in my side pocket and attempted to make him fast with a handkerchief, when he dodged, jerked the pistol from my pocket, fired it over my head and ran, and that was the last I saw either of my pistol or the assaulted native. Value of pistol $18. I claim that this whole affair is only worked up for the purpose of driving me, an American, from the island. The captain informed me that he would arrange things so that I could get no crew in the future for my vessel. I am the only American of prominence or of property on this island. The Germans are seeking to control it. The captain would listen to nothing that I had to say. I was tried, found guilty, and sentenced before he ever saw me.

All of which is respectfully submitted.

A. J. Kustel.

(Care of Wightman Bros., 309 California street, San Francisco.)

Butaritari,
Island of Butaritari, Gilbert Islands, 88:

Personally appeared before me Capt. A. J. Kustel, known to me, and who affixed his signature to the foregoing in my presence, and who upon being duly sworn says that he has read the foregoing statement of what passed between himself and Capt. E. H. M. Davis, and that it is true.

Butaritari, July 12, 1892.

A. Rick,
United States Commercial Agent.

Mr. White to Mr. Foster.

No. 865.]

LEGATION OF THE UNITED STATES,
London, December 10, 1892. (Received December 21.)

SIR: Referring to your instruction No. 951 of the 5th ultimo, and to my dispatch No. 841 of November 21, I have the honor to acquaint you that Lord Rosebery informed me during a recent interview which I had with his lordship in reference to other matters, that orders have been circulated by the admiralty to commanders of Her Majesty's ships, directing them to recognize in the usual manner the United States consular agent in the Gilbert Islands.

I have, etc.,

HENRY WHITE.

Mr. White to Mr. Foster.

No. 869.]

LEGATION OF THE UNITED STATES,
London, December 12, 1892. (Received December 23.)

SIR: Referring to my dispatch No. 865 of the 10th instant, I have the honor to inclose herewith the copy of a note which I have received from
the Earl of Rosebery, confirming what he stated to me verbally relative to the recognition of our commercial agency at Butaritari, in the Gilbert Islands, and expressing the regret of Her Majesty's Government that Capt. Davis, of H. M. S. Royalist, did not provisionally recognize Mr. Rick in that capacity.

I have, etc.,

HENRY WHITE.

[Inclosure 1 in Dispatch No. 809.]

**Earl Rosebery to Mr. White.**

FOREIGN OFFICE, December 9, 1892.

Sir: With reference to my letter of the 24th ultimo, respecting the position of Mr. Rick, the United States commercial agent at Butaritari, in the Gilbert Islands, I have the honor to state that Her Majesty's Government are quite prepared to accept your note of November 21 as sufficient notification of that gentleman's official position.

The commander in chief on the Australian station has been instructed by telegraph to cause Mr. Rick to be recognized in his consular capacity by the officers under his orders, and the governors of New South Wales and Fiji will also be instructed to insert a notification in the Government Gazette of their respective colonies to the effect that Mr. Rick has been recognized by Her Majesty's Government as commercial agent for the United States in the Gilbert Islands.

With regard to the proceedings of Capt. Davis, of Her Majesty's ship Royalist, Her Majesty's Government regret that that officer did not extend to Mr. Rick provisional recognition, pending reference to this department, though he appears to have been technically correct in his view that Mr. Rick's appointment should be notified to the protecting powers before he could be formally recognized.

I trust, however, that no practical inconvenience will have resulted from Capt. Davis's action.

I have, etc.,

ROSEBERY.

CORRESPONDENCE WITH THE BRITISH LEGATION AT WASHINGTON.

Mr. Wharton to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, October 10, 1891.

Sir: I have the honor to apprise you of the receipt of a memorial from the Lake Carriers' Association of Buffalo, N. Y., under date of the 18th ultimo, in which they complain of the discrimination by the Canadian government against citizens of the United States in the use of the Welland Canal in contravention of article 27 of the treaty of 1871. In view of its statements I have thought it proper to furnish you with a copy, which I now have the honor to do, and request such explanation of the facts in the case as you may desire to make.

As the matter is one of special importance to our people at this season of the year, may I ask that you will kindly give it your early consideration.

I have, etc.,

WILLIAM F. WHARTON,
Acting Secretary.
Mr. Keep to Mr. Blaine.

LAKE CARRIERS' ASSOCIATION,
Buffalo, N. Y., September 13, 1891.

SIR: I inclose herewith a copy of a resolution unanimously adopted at a meeting of the board of managers of the Lake Carriers' Association, held in this city on this 18th day of September, 1891; also a copy of the statement or brief addressed to you, to which said resolution refers.

I also send under separate cover a copy of Supplement No. 1 to the last annual report of the Canadian department of railway and canals, which is frequently referred to in the statement or brief.

Respectfully calling the attention of your Department to the gross injustice to our citizens, as shown by the accompanying documents,

I remain, etc.,

C. H. KEEP, Secretary.

At a meeting of the board of managers of the Lake Carriers' Association, held at Buffalo, N. Y., on this 18th day of September, 1891, the following resolution was unanimously adopted:

Resolved, That the secretary forward to the Department of State, at Washington, the annexed statement or brief relating to tolls on the Welland Canal discriminating against American vessels, ports, and citizens, and respectfully urge the Government of the United States to take prompt and energetic measures in the direction therein indicated to secure to our vessels, ports, and citizens their full rights under the treaty of May 8, 1871.

S. D. CALDWELL, President.

A true copy.

C. H. KEEP, Secretary.

Mr. Keep to Mr. Blaine.

LAKE CARRIERS' ASSOCIATION,
Buffalo, N. Y., September 13, 1891.

SIR: The following is a brief statement of the facts showing a violation of this article on the part of the Canadian government by the imposition of tolls and the institution of a system of rebates on the Welland Canal which discriminates against citizens of the United States and in favor of the inhabitants of the Dominion of Canada.

The Canadian government imposes cargo tolls on traffic passing through the Welland Canal. In the case of grain, flour, feed, etc., these tolls are 20 cents per ton. For some years past, however, the Canadian government has, just before the opening of lake navigation, issued an order in council granting a rebate of 18 cents per ton of the tolls on grain traffic passing through the Welland Canal, provided the grain was carried through to Montreal or some point east of Montreal. As the class of boats engaged in carrying grain from the upper lakes through the Welland Canal is unable to pass through the St. Lawrence Canals, it has been customary to transfer their grain cargoes when destined to Montreal to lighter-draft vessels. This transfer up to the season of 1889 was made at the Canadian port of Kingston. During the season of 1889 about 16,000 tons of grain which passed through the Welland Canal and was destined for Montreal was transferred from lake vessels to river barges at the port of Ogdensburg, N. Y. At Kingston grain is transferred directly from the vessel to the river barges, but at Ogdensburg, where there are large elevators and storage capacity, the grain was transferred through an elevator.

As this grain was chiefly destined for ocean export from Montreal, the process of transfer at Ogdensburg has decided advantages over that at Kingston. The grain having been taken from the lake vessel into the elevator at Ogdensburg could be stored there until the ocean steamer on which it was to be shipped was about ready to load in Montreal. It could then be transferred to barges and reach Montreal just when it was needed for loading. By this means a considerable expense was avoided and a decided advantage gained over the system of transfer practiced at Kingston, where the river barges often arrived in Montreal a considerable period of time before the ocean steamer at that port was ready to load, in which case the grain was held
to await the steamer at considerable expense. Although the order in council granting rebate on Montreal grain for the season of 1890 was absolute in terms and contained no provision confining the payment of such rebate to grain transshipped at one port rather than another, the Canadian government at first declined to pay the rebate on the grain transshipped at Ogdensburg, but took the matter under consideration and made no decision until about the close of navigation for the season. It was then decided that the rebate must be paid on the grain transferred at Ogdensburg, because the forwarders were uncertain as to whether they would get their rebate or not, and did not care to assume the risk of an unfavorable decision by the Canadian authorities.

On March 25, 1891, the Canadian government issued a new order in council providing for the usual rebate of 18 cents per ton on Montreal grain during the season of 1891. This order, however, differed from orders made in former years, and the conditions of the rebate are stated in the order as follows: "First, the products aforesaid on which the refund may be claimed should be shown to have been originally shipped for Montreal or some port east of Montreal before entering the Welland Canal. Second, they shall be shown to have been actually carried to Montreal or some port east of Montreal. Third, transshipment, if at a Canadian intermediate port, shall not prevent the refund aforesaid being made." While the third condition does not state unequivocally that transshipment at an American intermediate port will prevent the refund, it is generally so interpreted. There can be no doubt that the intention in wording this condition was to carry the impression that on Montreal grain transferred at Ogdensburg the refund would not be paid. As a matter of fact, a few cargoes of Montreal grain have been transferred at Ogdensburg during the present year for the purpose of testing this order in council, and in each case a demand for a refund has been refused. Shortly after the first of these cargoes was transferred at Ogdensburg the Canadian government issued an order that no rebated tolls under the order in council would be paid until the close of navigation.

Supplement No. 1 to the annual report of the Canadian minister of railways and canals (a copy of which is sent herewith) contains the canal statistics for the season of navigation of 1890. In it will be found a verification of all the facts hereinbefore set forth relating to the year 1890. It may be well to point out certain other facts, drawn from the official report, of the operations of the Welland Canal for the season of navigation of 1890, as contained in the supplement above referred to. From that report it appears that in the year 1890 there passed down the Welland Canal to Canadian ports 363,839 tons of freight, of which only 212,030 obtained a rebate of nine-tenths of the canal tolls. During the same season there passed down the canal to United States ports 327,383 tons of freight, of which only 16,433 tons obtained any rebate whatever. It also appears that in the year 1890 there passed down the Welland Canal in Canadian vessels 326,149 tons of freight, of which 184,275 tons obtained a rebate of nine-tenths of the tolls exacted at the canal. During the same season there passed down the canal in United States vessels 362,477 tons of freight, of which only 52,459 tons obtained any rebate whatever. On traffic up the canal no rebates or tolls were paid; but of such traffic up the canal in the year 1890, 261,342 tons were bound to American ports and only 35,724 tons to Canadian ports. Of this traffic 241,726 tons were carried in American vessels and only 72,340 tons in Canadian vessels. It also appears in the report that during the year 1890, 178,988 tons of coal were carried up and 23,398 tons of coal were carried down the Welland Canal. Of the coal carried up 161,616 tons were carried between ports of the United States, 92 tons were carried between Canadian ports, and 17,250 tons from a United States to a Canadian port. It will thus be seen that the uptraffic in coal through the canal consisted almost entirely of a movement in the United States coastwise trade, and was therefore necessarily carried in United States vessels. On this upmovement of coal full tolls of 20 cents per ton were exacted. On the downmovement of coal, however, 22,751 tons were carried to Canadian ports, and all of this was carried in Canadian vessels. Only 615 tons of coal were carried down through the canal, in an American vessel, or to an American port. On the 11th of April, 1890, the Dominion government issued an order reducing the toll on coal passing down the canal from 20 to 10 cents per ton, but leaving the full toll of 20 cents on coal bound up the canal.

It also appears from this official report that of the Montreal grain transferred at Kingston during the season of 1890, 184,275 tons was carried to Kingston in Canadian vessels and 33,560 tons in vessels of the United States.

The Lake Carrier's Association believes that the facts hereinbefore set forth, show very clearly that the Dominion Government both of the spirit and letter of the twenty-seventh article of the treaty of Washington, for the following reasons:

First, the effect of the rebate on Montreal grain is to allow practically all the grain which passes through the Welland Canal bound for Canadian ports to go
through at a toll of only 2 cents per ton, while the grain which passes the canal bound for United States ports is obliged to pay a toll ten times as great. It is understood that the Dominion Government claims that the treaty is not hereby violated because the grain carried to Canadian ports is shipped from ports of the United States; that therefore the carriage of such grain is open both to American and Canadian vessels; and that the rebate is paid alike to the vessels of both countries. Therefore, the claim that the use of the Welland Canal is given to Canadian and United States vessels on equal terms. It is to be noted, however, that the twenty-seventh article of the treaty of Washington secures the equal use of the canal not only to American and Canadian vessels but to the citizens of the two countries. The purpose and intent of that article is clearly to prevent the Canadian Government, by the use of vexatious canal regulations, or by any device of discriminating tolls, rebates or refunds, from giving to their own vessels or to their own ports or to their own consumers or citizens, any advantage over American vessels or American ports or American consumers or citizens. If the intent of the treaty had been simply to secure to vessels of the two countries equal rights in the canal, such intention would have found its natural expression by using the word "vessels" in the article. It is clear that the intent of the article is to cover a broader ground, and to secure the use of the canal on equal terms not only for American vessels but for American ports, consumers and business interests. The grain rebates are, therefore, in clear violation of the treaty.

When an American vessel loaded with grain for an American port passes the Welland Canal, by what citizen of the United States is the canal used? Is it not used as well by the owners or consignees of the cargo, as by the owners or charterers of the vessel? Manifestly it is used by both, and the Canadian Government distinctly recognizes this fact by exacting tolls from both. On every steamer, vessel registered by and on every sailing vessel a toll of 24 cents per registered ton, is collected. In addition to these vessel tolls, tolls are exacted on the cargo, and it is on these cargo tolls that discrimination is made. When two vessels loaded with grain arrive at the canal together, one cargo destined for Ogdensburg or Oswego, and the other destined for Montreal, and the Canadian Government exacts a toll ten times as great on the cargo destined for the United States port as on the cargo destined for the Canadian port, it is clear that the use of the canal is not secured on equal terms for the citizens of both countries. On the principal commodity passing the canal there is an audacious discrimination against American forwarders, ports, consumers and routes of export. In the year 1890 on 228,513 tons of grain carried through the Welland Canal to Montreal, only $4,570 tolls was exacted, while on 245,332 tons of grain which passed down the canal to Ogdensburg, Oswego, and other United States ports $49,185 was exacted. Surely this is not giving the use of the canal on equal terms to inhabitants of the Dominion and citizens of the United States. A careful study of the official canal statistics for the year 1890 shows that the Dominion Government collected on the Welland Canal over and above all refunds cargo tolls to the amount of $154,000, and that of these tolls 83 per cent destined for American ports paid only $37,000. Of the total cargo tonnage of the canal 57 per cent destined for American ports paid more than 72 per cent of the tolls, 43 per cent destined for Canadian ports paid less than 28 per cent of the tolls. With only one-third more cargo than Canada, we paid nearly three times as much in cargo tolls.

Mention has already been made of the difference in the rates of toll on west-bound and east-bound coal, and in the statement of facts above given it is shown that on this article as well as on grain there is a clear discrimination against citizens of the United States. The west-bound coal is nearly all carried between United States ports, and therefore necessarily on American vessels. Twenty cents a ton is exacted on this traffic. The same commodity when carried through the canal east-bound is nearly all carried to Canadian ports and on Canadian vessels. By an order in council made last year only 10 cents a ton is exacted thereon.

Second. There is the clearest possible case of discrimination against citizens of the United States in the third condition attached to the refund of grain tolls, as such condition appears in the order in council granting such refunds for the year 1891. That condition implies in the plainest possible manner that nine-tenths of the grain tolls will be refunded on Montreal grain in case such grain is transferred at Kingston, but that no such refund will be made if such transfer is made at Ogdensburg. If the Canadian Government claims that no refunds whatever are now being made, that the whole subject will be taken up at the close of the season of navigation, and that refunds on grain transferred at Ogdensburg have not yet been definitely refused, it is sufficient to say that the clear and necessary effect of this condition in the order in council is to drive the business away from the Ogdensburg route. So long as a condition thus expressed appears in the order in council granting grain refunds, no forwarder of grain can prudently transship it at Ogdensburg.

Third. The system of tolls now in use in the Welland Canal is a discrimination
against American vessels as well as against American ports, consumers, routes of export and forwarders. By confining the granting of grain refunds to grain transhipped at Kingston, the Canadian Government thus excludes from the operation of the refund order the regularly-organized lines of American vessels running to Ogdensburg. It confines the benefits of the order in council to American vessels which may run to a certain Canadian port, and while this Montreal grain shipped from ports of the United States and for that reason its carriage from such ports to Kingston is often to vessels of the United States, as a matter of fact this line of the carrying trade is in the hands of Canadian vessels. We have seen also that the west-bound coal traffic through the canal, where such traffic is almost entirely carried in Canadian vessels, a toll is exacted only one-half as great as in the case of the west-bound traffic in the same commodity, such west-bound traffic being almost entirely United States coastwise trade, and therefore necessarily in the hands of American vessels. We submit that it is not giving the use of the Welland Canal to United States vessels on terms of equality with those of the Dominion to select lines of trade which are in the hands of United States vessels, and in such cases to exact full cargo tolls while granting greatly reduced rates of cargo toll in lines of trade which are, as a matter of fact, in the hands of Canadian vessels. Should the Canadian Government not grant redress, and should it continue to hold that the regulations now in force are no violation of the treaty, then the United States Government would certainly be free to place upon the treaty the same construction placed upon it by the Canadian Government. It could, therefore, place in force upon the St. Clair Flats Canal and the St. Mary's Falls Canal a system of tolls which would operate against Canadian vessels and ports just as the Welland Canal tolls operate against our own.

Suppose the United States should put in force regulations whereby all vessels passing the St. Clair Flats Canal or St. Mary's Falls Canal bound for any port of the United States should be allowed to pass without paying tolls, while high cargo tolls were exacted from all vessels passing these canals bound for any Canadian port. Such regulations could certainly not be complained of by the Canadian Government. If it were found as a matter of fact that any particular commodity carried to any Canadian ports through these canals was usually carried in American vessels, or was a trade from which the business interests of the United States were deriving benefit, then such commodity might be exempted from the payment of tolls just as Montreal grain and east-bound coal are partly exempted on the Welland Canal, leaving, however, all Canadian coastwise business through these canals and all business through these canals bound to Canadian ports and usually carried in Canadian vessels subject to such heavy tolls.

Simple justice to American forwarders and vessel owners requires that on grain bound for Montreal the same tolls should be exacted at the St. Clair Flats Canal that are now exacted at the Welland Canal on grain destined for ports of the United States.

Very respectfully yours,

Lake Carriers' Association,

For C. H. Keen, Secretary.

Sir Julian Pauncefote to Mr. Wharton.

British Legation,
Washington, October 12, 1891.

Sir: I have the honor to acknowledge the receipt of your note of the 10th instant inclosing copy of a memorial from the Lake Carriers' Association of Buffalo complaining of discrimination by the Canadian Government against citizens of the United States in the use of the Welland Canal in contravention of article 27 of the treaty of 1871, and to inform you at the same time that I will bring this matter to the attention of my Government.

I have, etc.,

Julian Pauncefote.
Sir Julian Pauncefote to Mr. Blaine.

British Legation,
Washington, November 25, 1891.

Sir: Her Majesty's consul at Baltimore has reported to me that the British steamship Oxford has lately arrived at that port manned by a Chinese crew. These men were engaged at Hongkong and are stated to be British subjects. The port authorities have, however, warned the master of the vessel that any member of his crew who lands will, under the existing law, be liable to arrest.

I can not but think that the action taken against these men by the port authorities at Baltimore will not be supported, and I venture to express the hope that instructions may at once be sent to them to withdraw the prohibition.

In connection with this case I venture to draw your attention to the following extract from a judgment of the Supreme Court of the United States delivered on the 25th of May last by Mr. Justice Field in the case of Ross vs. McIntyre, No. 1683 (October term, 1890).

The position that the petitioner being a subject of Great Britain was not within the jurisdiction of the consular court is more plausible, but admits, we think, of a sufficient answer.

The national character of the petitioner for all the purposes of the consular jurisdiction was determinable by his enlistment as one of the crew of the American ship Bulloch. By such enlistment he became an American seaman, one of an American crew on board an American vessel, and as such entitled to the protection and benefits of all the laws passed by Congress on behalf of American seamen and subject to all their liabilities. Although his relations to the British Government are not so changed that after the expiration of his enlistment on board of the American ship that Government may not enforce his obligation of allegiance, and he on the other hand may not be entitled to invoke its protection as a British subject, that relation was changed during his service of seaman on board of the American ship under his enlistment. He could then insist upon treatment as an American seaman and invoke for his protection all the power of the United States which could be called into exercise for the protection of seamen who were native born.

Thus, according to this decision, the men on board the Oxford even if they were not natural born or naturalized British subjects would by virtue of their enlistment as seamen on board a British ship be entitled to the privileges enjoyed by British subjects in the ports of the United States.

I have, etc.,

Julian Pauncefote.

Sir Julian Pauncefote to Mr. Blaine.

British Legation,
Washington, November 25, 1891.

Sir: I have the honor to inclose herewith copies of letters which have been forwarded to me by Her Majesty's consul at Boston from certain shipping agents in that city, complaining of the hardness and injustice to which they are subjected through the interpretation given there, by port authorities, to the immigration act of March 3, 1891.

In bringing the matter to your notice I venture to express the hope that the Secretary of the Treasury will see his way to cause instructions to be sent to the port authorities at Boston to take charge of passengers who are not allowed to remain in the country until the ship bringing them is ready for sea, as I am informed by Mr. Henderson i
the practice at New York, and which would seem to be within the powers of the inspection officers under section 8 of the act.

I have, etc.,

JULIAN PAUNCEFOTE.

Warren & Co. to the British consul.
LIVERPOOL STEAMSHIP OFFICE,
125 Milk Street, Boston, November 13, 1891.

SIR: We beg to report to you the hardship British steamers suffer which arrive here with passengers on board who are barred from landing under American law.

Our steamer Roman arrived here September 16, having on board a woman and four children who were forbidden to land and we were ordered to keep this family in custody while the ship was in port and return them to the place whence they came. In pursuance of these orders and in order to comply as far as possible with their tenor these people were detained on board under watch. On the 21st, being a very warm day, they were allowed rather more liberty and during dinner time the woman escaped; we made every effort to find her, but without success. The matter was reported by the commissioner of immigration to the collector of the port, and the vessel was unable to obtain her clearance papers on the 22d until a deposit of $1,000 and guaranty of liability for a further amount, if necessary, was made with the district attorney.

Being unable to find the woman we applied to the district attorney for a warrant to arrest her if she could be found anywhere, but were told such a course could not be allowed under the law; that the vessel was guilty of a misdemeanor in allowing the woman to land, not the woman in landing. Since then the woman has been found but declines to return, and neither the Government representatives nor ourselves have the power to make her.

The district attorney informs us he must bring suit against the steamer to show why a fine should not be imposed, and intends summoning the woman as a witness.

We maintain that it is strictly contrary to the rules of a British ship to confine passengers on board while in port; that it is moreover a very dangerous practice to keep passengers on a steamer working cargo through open hatches, unless they are confined below, and in hot weather this is inhuman; that if certain passengers are forbidden by law to land, they should be taken in charge by the United States authorities on shore (at the steamer's expense if necessary) and returned to the steamer just prior to sailing.

We also maintain that if passengers are to be detained on board and should escape the steamer's agents should have authority to arrest same if they are unwilling to return otherwise.

We put these facts before you and request that notice of them be sent to Her Majesty’s minister at Washington with such recommendations as you may see fit to make, and that the proper United States authorities be communicated with there. We inclose a letter on this matter signed by several British steamship agents in this city.

Yours, truly,

WARREN & CO.

Steamship agents to British consul.

BOSTON, November 13, 1891.

SIR: Referring to the act of Congress in amendment to the act regulating immigration, of March 3, 1891, whereby certain passengers are not allowed to land, but are to be detained on shipboard and returned to the port whence the steamer came, we respectfully request that you communicate with Her Majesty’s minister, in Washington, to the effect that a British ship is not a proper place to detain, and if necessary, confine passengers while in port, but that such passengers should be taken charge of by the United States authorities while the steamer is in port.

We are, yours, etc.

WARREN & CO.,
Agents Warren Line.
THAYER & LINCOLN,
Agents Leland Line.
E. ADAMS & Co.,
Agents Beaver Line.
H. AND A. ALLEN,
Agents Allen Line.
ALEXANDER MARTIN,
Agent Cunard Line.
Mr. Wharton to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, November 28, 1891.

SIR: I have the honor to acknowledge the receipt of your note of the 25th instant in relation to the crew of the British steamship Oxford, now in the port of Baltimore.

Your note has been referred to the Secretary of the Treasury for such action, if any, as the case may require, and upon receipt of his reply you will be further communicated with upon the subject.

I have, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, November 30, 1891.

SIR: I have the honor to acknowledge the receipt of your note of the 25th instant, asking that the port authorities at Boston may be instructed to take charge of immigrants who are not allowed to remain in this country until the ship bringing them is ready for sea.

I take pleasure in informing you in reply that your request has been submitted to the Secretary of the Treasury for his consideration.

I have, etc.,

JAMES G. BLAINE.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, December 19, 1891.

SIR: Pursuant to the provisions of the copyright act, approved March 3, 1891, the President, on the 1st of July last, issued his proclamation extending the benefits of said act to subjects of Great Britain in consequence of the satisfactory assurances which had been given that in Great Britain and the British Possessions the law permits to citizens of the United States the benefit of copyright on substantially the same basis as to the citizens of those countries.

The assurance given by Her Majesty's Government in regard to the equal treatment of citizens of the United States throughout the British Dominions in the matter of copyright derives especial emphasis from the circumstance that in applying for the benefits of the act of March 3, 1891, in behalf of British subjects, Lord Salisbury withdrew his first statement, made June 16, 1891, "that English law permits to citizens of the United States of America the benefits of copyright on substantially the same basis as to British subjects," and substituted therefor, but under the same date, the explicit declaration "that the law of copyright in force in all British Possessions permits the citizens of the United States of America the benefit of copyright on substantially the same basis as to British subjects."
I am, however, informed that the Government of the Dominion of Canada refuses to admit citizens of the United States to the privilege of registration of copyright in Canada on their complying with the conditions of printing and publishing in Canada, under the assurance so given by Her Majesty’s Government and under the proclamation of the President. By a letter now before me, addressed by J. B. Jackson, registrar of the department of agriculture at Ottawa, to a citizen of the United States, who sought information on the subject, it appears that the ground of this refusal is the allegation ‘that the enactment and proclamation referred to do not constitute an international copyright treaty,’ and that, therefore, citizens of the United States can not register under our [the Canadian] act.”

I have, accordingly, the honor to ask, through you, an explanation of this important discrepancy between the assurances given by Her Majesty’s Government and the course of the Dominion Government in the matter of the copyright privilege of citizens of the United States. The declaration of Lord Salisbury and its acceptance by the United States Government constituted an international arrangement which this Government desires to observe and maintain in its entirety, and I should much regret if any untoward circumstance should constrain its abandonment or essential qualification.

I inclose for your information copies of a publication showing the President’s proclamation of July 1, 1891, and the assurances upon which it rested.

I have, etc.,

JAMES G. BLAINE.

INTERNATIONAL COPYRIGHT.

Act of March 3, 1891.

No. 1.

Text of act.

[Public—No. 106.]

AN ACT to amend title sixty, chapter three, of the Revised Statutes of the United States, relating to copyrights.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-nine hundred and fifty-two of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

“Sec. 4592. The author, inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print, or photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary, and of models or designs intended to be perfected as works of the fine arts, and the executors, administrators, or assigns of any such person shall, upon complying with the provisions of this chapter, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and, in case of dramatic composition, of publicly performing or representing it or causing it to be performed or represented by others; and authors or their assigns shall have exclusive right to dramatize and translate any of their works for which copyright shall have been obtained under the laws of the United States.”

Sec. 2. That section forty-nine hundred and fifty-four of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

“Sec. 4594. The author, inventor, or designer, if he be still living, or his widow or children, if he be dead, shall have the same exclusive right continued for the further term of fourteen years, upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first
term; and such person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers printed in the United States for the space of four weeks."

SEC. 3. That section forty-nine hundred and fifty-six of the Revised Statutes of the United States be, and the same is hereby, amended so that it shall read as follows:

"Sec. 4956. No person shall be entitled to a copyright unless he shall, on or before the day of publication, in this or any foreign country, deliver at the office of the Librarian of Congress, or deposit in the mail within the United States, addressed to the Librarian of Congress, at Washington, District of Columbia, a printed copy of the title of the book, map, chart, dramatic or musical composition, engraving, cut, print, photograph, or chrome, or a description of the painting, drawing, statue, statuary, or a model or design for a work of the fine arts for which he desires a copyright, nor unless he shall also, not later than the day of the publication thereof in this or any foreign country, deliver at the office of the Librarian of Congress, at Washington, District of Columbia, or deposit in the mail within the United States, addressed to the Librarian of Congress, at Washington, District of Columbia, two copies of such copyright book, map, chart, dramatic or musical composition, engraving, chrome, cut, print, or photograph, or in case of a painting, drawing, statue, statuary, model, or design for work of the fine arts, a photograph of same: Provided, That in the case of a book, photograph, chrome, or lithograph, the two copies of the same required to be delivered or deposited as above shall be printed from type set within the limits of the United States, or from plates made therefrom, or from negatives, or drawings on stone made within the limits of the United States, or from transfers made therefrom. During the existence of such copyright the importation into the United States of any book, chrome, or lithograph, or photograph, so copyrighted, or any edition or editions thereof, or any plates of the same made from type set, negatives for drawings, or stone made within the limits of the United States, shall be, and it is hereby, prohibited, except in the cases specified in paragraphs five hundred and twelve to five hundred and sixteen, inclusive, in section two of the act entitled 'An act to reduce the revenue and equalize the duties on imports, and for other purposes; approved October first, eighteen hundred and ninety; and except in the case of persons purchasing for use and not for sale, who import, subject to the duty thereon, not more than two copies of such book at any one time; and except in the case of newspapers and magazines, not containing in whole or in part matter copyrighted under the provisions of this act, unauthorized by the author, which are hereby exempted from prohibition of importation: Provided, nevertheless, That in the case of books in foreign languages, of which only translations in English are copyrighted, the prohibition of importation shall apply only to the translation of the same, and the importation of the books in the original language shall be permitted."

SEC. 4. That section forty-nine hundred and fifty-eight of the Revised Statutes be, and the same is hereby, amended so that it will read as follows:

"Sec. 4958. The Librarian of Congress shall receive from the persons to whom the services designated are rendered the following fees:

First. For recording the title or description of any copyright book or other article, fifty cents.

Second. For every copy under seal of such record actually given to the person claiming the copyright, or his assigns, fifty cents.

Third. For recording and certifying any instrument of writing for the assignment of a copyright, one dollar.

Fourth. For every copy of an assignment, one dollar.

All fees so received shall be paid into the Treasury of the United States: Provided, That the charge for recording the title or description of any article entered for copyright, the production of a person not a citizen or a resident of the United States, shall be one dollar, to be paid as above into the Treasury of the United States, to defray the expenses of lists of copyrighted articles as hereinafter provided for.

And it is hereby made the duty of the Librarian of Congress to furnish to the Secretary of the Treasury copies of the entries of titles of all books and other articles wherein the copyright has been completed by the deposit of two copies of such book printed from type set within the limits of the United States, in accordance with the provisions of this act and by the deposit of two copies of such other article made or produced in the United States, and the Secretary of the Treasury is hereby directed to prepare and print, at intervals of not more than a week, catalogues of such titles, entries, and descriptions as are required to be furnished to the postmasters of all post-offices receiving foreign mail; and such weekly lists, as they are issued, shall be furnished to all parties desiring them, at a sum not exceeding five dollars per annum, and the Secretary and Postmaster-General are hereby empowered and required to make and enforce such rules and regulations as shall prevent the importation into the United States, except upon the conditions above specified, of all articles prohibited by this act."

SEC. 5. That section forty-nine hundred and fifty-nine of the Revised Statutes be, and the same is hereby, amended so as to read as follows:

"Sec. 4959. The proprietor of every copyright book or other article shall deliver
at the office of the Librarian of Congress, or deposit in the mail, addressed to the
Librarian of Congress, at Washington, District of Columbia, a copy of every sub-
sequent edition wherein any substantial changes shall be made: Provided, however,
That the alterations, revisions, and additions made to books by foreign authors,
heretofore published, of which new additions shall appear subsequently to the tak-
ing effect of this act, shall be held and deemed capable of being copyrighted as above
provided for in this act, unless they form a part of the series in course of publication
at the time this act shall take effect."

"SEC. 6. That section forty-nine hundred and sixty-three of the Revised Statutes
be, and the same is hereby, amended so as to read as follows:

"SEC. 4963. Every person who shall insert or impress such notice, or words of the
same import, in or upon any book, map, chart, dramatic or musical composition,
print, cut, engraving, or photograph, or other article, for which he has not obtained
a copyright, shall be liable to a penalty of one hundred dollars, recoverable one-half
for the person who shall sue for such penalty and one-half to the use of the United
States."

"SEC. 7. That section forty-nine hundred and sixty-four of the Revised Statutes
be, and the same is hereby, amended so as to read as follows:

"SEC. 4964. Every person, who after the recording of the title of any book and the
deposition of two copies of such book, as provided by this act, shall, contrary
to the provisions of this act, within the term limited, and without the consent of
the proprietor of the copyright first obtained in writing, signed in presence of two
or more witnesses, print, publish, dramatize, translate, or import, or knowing the
same to be so printed, published, dramatized, translated, or imported, shall sell or
expose to sale any copy of such book, shall forfeit every copy thereof to such pro-
prietor, and shall also forfeit and pay such damages as may be recovered in a civil
action by such proprietor in any court of competent jurisdiction."

"SEC. 8. That section forty-nine hundred and sixty-five of the Revised Statutes be,
and the same is hereby, so amended as to read as follows:

"SEC. 4965. If any person, after the recording of the title of any map, chart,
dramatic or musical composition, print, cut, engraving, or photograph, or chrome,
or of the description of any painting, drawing, statue, statuary, or model or design
intended to be perfected and executed as a work of the fine arts, as provided by this
act, shall within the term limited, contrary to the provisions of this act, and with-
out the consent of the proprietor of the copyright first obtained in writing, signed in
presence of two or more witnesses, engrave, etch, work, copy, print, publish,
dramatize, translate, or import, either in whole or in part, or by varying the main
design with intent to evade the law, or, knowing the same to be so printed, pub-
lished, dramatized, translated, or imported, shall sell or expose to sale any copy of
such map or other article as aforesaid, he shall forfeit to the proprietor all the plates
on which the same shall be copied and every sheet thereof, either copied or printed,
and shall further forfeit one dollar for every sheet of the same found in his possession,
either printing, printed, copied, published, imported, or exposed for sale, and in case
of painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same
in his possession, or by him sold or exposed for sale; one-half thereof to the pro-
prietor, and the other half to the use of the United States."

"SEC. 9. That section forty-nine hundred and sixty-seven of the Revised Statutes
be, and the same is hereby, amended so as to read as follows:

"SEC. 4967. Every person who shall print or publish any manuscript whatever
without the consent of the author or proprietor first obtained, shall be liable to the
author or proprietor for all damages occasioned by such injury."

"SEC. 10. That section forty-nine hundred and seventy-one of the Revised Statutes
be, and the same is hereby, repealed.

"SEC. 11. That for the purpose of this act each volume of a book in two or more
volumes, when such volumes are published separately and the first one shall not
have been issued before this act shall take effect, and each number of a periodical,
shall be considered an independent publication, subject to the form of copyrighting
as above.

"SEC. 12. That this act shall go into effect on the first day of July, anno Domini
eighteen hundred and ninety-one.

"SEC. 13. That this act shall only apply to a citizen or subject of a foreign state or
nation when such foreign state or nation permits to citizens of the United States of
America the benefit of copyright on substantially the same basis as its own citizens;
or when such foreign state or nation is a party to an international agreement which
provides for reciprocity in the granting of copyright, by the terms of which agree-
ment the United States of America may, at its pleasure, become a party to such agree-
ment. The existence of any of the conditions as aforesaid shall be determined by
the President of the United States by proclamation made from time to time as the
purposes of this act may require.

Approved, March 3, 1891.
GREAT BRITAIN.

No. 2.

Circular to United States ministers.

DEPARTMENT OF STATE,
Washington, May 7, 1891.

To ———, Esq., etc.:

Sir: I inclose herewith two copies of an act of Congress, approved March 3, 1891, entitled "An act to amend title sixty, chapter three, of the Revised Statutes of the United States, relating to copyrights."

You are instructed to transmit a copy of this act to the Government to which you are accredited, and to call attention to the fact that the benefits of the statute are extended to the citizens of foreign states only after a proclamation of the President, to be issued under conditions specified in section 13.

I am, etc.,

JAMES G. BLAINE.

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No. 3.

Report to the President on the act of March 3, 1891.

DEPARTMENT OF STATE,
Washington, June 27, 1891.

To the President:

By the act of March 3, 1891, amending title 60, chapter 3, of the Revised Statutes of the United States, relating to copyrights, the Government of the United States has undertaken to admit the citizens or subjects of foreign states or nations to the privileges of copyright in this country on either of two conditions. These conditions are expressed in section 13 of that act and are alternative, not concurrent.

The first in order of the conditions stated in section 13 is that the act shall apply to the citizens or subjects of a foreign state or nation "when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens."

The second condition is that the act shall apply to the citizens or subjects of a foreign state or nation "when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States of America may, at its pleasure, become a party to such agreement."

The existence of either of these conditions is to be determined by the President of the United States "by proclamation made from time to time, as the purposes of this act may require."

Under this clause it is the duty of the President to withhold, issue, or revoke his proclamation, in accordance with the facts as to the existence or nonexistence of one of the two specified conditions at any particular time. The terms of the first condition are clear, and have not as yet presented any difficulty of interpretation.

The terms of the second condition are less determinate and have given rise to much discussion and to variant interpretations. For convenience, we will consider the second condition first.

SECOND CONDITION.

On the 9th of September, 1886, a convention was concluded at Berne, Switzerland, for the establishment of an international union for the protection of literary and artistic works. The parties to this convention were Belgium, Germany, France, Liberia, Spain, Great Britain, Hayti, Italy, Switzerland, and Tunis.

The minister of the United States at Berne attended the conference which formed this convention, but only in an ad referenda capacity, and, as the subject of international copyright was then pending before Congress with a view to legislation, the representative of the United States did not sign the convention. By the eighteenth article of the Berne Convention it is provided that countries which have not joined it, but which, "by their municipal laws, assure legal protection to the rights" of which the convention treats, "shall be admitted to accede thereto on their request to that effect."

It has been argued that this eighteenth article of the Berne Convention completely
satisfies the second condition specified in section 13 of the act of March 3, 1891, and in fact, entitles the contracting parties to a proclamation by the President admitting their citizens or subjects to participation in the benefits of that act, without reference to the question whether the present legislation of the United States would be accepted as satisfying the conditions of accession to the convention.

This argument gives to the words "at its pleasure," in the second condition, a very remarkable extension. It disregards not only the declared purpose of the second condition, which was to secure reciprocity in the granting of copyright, but the terms prescribed in article 18 of the Berne Convention for the accession of countries not parties thereto.

It was obviously contemplated in the second condition that wherever it was made the ground of extending to the citizens of foreign nations participation in the benefits of our legislation it would be possible to secure to the United States by its own voluntary act "at its pleasure" to secure for its citizens the benefits of the copyright law of such foreign nations; for it is expressly required that this international agreement shall provide for "reciprocity in the granting of copyright," and also that by the terms of the agreement the United States "may, at its pleasure, become a party."

The argument that the signatories of the Berne Convention are entitled to the benefits of our act merely because that convention provides for the accession of other powers neglects both the reciprocal feature of the second condition as well as the fact that at article 18 of the Berne Convention a condition of accession is prescribed, namely, that the municipal laws of the countries desiring to accede must "assure legal protection to the rights whereof this convention treats."

The act of March 3, 1891, unquestionably does assure legal protection to the rights of which the Berne Convention treats, but it does so only under certain limitations specified in the act. The most important of these limitations is that found in section 3, which requires that the copies of the book, photograph, chromo, or lithograph deposited to obtain copyright shall be printed from type set within the limits of the United States, or from plates made therefrom, or from negatives or drawings on stone made within the limits of the United States, or from transfers made therefrom.

The Swiss minister, representing the Government which is the organ of the signatories of the Berne Convention, has applied for the extension of the benefits of our act to the citizens or subjects of the signatories on the ground of their being parties to that convention. In response to this application, this Government has inquired whether it can become a party to the Berne Convention upon the basis of the present law, including the requirement as to typesetting, etc., in the United States. The assurance that this very important and indeed essential condition of the law would not prove to be an obstacle to our accession has not as yet been received.

If the United States can not become a party to the convention of Berne upon the basis of the act of March 3, 1891, which is the last and the mature expression of the legislative will and pleasure of this country on the subject of international copyright, can it in any proper sense be maintained that the United States may "at its pleasure," become a party to that convention? Or, to put the question in another way, can it be contended that the United States may "at its pleasure" become a party to the Berne Convention, if, on making its request for accession under article 18 of that instrument, it is informed that its law does not entitle it to accession?

The provision as to typesetting, etc., in the United States, was a very weighty one in the deliberations of Congress upon the adoption of the statute; and, in inserting in the body of the statute a provision for the conditional extension of its benefits to the citizens or subjects of foreign states, it could scarcely have been the intention of Congress to put this Government in the position of extending those benefits to the citizens or subjects of foreign states, while our own citizens were denied reciprocal advantages, except on condition of the repeal of very important provisions of our statute. Such a contention would place Congress in the attitude of passing an act to define the conditions of granting copyright, and at the same time inserting a provision which, if we are to secure reciprocal justice to our citizens, requires the immediate and material alteration of the statute. Nor only is such an interpretation unreasonable, and therefore to be avoided, if possible, but it is also directly opposed to the language of the act, which, in the condition now under consideration, clearly discloses the object of obtaining the privileges of copyright for our citizens in foreign countries. It was with this end in view that the extension of the benefits of the act to the citizens of foreign states was made conditional. The construction which we have combated, while extending the privileges of our law to the citizens of foreign states, would actually deprive this Government of the power to exact for our citizens the privilege of copyright in those states. According to this construction an international agreement for reciprocity in copyright might be framed with the deliberate design of excluding the United States, unless it materially and even radically changed its law; and yet, if the
agreement contained a stipulation that other countries than those signing might accede, it would be the duty of the President at once to proclaim that the second condition of section 13 had been fulfilled in respect to the citizens of the contracting parties, and they would immediately enjoy the benefit of copyright in this country, while our citizens would effectually be debarred from obtaining it in theirs. Unless clearly required, a construction leading to such incongruous results should not be adopted, even if it were not, as in the present instance it is, immediately destructive of the declared purpose of the legislature, which was to make the extension of the act to the citizens of foreign states conditional upon the granting of copyright to our citizens in those states.

In a note to the Swiss minister of the 5th instant, this Department fully explained its interpretation of the second condition expressed in section 13 of the act of March 3, 1891. If the parties to the Berne Convention shall decide that the legislation of the United States entitles this Government to the privilege of accession, on its request to be permitted to do so, there will probably be no difficulty in determining what should be done; for in that case the citizens or subjects of the signatories of that international agreement would, in the opinion of the undersigned, clearly be entitled to the benefit of our law under the second condition of section 13. The United States could then, "at its pleasure," become a party to the convention, which also secures a general reciprocity in the granting of copyright among the States of the literary and artistic union. But, until such a decision shall have been made, applications for the benefit of our law should be presented under the first condition of section 13, which we now proceed to consider.

FIRST CONDITION.

The first condition specified in section 13 of the act of March 3, 1891, presents no difficulty. It simply extends the benefits of our law to the citizens of any country that grants the benefits of its law to our citizens on substantially the same basis as to its own. In ascertaining whether this condition is fulfilled, it is entirely irrelevant to inquire whether the foreign law is the same as our own, and grants copyright as freely and fully in every particular: Congress, in acknowledging and protecting the property of the author or artist in the products of his intellect, was not so illiberal as to require that the foreign law should offer a strict reciprocity by containing the same provisions as our own. Such an exaction, involving the assimilation of the laws of all other countries to our own, would have offered a practically impossible condition, incompatible with the purpose of the act and to the last degree restrictive. Congress did not assume such a position. On the contrary, it made the equal participation of our citizens in the benefit of the law of the foreign country, whatever that law might be, the condition of the participation of the citizens of that country in the benefit of our law.

There are several countries that have applied, in behalf of their citizens, for the benefits of our law under the first condition specified in section 13.

Belgium.—In a note of June 9, 1891, the Belgian minister conveys a copy of the law of his country on the subject of literary and artistic copyrights and informs the Department that "foreigners enjoy in Belgium, in the master of artistic and literary protection, the same rights and privileges as natives." The provisions of the Belgian law are in some respects more liberal than our own, and article 38 of section 7 reads as follows:

"Foreigners enjoy in Belgium the rights guaranteed by the present law, but the duration of such rights shall not, in their case, exceed the duration fixed by the Belgian law. Nevertheless, if such right sooner expire in their own country, they shall cease at the same time in Belgium."

The Belgian law clearly falls within the first alternative condition specified in section 13 of the act of March 3, 1891, and the proclamation of the President may accordingly be issued on the 1st of July, 1891, the date at which the act takes effect.

France.—The following note, in behalf of its citizens for the benefits of the act of March 3, 1891, was France. Communications on the subject were made both to our legation in Paris and through the French minister at this capital to this Department. France claims to have complied with both of the alternative conditions specified in section 13 of our act. It is, however, only the first that we are now considering. We have been furnished with the French legislation on literary and artistic copyrights, and the French minister, in a note of May 25, 1891, declares that the legislation of his country "secures to American authors rights that are not only 'substantially' equal to, but identical with, those belonging to French authors."

In respect to French citizens, the proclamation of the President may issue on the same basis as in the case of Belgian subjects.

Great Britain.—The third country to apply in behalf of its subjects for the benefits of the act of March 3, 1891, was Great Britain.
In a note to our minister in London of June 16, 1891, Lord Salisbury says:

"Her Majesty's Government are advised that under existing English law an alien by first publication in any part of Her Majesty's dominions can obtain the benefit of English copyright, and that contemporaneous publication in a foreign country does not prevent the author from obtaining British copyright; that residence in some part of Her Majesty's dominions is not a necessary condition to an alien obtaining copyright under the English copyright law, and that English law permits to citizens of the United States of America the benefit of copyright on substantially the same basis as to British subjects.

By a telegram from our minister in London of June 20, 1891, the Department is informed that Lord Salisbury has substituted for the above assurance the following:

"Her Majesty's Government are advised that under existing English law an alien by first publication in any part of Her Majesty’s dominion can obtain the benefit of English copyright, and that contemporaneous publication in a foreign country does not prevent the author from obtaining English copyright; that residence in some parts of Her Majesty’s dominions is not a necessary condition to an alien obtaining copyright under the English copyright law, and that the law of copyright in force in all British possessions permits to citizens of the United States of America the benefit of copyright on substantially the same basis as to British subjects."

It will be seen by comparison that the only change made in the phraseology of the note of June 16 by the later statement communicated by telegraph is in the last clause. This clause in the note of June 16 was "that English law permits to citizens of the United States of America the benefit," etc.

In place of this the statement now made by the British Government is "that the law of copyright in force in all British possessions permits," etc.

This assurance is more comprehensive than the first and, as the official statement of the British Government, given in the very language of the first alternative condition of section 13 of the act of March 3, 1891, warrants the inclusion of Great Britain and the British possessions in the proclamation applicable to Belgium and France.

Switzerland.—By a note of the 26th instant, the Swiss minister applies, in behalf of the citizens of Switzerland, for the benefit of our law under the first condition of section 13. To this end he refers us to the law of his country, which contains the following provisions:

"ARTICLE 10. The provisions of this act are applicable to authors domiciled in Switzerland, as regards all their works, no matter where those works appear or are published; also to authors not domiciled in Switzerland, as regards works that appear or are published in Switzerland.

"Authors not domiciled in Switzerland enjoy the same rights, as regards works which appear or are published in foreign countries, that are enjoyed by authors of works appearing in Switzerland, provided that the latter receive the same usage in the country concerned as the authors of works published there.

"ART 4. Authors domiciled in Switzerland have the right to give such notice (or make such declaration) in the case of all their works, and authors not domiciled in Switzerland; also, authors not domiciled in Switzerland in the case of works published in foreign countries, but only when the authors of works published in Switzerland receive the same usage in the country concerned that is received by the authors of works published there. Foreign authors of the latter class must meet the requirements of this provision, unless some other arrangement has been made by means of an international convention."

These provisions, officially presented as constituting a compliance with the first condition of section 13, appear to warrant the inclusion of Switzerland in the proclamation with Belgium, France, and Great Britain.

Annexed hereto is a copy of the act of March 3, 1891, and a form of proclamation. Respectfully submitted.

J. B. MOORE,
Third Assistant Secretary.

No. 4.

Note to Swiss minister on the Berne Convention.

DEPARTMENT OF STATE, Washington, June 8, 1891.

SIR: I have the honor to acknowledge the receipt of your note of the 29th ultimo, in which you again bring to the attention of the Department the subject of copyright in the United States under the act of Congress of March 3, 1891, by the thir-
tenth section of which the benefits of the law are, under specific conditions, to be extended to the citizens or subjects of foreign states.

In regard to the citizens or subjects of the states which are parties to the Berne Convention, you make particular inquiry in order to ascertain whether they will be permitted to participate in the benefits of the act after the 1st of July next.

The provision of the act to which your inquiry refers is that in which it is said that the act shall apply to the citizens or subjects of a foreign state or nation "when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States of America may, at its pleasure, become a party to such agreement."

By the words "at its pleasure," the Department does not understand that Congress intended to extend the benefits of the act immediately and unconditionally to the citizens or subjects of states which were parties to any reciprocal agreement whatsover to which, without reference to the present law, this Government might become a party through the exercise of the treaty-making power.

It is true that in their broadest sense the words "at its pleasure" might possess such significance, but the Department is of opinion that they were employed to convey an opposite meaning. It seems necessary to interpret them as signifying that the agreement must admit of the adhesion of this Government on the basis of the law in which they are found. In other words the agreement can be said to permit the United States to become a party "at its pleasure" only when such agreement admits of the adhesion of the United States and extends to it the benefits of the conventional guarantees in return for the privileges which the present law affords.

The Department is not assured that the Berne Convention admits of the accession of the United States precisely on the basis of the act of March 3, 1891. For example it is provided in the statute that the copies of the work which are filed for the purpose of obtaining a copyright must be printed from type set within the limits of the United States or from plates made therewith.

The Department has not been assured that this requirement would not be an obstacle to this Government's becoming a party to the Berne Convention "at its pleasure." It is stated that the law of Belgium contains a similar provision as to printing in that country, and Belgium is a party to the Berne Convention; but whether or not there has been a suspension of the Belgian law in that regard in consequence of the convention, the Department is not informed.

The Department is at present engaged in the consideration of several communications touching the application of the act of March 3, 1891. Among them are some which contemplate the application of the act on the first of the alternative conditions specified in section 13, namely, the extension of the benefit of the law to the citizens of states or nations which grant to citizens of the United States the benefit of copyright on substantially the same basis as to their own citizens. Where such an assurance as this can be given, the case is greatly simplified.

There is still another suggestion which it may be useful to consider. Assuming that the Berne Convention admits of the accession of the United States without any change in our law, it may be advisable to ascertain whether all or any of the parties to that convention may be able to grant to citizens of the United States the reciprocal privileges intended to be secured by that agreement, before the United States formally becomes a party to it, upon the strength of a proclamation of the President admitting their citizens or subjects to the benefits of the act.

Accept, Mr. Minister, the renewed assurances of my highest consideration.

William P. Wharton, Acting Secretary.

No. 5.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas it is provided by section 13 of the act of Congress of March 3, 1891, entitled "An act to amend title sixty, chapter three, of the Revised Statutes of the United States, relating to copyrights," that said act "shall only apply to a citizen or subject of a foreign state or nation when such foreign state or nation permits to citizens of the United States of America the benefit of the copyright on substantially the same basis as its own citizens or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States of America may, at its pleasure, become a party to such agreement;"
And whereas it is also provided by said section that "the existence of either of the conditions aforesaid shall be determined by the President of the United States by proclamation made from time to time as the purposes of this act may require;"

And whereas satisfactory official assurances have been given that in Belgium, France, Great Britain and the British possessions, and Switzerland the law permits to citizens of the United States the benefit of copyright on substantially the same basis as to the citizens of those countries:

Now, therefore, I, Benjamin Harrison, President of the United States of America, do declare and proclaim that the first of the conditions specified in section 13 of the act of March 3, 1891, is now fulfilled in respect to the citizens or subjects of Belgium, France, Great Britain, and Switzerland.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this first day of July, one thousand eight hundred and ninety-one, and of the Independence of the United States the one hundred and fifteenth.

[Seal.]

Benj. Harrison.

By the President:

William F. WHarton,
Acting Secretary of State.

Sir Julian Pauncefote to Mr. Blaine.

British Legation,
Washington, December 22, 1891.

Sir: I have the honor to acknowledge the receipt of your note of the 19th instant on the subject of the refusal of the Canadian Government to admit citizens of the United States to the privilege of registration of copyright in Canada.

I have forwarded copies of this note to the Marquis of Salisbury and to the Governor-General of Canada, and I shall have the honor of addressing a further communication to you on the subject on the receipt of their replies.

I have, etc.,

Julian Pauncefote.

Sir Julian Pauncefote to Mr. Blaine.

British Legation,
Washington, January 5, 1892. (Received January 5.)

Sir: I have received a telegram from Her Majesty’s consul-general in New York stating that a man, named John Gibbons, and his family, consisting of his wife and five children, have been declared to be assisted emigrants by the superintendent of emigration, and ordered to be returned to-morrow on the City of Paris, the ship on which they came to this country.

Gibbons is an army pensioner, who has had his pension commuted by the war office and possesses money to the amount of £204 13s., which is now in charge of Her Majesty’s consul-general in New York. He has a brother living in Jersey City, who has taken apartments for him there. He therefore can not be considered either a “pauper” or a person likely to become a public charge.” Moreover, his passage was paid out of his own money, although it was advanced by the war office, who owed it to him.
Under these circumstances I venture most strongly to press that telegraphic instructions may at once be sent to the superintendent of emigration at the port of New York to hold Gibbons and his family until I shall have had time to lay the whole facts of this case before you.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, January 7, 1892.

SIR: Referring to your note of the 5th instant, in reference to the case of John Gibbons and family, declared to be assisted immigrants likely to become public charges, I have the honor to inform you that prior to the receipt of your note the Commissioner of Immigration at New York had been instructed by telegraph, at the instance of the British Consul-General at New York, to detain the immigrants for a further investigation of the matter.

I have, etc.,

JAMES G. BLAINE.

Sir Julian Pauncefote to Mr. Blaine.

BRITISH LEGATION,
Washington. January 8, 1892. (Received January 9.)

SIR: With reference to my note of the 5th instant on the subject of the case of John Gibbons and his family, I have the honor to inform you that I have learned with great satisfaction from her Majesty’s Consul-General in New York that they have been held in New York pending a further consideration of their case, and I take this opportunity of conveying to you my best thanks for the courtesy and promptness with which my request was attended to.

In continuation of my above-mentioned note, I have the honor to lay before you the following additional details in relation to this case, which I have received from Mr. Booker.

Gibbons is an able-bodied man with a healthy wife and five healthy children. The eldest girl who has been allowed to land has already procured a situation, and Gibbons’s brother, who lives in Jersey City, can procure for him employment at once. The wife is represented as a woman quite capable of taking care of her family and herself.

Commutations of pensions are only granted by the war office in England as a favor and on the application of the pensioner that he intends to leave the country and settle abroad. In this case only a sufficient sum out of the commutation money is advanced him to pay his passage, and the balance is sent to an official at the foreign or colonial port to which the pensioner is going, to be given him on landing.

The money which he receives for the payment of his passage and on landing at the port of destination is his own property, but it is paid to him in this manner by the war office as a guarantee for its safety. He can not, therefore, I venture to submit, be regarded in any way as an
assisted emigrant, and the only reasons for returning the Gibbons family under the act of March 3, 1891, would appear to be if they were paupers or likely to become a public charge. But as I have before stated they are a healthy family in possession of about $1,000 and ready and eager to obtain employment, and I can not think that the exclusion of people of this description was contemplated by the above-mentioned act.

I accordingly venture to express the hope that the Secretary of the Treasury, when he becomes acquainted with all the details of this case, will give a favorable consideration to my request that Gibbons and his family be permitted to land.

I have, etc.,

JULIAN PAUNCEFOTE.

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Sir Julian Pauncefote to Mr. Blaine.

BRITISH LEGATION,

Washington, January 14, 1892. (Received January 14.)

SIR: It is my sorrowful duty to announce to you the lamentable intelligence, which I have just received from the Marquis of Salisbury, of the death this morning, at Sandringham, of His Royal Highness the Duke of Clarence and Avondale.

I have, etc.,

JULIAN PAUNCEFOTE.

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Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,

Washington, January 14, 1892.

SIR: I have conveyed to the President the melancholy information you communicate in your note of this date, of the death of His Royal Highness the Duke of Clarence and Avondale; and I am directed by the President to express the sorrow with which he learns of this sad bereavement suffered by Her Majesty's royal family.

By a telegraphic instruction sent to-day, the minister of the United States has been directed to make suitable communication of the President's deep regret and sincere condolences.

I have, etc.,

JAMES G. BLAINE.

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Sir Julian Pauncefote to Mr. Blaine.

BRITISH LEGATION,

Washington, January 19, 1892. (Received January 19.)

SIR: With reference to my notes of the 5th and 8th instant respectively, relative to the case of Charles Gibbons, I have the honor to inform you that Her Majesty's consul-general in New York reports that Gibbons and his family are still detained in New York, and I should be
very much obliged if you would let me know whether the Treasury
authorities have come to any decision in regard to this case.
I have, etc..<p>
</p>Julian Pauncefote.<p></p>Mr. Blaine to Sir Julian Pauncefote.<p></p>Department of State,
Washington, January 22, 1892.<p>Sir: Referring to your notes of the 5th, 8th, and 19th instants, re-
spectively, relative to the case of Charles Gibbons, an alleged assisted
immigrant, I have the honor to inclose for your information a copy of
a letter from the acting Secretary of the Treasury communicating his
decision in regard to the matter.<p>Calling attention to the statement of the Treasury Department that
its action in the Gibbons case will not be considered as a precedent in
similar cases in future,<p>I have, etc.,</p>James G. Blaine.<p></p>Mr. Spaulding to Mr. Blaine.<p></p>Treasury Department,
Office of the Secretary,
Washington, January 29, 1892.<p>Sir: Referring to the case of Charles Gibbons, who, with a portion of his family,
has been detained by the Commissioner of Immigration at the port of New York
until it could be ascertained whether or not he is an illegally assisted immigrant,
which case is referred to in communications from the Department of State to the
Secretary of the Treasury dated respectively January 3, 1892, and January 9, 1892,
transmitting copies of letters from Her Britannish Majesty's minister at this capital, I
have the honor to inform you that instructions have this day been sent to the proper
officer to permit the landing of the immigrants referred to.<p>This determination has been reached with difficulty. Whatever may be the merits of the Gibbons case it is clear that this Government can not allow a general practice
to grow up which shall permit the landing at United States ports of any considerable
number of people of this class, simply because such practice would be in violation of
the provisions of the immigration laws.<p>For your information I inclose herewith copy of a letter dated the 23d ultimo from the
acting commissioner of immigration, port of New York, detailing particulars of
the case of Gibbons and of another immigrant, John O'Brien, coming hither under
almost identical circumstances. To this communication I respectfully call your
attention.<p>The immigrant O'Brien was returned to the country from which he came on the
ground that he was both illegally assisted and likely to become a public charge.<p>The facts set forth in Mr. O'Brien's communication seem to indicate that it is a practice of the British war office, particularly in the case of invalid or disabled
pensioners, to commute their pensions and pay them a lump sum on the condition and understanding that they are immediately to emigrate to, and thereafter reside
in, some other country. As stated in Mr. O'Brien's letter, and confirmed by Her
British Majesty's minister in his communication of the 8th instant, the sum of money
resulting from such commutation is not paid to the commuter in Great Britain, but
is forwarded to the British consul at New York, or other United States ports of
arrival and paid to him on this side after his landing and when it is apparently cer-
tain that he will not be a further burden upon the revenues of Great Britain. The
unavoidable inference is that this privilege of commutation, whether so intended or
not, serves as an inducement to the pensioner to emigrate from Great Britain.<p>As will be seen by the cited cases of O'Brien and Gibbons, the amount of money
resulting from such commutation of pension is not sufficient to preserve the immi-
grant from becoming a public charge for any considerable length of time if he is otherwise unable or unwilling to earn a livelihood. The result is that this country is asked to receive and maintain a class of men who, however meritorious may have been their military service to a foreign nation and however exemplary may be their personal character, yet are unable to be self-sustaining, and are in effect, if not technically, assisted immigrants within the prohibitions of our statutes.

I will thank you to call the attention of Her Majesty's minister to this aspect of the case and to impress upon him the fact that while, at his request, the Gibbons family have been permitted to land this action must not be considered a precedent in future cases of substantially similar nature.

Respectfully yours,

O. L. SPAULDING,
Acting Secretary.

[Inclosure in inclosure.]

Mr. O’Brien to Mr. Foster.

OFFICE OF UNITED STATES SUPERINTENDENT OF IMMIGRATION,
BARGE OFFICE,
New York City, December 23, 1891.

SIR: I have the honor herewith to submit for direction of the Secretary of the Treasury two cases of ex-British soldiers assisted in coming to this port by the official authorities of Great Britain. The first is that of John O’Brien, 60 years of age, born in Ireland, arrived December 20, 1891, per steamship Britannic, certified by the surgeon U. S. I. S. in our medical department, Dr. J. A. Tonner, as suffering from old gunshot wound of shoulder and unable to take care of himself. O’Brien swears that his object in coming to the United States was to receive commutation of pension from Her Majesty’s consul in New York City, amounting to £95 1s. 10d. sterling, as a settlement of his pension claims. He has a friend and a daughter-in-law here, addresses not known. He is utterly unable to support himself by manual labor. I have received from her Britannic Majesty’s consul-general the following letter, dated New York, December 21, 1891, relating to him:

“SIR: John O’Brien has been brought to this office by an officer from your department, who states that he has to be returned, as likely to become a public charge. If the man be allowed to land I shall pay him the equivalent of £96, which should be regarded as sufficient to relieve him from his otherwise disability to land.

“I am, sir, your obedient servant,

“J. BOOKER,
“Consul-General.”

“Gen. JAMES R. O’BRIEN,
“Commissioner of Immigration.”

It appears in this case that the presence of O’Brien (who already has his return ticket to Ireland) is merely for the purpose of collecting this commutation of pension, and he further says that he does intend to remain in this country. He came under the influence of the following communication, usually received in like cases from the representatives of the war office of the British Government:

“I am directed by the lords and others, commissioners of this (Chelsea) hospital, to inform you that, having fully considered your application for commutation of pension, together with reports on your case from medical and staff officers, who have been desired to examine you, they are pleased to award you the amount of —— years’ pension as commutation of pension, and have directed that you shall receive £— at home for emigration expenses and the balance on your arrival at ——; but at the same time they wish once more distinctly to caution you that in accepting this grant you forfeit all further claim whatever upon the Chelsea Hospital.”

O’Brien is held for further special inquiry, with the view that he should be prohibited from landing in the United States. It is to be said, however, that this will involve to him a hardship in preventing his receipt of commutation of his pension. Again, if he is landed, and should receive and expend this money, he is liable to become a public charge, in which event, of course, he can be sent back at the expense of the steamship company which brought him here.

A second case of the same character, but with some redeeming traits about it, is that of Charles Gibbons, also an ex-British soldier, 52 years of age, born in Ireland, arrived per City of Chester December 21, 1891, a pensioner, who is accompanied by his wife and five children; a very nice family; Lucian, 14, suffering from lameness,
and Mary, 11, convalescent from pneumonia; destination, Jersey City, to brother, who promises pensioner employment. He is to receive £301 13d. in money as pension commutation; is a clerk and man of intelligence, having been living with his family all the time in garrison, when not in field; has been thirty-three years in the British Army.

These two cases, while alike on general principles as to the act of the British Government in deporting them to this country, and making a condition of settlement of its obligations to them an implied residence in this or other country outside of the British Government, in order to secure it against further reclamations of these soldiers, who have been so long in its service, has seemed to me to involve two questions: First, Are these cases of "assisted immigration"? Second, Do they involve any points of international courtesy, or an implied utilization of the United States and its territory, to decrease the number of dependent classes of Great Britain, and to throw the responsibility of their support and maintenance upon this country in the event of the parties becoming unable to take care of themselves? I write, inviting the particular attention of the Secretary of the Treasury, and if necessary, of the Secretary of State, to these cases, inasmuch as I am given to understand by the older employees of this office that this practice has been long resorted to in similar cases; which, of course, it goes without saying, adds eventually to the burden of the pauper element of this country, to be sustained by the public charities.

Respectfully yours,

JAS. R. O'BRIEN,
Acting United States Commissioner of Immigration.

Sir Julian Pauncefote to Mr. Blaine.

BRITISH LEGATION,
Washington, January 28, 1892. (Received January 28.)

Sir: I have the honor to acknowledge the receipt of your note of the 22d instant transmitting the decision of the Treasury Department in regard to the case of John Gibbons.

I should be very much obliged if you would convey my best thanks to the Acting Secretary of the Treasury for the courteous attention which has been paid to my request, and at the same time inform him that I have forwarded a copy of his letter to my Government.

I have, etc.

JULIAN PAUNCEFOTE.

Sir Julian Pauncefote to Mr. Blaine.

BRITISH LEGATION,
Washington, February 29, 1892. (Received March 2.)

Sir: Referring to my note of the 25th November last, and to your note of the 30th of the same month on the subject of the charge of immigrants who are not permitted to land at Boston, I have the honor to recall the matter to your attention and to express the hope that I may be favored with a reply to my above-mentioned note at an early date.

I have, etc.,

JULIAN PAUNCEFOTE.
Sir Julian Pauncefote to Mr. Blaine.

BRITISH LEGATION,
Washington, March 8, 1892. (Received March 10.)

SIR: With reference to my note of the 28th of January last, I have the honor to inform you that I forwarded a copy of your note of the 22d of that month transmitting the decision of the Treasury Department in regard to the case of Charles Gibbons, an alleged assisted immigrant, to the Marquis of Salisbury, and I have now received a dispatch in reply from his lordship forwarding a communication from the secretary of state for war on the subject, copy of which I have the honor to inclose herewith.

In bringing this question of commuted pensioner immigrants once more to your notice, I venture to call your attention to the argument contained in that letter, and, in compliance with instructions which I have received from the Marquis of Salisbury, I have the honor to inquire whether you would be good enough to move the Secretary of the Treasury to reconsider his decision in regard to sound and healthy commuted pensioners desiring to emigrate from Great Britain to this country.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

The secretary of state for war to the under secretary of state, foreign office.

WAR OFFICE,
London, February 15, 1892.

SIR: In reply to Mr. Lowther’s letter of the 6th instant forwarding a dispatch from Her Majesty’s minister at Washington on the subject of the refusal of the Government of the United States to receive as immigrants army pensioners who have commuted their pensions, I am directed by the secretary of state for war to express his hope that Lord Salisbury will be willing to urge that the decision of the United States Government may be reconsidered. I am to point out that there is no desire on the part of this department to allow men unfit to earn their own living to immigrate to foreign countries, that the commissioners of Chelsea Hospital require (1) that the man be found medically sound; (2) that he has letters from friends promising employment or a home; (3) that he must emigrate with his family. The commissioners are so far from encouraging these commutations that nine out of ten are refused because they do not fulfill the conditions above mentioned. As regards the case of O’Brien, who was refused permission to land, I am to state that it is evidently fraudulent, and that it will be carefully investigated.

In conclusion, I am to observe that if men like Gibbons, with a healthy family and entitled to receive £500 from Her Majesty’s consul-general at New York, are not to be allowed in future to land in the United States, it is difficult to conceive what persons from these islands will be acceptable as immigrants.

I have, etc.,

RALPH THOMSON.

Mr. Wharton to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, March 17, 1892.

SIR: I have the honor to refer to the discussion which took place in the conferences lately held at this Department between the Secretary of State, yourself, and the Canadian commissioners, respecting the discriminating tolls in the Canadian canals; and to inclose herewith a
copy of a letter from the Lake Carriers’ Association, dated Buffalo, N. Y., the 11th instant, containing figures showing the amounts of the discrimination in question.

The Department will greatly appreciate your courtesy in forwarding a copy of this letter at once to the Canadian authorities for their information in connection with the promised satisfactory adjustment of the question of canal tolls.

Accept, etc.,

WILLIAM F. WHARTON.

[Inlosure.]

Lake Carriers’ Association to Mr. Wharton.

OFFICE OF LAKE CARRIERS’ ASSOCIATION,
Buffalo, N. Y., March 11, 1892.

SIR: Answering your request for figures showing the amount of discriminating tolls exacted at the Welland Canal during the season of 1891, I have the following figures covering the traffic reaching the port of Ogdensburg, N. Y., by water, via the Welland Canal, in 1891.

Total tolls paid on all traffic reaching Ogdensburg via Welland Canal in 1891, $55,097.05. Total tolls which would have been exacted on the same traffic had it been consigned to Montreal or any port east of Montreal, provided it had gone through without breaking bulk or been transferred at an intermediate Canadian port, $7,960.94. Amount of toll collected as a discrimination against an American port, $47,136.11.

In addition to the above, tolls to the amount of $5,719.56 were collected on grain which reached Ogdensburg via the Welland Canal, was there transferred and forwarded to Montreal. This grain paid full Welland Canal tolls of 20 cents a ton, without getting the refund. It was also refused the pass tickets ordinarily given at the Welland Canal on traffic bound through the St. Lawrence Canals, which tickets permit free passage through the St. Lawrence Canals. The grain in question not only paid full toll at the Welland, but was obliged to pay full toll through the St. Lawrence Canals also.

Total discrimination against Ogdensburg traffic for 1891, $53,395.67.

I notice several newspaper items of late purporting to come from Ottawa, Ontario, to the effect that the Canadian government is to make some concessions in toll matters. These dispatches indicate, however, that the only concessions which the authorities have in mind is with regard to the ports of transfer. You will remember that last year the refund on grain cargoes passing through the Welland Canal and transferred to river barges for Montreal at some intermediate points, was only allowed in case transshipment took place at a Canadian port, and was refused where such transshipment took place at an American port, like Ogdensburg. The press dispatches indicate that the Canadian authorities will this year permit the refund on Montreal traffic, even though the transshipment takes place at an American port.

Doubtless this will be of some benefit to Ogdensburg, but it will leave untouched the principal point at issue, which concerns the right of the Canadian authorities to refund nine-tenths of the cargo tolls on Montreal traffic, while no refund is made in the case of traffic of the same character passing through the canal in the same direction, and bound for an American port or route of export.

Yours, very respectfully,

C. H. KEEP,
Secretary Lake Carriers’ Association.

Sir Julian Pauncefote to Mr. Wharton.

BRITISH LEGATION,
Washington, March 21, 1892.

SIR: With reference to your note of the 17th of March, enclosing a letter from the Lake Carriers’ Association on the subject of discrim
inrating tolls in the Canadian canals, I have the honor to inform you
that I have transmitted a copy of your note and of its inclosure to the
governor-general of Canada.
I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, April 15, 1892.

SIR: Referring to your note of the 25th of November last, relative to
certain alleged hardships suffered by the owners or agents of British
vessels arriving at the port of Boston with immigrants, I have the
honor to inclose a copy of a letter from the Acting Secretary of the
Treasury which sets forth the circumstances connected with the mat-
ter in question, and states that the whole subject is now under consid-
eration.
I have, etc.,

JAMES G. BLAINE.

[Inclosure.]

Mr. Spaulding to Mr. Blaine.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, April 2, 1892. (Received April 11).

SIR: For further reference to the matters treated in your communications of the
4th ultimo, the 10th ultimo, and the 30th of October last, to wit: “Certain alleged
hardships suffered by the owners or agents of foreign steamship lines, whose vessels
arrived at the port of Boston bringing immigrants,” which subject was called to your
attention in a communication from the British minister at this Capital, dated the
25th of October last, I now have the honor to inclose herewith copy of a communi-
cation from the United States commissioner of immigration at the port of Boston,
which fully sets forth all the circumstances connected with the matter in question.
It is proper to add that the whole subject of the rights and duties of the owners
and agents of steamships engaged in bringing immigrants to ports of the United
States, so far as concerns the custody and maintenance of immigrants who are tem-
porarily detained at such ports for any reason, is now under consideration by the
Department, and when a conclusion is reached the result will be communicated to
you for transmission to the British minister.
Respectfully yours,

O. L. SPAULDING,
Acting Secretary.

[Inclosure in inclosure.]

Mr. Wrightington to Mr. Netleton.

OFFICE OF UNITED STATES COMMISSIONER OF IMMIGRATION,
Boston, Mass., March 19, 1892.

DEAR SIR: Your communication, under date of the 16th instant, with the inclosures
concerning certain alleged hardships suffered by the owners or agents of foreign
steamship lines, whose vessels arrive at the port of Boston, bringing immigrants,
with particular reference to the case of Mary Kelly and her four children, whose
landing was debarred from the steamship Roma, and the escape therefrom of said
Mary Kelly, came to hand on the 18th instant.
I herewith inclose copies of the correspondence between this office and the bureau of immigration concerning the case, and answer somewhat in detail the questions raised in your communication.

Superintendent Owen's letter of August 25 is supposed to be that referred to in his communication of October 9, and is therefore annexed thereto.

Premising that the alien immigrants here arriving by the Warren line of steamships are mentally and physically inferior to those here arriving by other European lines, perhaps because of reduced rates of passage, with the further premise that the attitudes of the agents and officers of this line towards the inspection officers of the United States, and their allusions to the statutes governing them and us, are in marked contrast to the gentlemanly bearing and respectful reference of other agents and officers, I proceed to restate this special case.

The steamship Roman of the Warren line, arrived at this port Wednesday, September 16, having on board, among other passengers, Mary Kelly and her four children. After a careful examination of such passengers it was decided that the Kellys were "persons likely to become a public charge" and therefore belonged to one of the classes of aliens excluded from admission into the United States by the provisions of the act of 1891, by reason that they had been in receipt of public aid while at home, and at a time when the husband and father, who now professed to be able to properly provide for them, had been supported at the expense of the United States, with the further reason that their passage to America had been prepaid, and it did not appear from what source the money for the purchase had been obtained.

On the Thursday or Friday following the Roman's arrival, Mr. Kelly, who had been previously notified, put in an appearance and was informed that his family would not be permitted to land except upon his furnishing a bond in the penal sum of $2,500, conditioned that no member of the family should at any time thereafter become a public charge, but that he was privileged to appeal from this decision to the Department at Washington. Upon his request for further time in which to take advice of counsel and friends he was informed that the Monday following would be the latest that could be allowed for the purpose. The steamer's day of return being Tuesday, and that in default of bond and notice of appeal his family would be returned. Mr. Kelly made no suggestion touching the removal of his family pending his deliberation, although he was informed that they would be removed if he decided on an appeal. He visited them several times while they were on board the steamer and never once suggested that their detention thereon was an act of inhumanity; indeed, I am certain that they were far more comfortable on the steamer while she lay at the dock than they had been on the passage over when herded with so many others, or would have been had they then returned on the steamer, loaded, as she was, with cattle. That such detention was an inconvenience to the ship's officers, I grant, and some inconvenience usually and usefully attends infringement of law and often serves as a reminder of duty to be performed. The escape of Mrs. Kelly was through the criminal negligence of the ship's officers. The ship was at its dock, where the presence of a woman must have attracted the attention of every man in the employ of Messrs. Warren, and her departure therefrom must have been witnessed by scores. The first notice received of the elopement was late in the afternoon of Monday, it having occurred about 2:30 p.m. of that day. The collector of the port was notified as well as the United States district attorney.

The steamer's agents were required to give security sufficient to meet any fine that might be imposed for the offense; the children were removed to the State primary school awaiting further developments, and the case for the time closed. (See letters marked A and B, sent Superintendent Owen, and his answer, marked C.)

Prior to the receipt of your communication I had construed the provisions of the act of 1891 in its eighth section as permitting the inspection officer to "order a temporary removal of such aliens for examination" and to "detain them until a thorough inspection is made." Further that "such removal shall not be considered a landing during the pending of such examination." I had also construed the provision relating to housing and feeding as referring only to those undergoing inspection, and such as were "delayed in proceeding to their destination after inspection." I had not supposed that this last-named clause applied to an alien whose inspection was finished and whose return had been ordered. Where great hardships would otherwise ensue, as in case of sickness or of children unaccompanied with parents, or where serious difficulty was found in their detention, as in the case of stowaways, I had acted in accordance with what was expected on the State board of health. The letter cited by Secretary Fairchild in his communication of January 18, 1888, but it did not appear to me that the Kelly case could be properly included within this authorization or the beneficent provision of the act of 1891.

No further proceedings were had in this case until October 7, when, the Messrs. Warren having succeeded in locating Mrs. Kelly, I met Mr. Fred. Warren and Assistant District Attorney Wyman, District Attorney Allen being temporarily absent, by appointment, at the office of United States Commissioner Hallett. After a care-
ful examination of the law and a protracted consultation with Mr. Wyman the commissioner declined to authorize Mrs. Kelly's arrest, and advised me to do nothing in connection therewith without instructions from the Department, whereupon, on the suggestion of Mr. Wyman, I sent the superintendent of immigration the communication marked D and received from him the communication marked E, which clearly did not authorize me to arrest and return Mrs. Kelly.

On November 16 Mr. Warren was brought before Commissioner Hallett for a violation of the act of 1891, and Mary Kelly, in default of bond, was committed to Suffolk jail as a witness. This was understood to have been done in the interest of the Messrs. Warren in order to obtain legal custody of Mrs. Kelly preparatory to her return.

On the 18th of November I wrote Superintendent Owen the letter marked F and received in reply the letter marked G. On the 23d of November Messrs. Warren notified that a steamer of their line would sail the following day and that they desired to return the children on the steamer. I protested against the children's return except in charge of the mother, and in order to the removal of their objection to further delay, the mother being still in custody of the court, I gave a personal guaranty that the Warren Line should not be required to pay for the further keeping of the children, and consequently from that date until their return, December 19, the expense of the children's maintenance was born by this Commonwealth.

November 28 a new element appeared in the case: Henry C. Mulligan, attorney-at-law, informed me that he had forwarded an appeal to Washington in the Kelly case, whereupon the letter marked H was forwarded the superintendent of immigration, and the reply (marked I) was received. The communication marked K followed later, and a response thereto was received December 9, which is marked L, and which closed the correspondence. Mary Kelly and her children were returned to England, the husband and father accompanying them, at his own expense, on the steamer sailing December 22.

Referring to the latter part of your communication as to our "facilities for taking charge of these people on shore," I would say that the State board of lunacy and charity can furnish hospitals for the sick and insane, almshouse for adult paupers, a primary school for children, and the city of Boston has allowed the use of one of its police stations for stowaways and other vicious characters. Of course these establishments are scattered over the State, and some expense would be entailed in the removal of the people to the institutions named, and would perhaps require additional assistance in such supervision at this port. This expense would, of course, eventually fall upon the steamship companies, but nevertheless would primarily be a charge to the Treasury. True, these facilities are not of the character that are found in New York, and a single establishment owned and controlled by the department as at Ellis Island would be preferable, but I cannot think so great an expense at this port would be justifiable.

Respectfully,

S. C. WRIGHTINGTON,
Commissioner.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, May 2, 1892.

Sir: Referring to your note of the 8th of March last, asking a reconsideration by the Treasury Department of its decision in relation to the admission of commuted pensioners who may desire to emigrate to this country from Great Britain, I have the honor to inform you that, having submitted a copy of your note to the Secretary of the Treasury, I have received a letter from him in which he states that—

No discrimination will be made against a commuted pensioner as such. The mere fact that the immigrant is a commuted pensioner will not exclude him, but he will not be permitted to land if in addition it appears that the amount of money resulting from such commutation of pension is not sufficient to preserve the immigrant from becoming a public charge for any considerable length of time, if he is otherwise unable or unwilling to earn a livelihood. The law expressly excludes all idiots, insane persons, paupers or persons likely to become a public charge, persons suffering from a loathsome or a dangerous contagious disease, persons who have
been convicted of a felony or other infamous crime or misdemeanor involving moral turpitude, polygamists, and also any person whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is shown that such person does not belong to one of these excluded classes.

I have, etc.,

JAMES G. BLAINE.

Mr. Blaine to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, May 23, 1892.

SIR: I have the honor to advert to the minute that was agreed to at the time of the visit of the Canadian commissioners to this Capital in October last, concerning the reciprocal privilege in wrecking; in case the Canadian parliament should pass an act similar to our own. [See act of Congress, approved May 24, 1890, vol. 26, United States Statutes at Large, p. 120, entitled, "An act to amend an act to aid vessels wrecked or disabled in the waters co-terminous to the United States and the Dominion of Canada, approved June 10, 1878."]

It is understood that a bill, entitled "An act respecting aid by United States wreckers in Canadian waters," was lately introduced in the Canadian parliament, and that it has actually been assented to by the governor-general.

If the Department's information is correct, I shall be glad to receive a certified copy of the law, with two or three additional pamphlet copies thereof, for communication to the President and the Secretary of the Treasury.

I have, etc.,

JAMES G. BLAINE.

Sir Julian Pauncefote to Mr. Blaine.

BRITISH LEGATION,
Washington, June 1, 1892. (Received June 1.)

DEAR MR. BLAINE: With reference to the proposal that a member of the Canadian government should come to Washington to discuss the question of the alleged discrimination against American citizens in the system of tolls levied in the Welland Canal, I beg to inform you that I received last night a telegram from Lord Stanley to the effect that the Hon. Mr. Bowell and the Hon. Mr. Foster, who visited Washington last February as delegates to the informal conference which we then held, will leave Ottawa to-morrow, the 2d instant, for Washington for the purpose above stated.

I should be much obliged if you would be good enough to make an appointment to receive them on the following day, Friday, June 3.

Lord Stanley adds in his telegram that it is very difficult for ministers to be absent from Ottawa during the session, and that the Canadian government only sends them now earnestly endeavoring to adjust canal difficulties.

I remain yours, etc.,

JULIAN PAUNCEFOTE.
Mr. Michael Herbert called upon me this morning to say that he had received from Ottawa the promised reply in regard to the discriminating tolls in the Welland and St. Lawrence River canals.

The Canadian commissioners on the occasion of their recent visit to Washington had promised immediately upon their return to Ottawa to consider the withdrawal of the objectionable rebate, and to make a proposal in regard to the terms of such withdrawal. They had kept their promise by sending the reply at once.

Mr. Herbert was not able to communicate the Canadian reply to this Government without Lord Salisbury's sanction. This he had telegraphed for, and expected to be authorized to communicate it without delay.

Meanwhile, he might with propriety say to Mr. Adee that the Canadian proposal is silent as to the favor of navigating the Hudson River, which had been suggested to Mr. Blaine on their recent visit and been promptly declined by him. It, however, introduces a new proposition. Briefly, the Canadians proposed that the discriminating rebate should be abandoned, if the United States should agree to maintain the status quo as to the free and equal use of the Sault Ste. Marie Canal, and should, in addition, restore article 30 of the treaty of Washington.

Mr. Herbert suggested that the President be informed that the Canadian reply had been received.

Mr. Adee said that time was pressing and left scant room for delay in the communication of the Canadian reply, if it was to be considered by us. He would advise the President of the fact that the reply had reached the British legation, and only awaited Lord Salisbury's sanction to be communicated.

Alvey A. Adee.

Mr. Herbert to Mr. Wharton.

British Legation,
Washington, June 24, 1892.

Sir: I have the honor to inform you that Sir Julian Pauncefote duly forwarded to the governor-general of Canada copies of your notes of the 10th October, 1891, and of the 17th of March, 1892, enclosing memorials from the Lake Carriers' Association of Buffalo, complaining of alleged discrimination on the part of the Canadian Government against citizens of the United States in the use of the Welland Canal, and I have now received a communication from his excellency in reply, containing the following observations which the Government of the Dominion desire to submit thereon.

The Canadian Government have carefully examined the statements made in the two memorials from Mr. Keep, the Secretary of the Lake Carriers' Association, and they have been found to be in many respects inaccurate as to figures, as well as inconclusive in the deductions drawn from them.

His assertion that, during the season of 1891, Canadian canal tolls were levied discriminating against the port of Ogdensburg, to the aggregate amount of $53,695.67, would appear to be widely erroneous.
He states that, on the total freight shipped via Canadian canals in 1891 to Ogdensburg, the tolls paid were $55,037.05. By the official canal returns, it appears that the total freight passing through the Welland Canal in 1891 to Ogdensburg was really 272,947 tons, and tolls paid were $53,444.37. But, of the total canal freight so discharged at Ogdensburg, the classes of grain specified by the order in council, namely, wheat, Indian corn, pease, barley, rye, oats, flaxseed, and buckwheat amounted to only 191,607 tons, and the tolls paid on the same to $38,321.40, and these are the only articles of freight which, when shipped to Montreal, come within the purview of the order in council for rebate of toll. The difference between the amount of tolls on goods subject to rebate, and the full amount of tolls, is therefore $34,459.26, instead of $53,895.67, as stated by Mr. Keep. Of the amount of grain of the character subject to rebate passed as above through the Welland Canal to Ogdensburg, 17,817 tons were transshipped at that port to Montreal. The rebate on this quantity, if allowed, would have been $3,207, and this sum constitutes the sole difference in tolls between the two routes, and the only amount in respect of which any discrimination could be claimed to exist. The remainder of the 191,607 tons passed into the Eastern States.

On freight other than the designated products, discharged at Ogdensburg in 1891, full canal tolls were paid and would have been levied on Canadian vessels in Canadian waters, with no refund or abatement of any kind, Canadian and United States vessels being precisely on a par in that respect.

The Canadian Government can not attach any weight to the pretensions of Mr. Keep that there is inequality in the use of the canals between Canadians and Americans, on the ground that the tolls for the use of the canals going westward are 20 cents per ton, while those for the use of the canals going eastward are only 10 cents per ton.

Except as regards the grain products already discussed, he does not assert that there is any difference in respect of the amount of these tolls between Canadian and American vessels going eastward or westward respectively, nor that the destination of the cargoes eastward or westward in any way affects the tolls paid. Canadian and American vessels pay the same toll for passing through the canals in the same direction, and are entirely unrestricted in respect of such tolls by their destination or by any other extraneous circumstances.

By the order in council of April 4th last, it was provided that a refund of 18 cents per ton should be made for a portion of the canal tolls, which were fixed at 20 cents per ton upon freight of all kinds, collected on the designated products carried through the Welland Canal and the St. Lawrence Canal to Montreal, or any port east of Montreal, in all cases where these products were exported, and in such cases only. The same order stipulated that products on which the rebate could be claimed should be shown to have been originally shipped for Montreal or some port east of Montreal, and should be carried to such point and actually sent out of the country, with the proviso that the right to this rebate should not be lost by reason of intermediate transshipment, if the place of such transshipment be within the Dominion of Canada. As regards all other freights passing through the canals, there is no rebate, whatever may be its destination.

The effect of this order in council is to fix the rate of toll on all of the specified products passing through the Welland Canal and the St. Lawrence canals without distinction as to nationality. Vessels of both countries are entitled to the rebate and also to transshipment, provided that
such transshipment be made at a Canadian port. If, however, the transshipment takes place at an American port, the vessel loses its right to the rebate. And the loss of rebate would apply equally to both Canadian and American vessels. In like manner the vessels of neither country would obtain rebate should they land at a port short of Montreal, either on the American or Canadian side.

Under the provisions of the order in council it is evident that the Canadian government allow the use of their canals both to their own vessels and to those of the United States upon such conditions as to influence a certain class of the traffic to pass down the St. Lawrence to Montreal; but in the inducement thus held out there is no distinction made as respects the payment for the use of their canals between the vessels of the United States and their own. In favoring their national route the Canadian government do so on precisely the same conditions with regard to both nations, and they contend therefore that they have acted in accordance with the obligations which Great Britain has requested them to take under article 27 of the Treaty of Washington. The stipulation in that article is that United States citizens shall use the Canadian canals on terms of equality with the people of the Dominion; and this equality is, in the opinion of the Canadian government, preserved by the imposition of the same conditions, and the granting of the same privileges, with the same restrictions to vessels of both nationalities.

By the thirtieth article of the Treaty of Washington it was agreed that British subjects might carry in British vessels without payment of duty goods, wares, or merchandise, from one port or place within the territory of the United States upon the St. Lawrence, the Great Lakes, and the rivers connecting the same, to another port or place within the aforesaid territory of the United States; provided that a portion of such transshipment should be made through Canada by land carriage and in bond; and a privilege exactly corresponding, mutatis mutandis, was by the same article granted to the citizens of the United States with respect to goods, wares, or merchandise carried from one point in Canada across the territory of the United States to another point in Canada. By the same article it was agreed that the United States might suspend the right of carrying, so granted to British subjects, in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the Dominion on terms of equality with the Canadians. In the authorized protocol to the conference between the British and United States high commissioners with regard to the thirtieth article of the Treaty of Washington it is stated as follows:

That they desired and it was agreed that the transshipment arrangement should be made dependent upon the nonexistence of discriminating tolls or regulations of the Canadian canals, and also upon the abolition of the New Brunswick export duty on American lumber intended for the United States.

The Canadian government immediately took means to relieve American lumber from export duty in New Brunswick at a cost of $150,000 per annum, thus completing the conditions required to retain article 30 in force. It is accordingly evident that from the language of the thirtieth article of the treaty, supplemented by the protocol of the conference on that article, the remedy which the United States reserved to themselves in the event of Canada depriving the citizens of the United States of the use of the canals on terms of equality with her own people, was provided for by that article and was long ago resorted to by the United States.
By joint resolution of the Senate and House of Representatives, passed on the 3d of March, 1883, it was determined to give notice to Canada of the termination of the thirtieth article of the Treaty of Washington at the end of two years.

On the 2d and 24th of July, 1883, under orders issued by Secretary Manning, based upon the notice given, the privilege of carrying traffic duty free from one point in the United States to another point in the same territory across an intervening portion of Canadian territory was finally withdrawn from Canadian vessels, thus exacting from Canada the penalty for discrimination in the use of the canals, although no inequality really existed. This privilege has not been enjoyed by Canada since the 2d of July, 1883, though hitherto the Canadian government have abstained from taking any steps towards preventing the continuance to the United States of the corresponding privilege provided for by the thirtieth article of the treaty.

While therefore the Canadian government are unable to admit that any discrimination in the use of the Canadian canals is made against United States vessels by the terms of the order in council, they maintain that even if the fact that transshipment is confined to a Canadian port could be construed as constituting, such discrimination, the penalty agreed upon between the United States and Great Britain, in such an event, has already been exacted by the United States.

The government of the Dominion are nevertheless, as heretofore, desirous of maintaining friendly relations with the United States, and are willing to meet their views so far as is consistent with their position and with the interests of their people. They believe that the conditions of the Treaty of Washington in respect of international trade were eminently calculated to preserve such amicable relations between the countries, and in their opinion the most satisfactory way of meeting the present difficulty would be to revert in some degree to the terms of that treaty, in so far as they relate to the question under discussion. With a view to the furtherance of a good understanding on these points, they would be disposed to enter into an arrangement such as the following:

That, as regards the navigation of the Welland and St. Lawrence canals, the imposition of tolls, and the granting of rebates thereon, the same treatment will be accorded to citizens of the United States as is given to the subjects of Her Britannic Majesty without regard to ports of transshipment or export, and that the United States will continue to deal in like manner with the subjects of Her Britannic Majesty in the use of the existing Sault Ste. Marie Canal. That the provisions of article 30 of the Treaty of Washington granting carrying powers to vessels belonging to the subjects of Her Britannic Majesty, as described in that article, be restored.

In conclusion, I venture to express the hope that this proposal, which I am instructed by the Marquis of Salisbury to submit to your Government, will be received by them in the same friendly spirit in which it is made, and that it will be found to provide an amicable and satisfactory solution of the question at issue between the two countries.

I have the honor to be, with the highest consideration, sir, your most obedient humble servant.

MICHAEL H. HERBERT.
Memorandum.

DEPARTMENT OF STATE,
Washington, June 28, 1892.

The reply of the Canadian government, as communicated by direction of Lord Salisbury, in Mr. Herbert's note of June 24, only deals with the statements in regard to discriminating tolls in the Welland and St. Lawrence River canals, presented in the memorials of the Lake Carriers' Association, which accompanied the Department's notes to Sir Julian Pauncefote, of October 10, 1891, and March 17, 1892.

The report prepared by Mr. Partridge, and which accompanied the President's message of June 18, deals more methodically with the question of the nature and effect of the discriminations. In that report the discrimination on grain cargoes moving eastward was shown to be threefold—first, that the toll on grain for export from Montreal or Canadian ports east of Montreal, is, by rebate, reduced to 2 cents per ton, while the toll on grain for export from American ports is 20 cents per ton.

As to this the Canadian reply says:

Under the provisions of the order in council, it is evident that the Canadian government allow the use of their canals both to their own vessels and to those of the United States upon such conditions as to influence a certain class of the traffic to pass down the St. Lawrence to Montreal; but in the inducement thus held out there is no distinction made as respects the payment for the use of their canals between the vessels of the United States and their own. In favoring their national route the Canadian government do so on precisely the same conditions with regard to both nations, and they contend, therefore, that they have acted in accordance with the obligations which Great Britain has requested them to take under article 27 of the Treaty of Washington.

The order in council does more, however, than favor a national route of transportation—it aims to favor the trade of exportation from the Canadian ports of departure for foreign traffic. The rebates of canal tolls are merely an instrument to favor the export trade from Canadian ports. If the object were to favor the use of the Canadian canals, and that object were carried out impartially, citizens of the United States would have little or no cause to complain. Moreover, the defense of the Canadian government is confined to alleging that no discrimination in fact is made between Canadian and United States vessels carrying the favored cargoes through the canals; when the Treaty of Washington makes the treatment of citizens the sole test of equality in the use of the canals. That the order does favor and is intended to favor the citizens of Canada at the expense of the citizens of the United States is clear, looking at the order as a whole. Were the purpose of fostering the Canadian export trade accomplished by a bounty to the vessels carrying grain cargoes from the St. Lawrence ocean ports, the case might be different; but the purpose is effected by levying differential tolls in and for the use of the Welland and St. Lawrence River canals, so that the encouragement of the export trade is converted into such a discrimination against the enjoyment of the canals by citizens of the United States as the Treaty of Washington expressly aimed to guard against.

Second. Another and more evident discrimination against the American citizen lies in refusing the lesser rate of 2 cents per ton on grain for export from Montreal or ports east of Montreal if it has been transshipped at an American port, while it is allowed if transshipment be effected at a Canadian port.

As to this the Canadian reply merely says, "the loss of rebate would
apply equally to both Canadian and American vessels," thus narrowing the contention to the equal treatment of vessels and ignoring the engagement of the treaty as to the equal treatment of citizens. The reply fails to meet the complaint. Moreover, it is at variance with the allegation elsewhere put forth that the purpose of the order is to encourage the passage of grain cargoes through the canals, for in fact it directly discourages a large traffic which would pass through the Welland Canal if the superior facilities for transshipments afforded by the elevators at Ogdensburg and Oswego were an inducement to send grain cargoes by the Welland route. The order is in this regard a naked discrimination against the American citizen, for the enforcement of which the canal tolls are employed as a convenient instrument.

Third. As to the traffic passing through the St. Lawrence River canals, a third discrimination exists which is in absolute and open violation of the intent of the treaty, for if the starting point of the grain cargo for export be a Canadian Lake Ontario port the toll is but 2 cents per ton, while the 20-cent rate is exacted on grain for the same destination from the American Lake Ontario ports. This is a new discrimination, appearing for the first time in the Canadian order of April 9, 1892, and imposes a differential treatment against American ports and American citizens not existing, or even contemplated as a probability, when the Lake Carriers' Association presented its memorial of September 18, 1891, to which the present note of the British chargé purports to reply. The Canadian argument is, therefore, silent as to this perhaps the most intentionally vexatious discrimination against the stipulated privilege of citizens of the United States to use the Canadian canals "on terms of equality with the inhabitants of the Dominion."

Fourth. A fourth discrimination as regards the system of tolls adopted in the Welland Canal was applied by a Dominion order of April 11, 1890, regulating the tolls on coal. By that order the toll on coal passing down the canal, eastward bound, was reduced from 20 cents to 10 cents per ton, but the full toll of 20 cents per ton was left on coal bound up the canal, westward. The memorial fully exhibits the discriminatory effect of this difference between eastward and westward rates, showing that the down-rate of 10 cents applied in 1890 to 23,781 tons of coal carried in Canadian vessels to Canadian ports, and to only 615 tons carried in an American vessel to an American port. Of the coal carried up the canal and compelled to pay a toll of 20 cents, 116,616 tons were carried between ports of the United States, 17,280 from a United States to a Canadian port, and 80 tons only between Canadian ports. This adroit manipulation of the tolls operates to tax the commerce of American citizens much more heavily than that of Canadians, and goes far to explain the statement "that of the total cargo tonnage of the Welland Canal during the year 1890, 57 per cent destined for American ports paid more than 72 per cent of the tolls; and 43 per cent destined for Canadian ports paid less than 28 per cent of the tolls."

This statement, supported as it is by Canadian official statistics, is dismissed by the Canadian reply as follows:

The Canadian Government can not attach any weight to the pretensions of Mr. Keep that there is inequality in the use of the canals between Canadians and Americans on the ground that the tolls for the use of the canals going westward "are 20 cents per ton, while those for the use of the canal going eastward are only 10 cents per ton. Except as regards the grain products already discussed, he does not assert that there is any difference in respect of the amount of these tolls between Canadian and American vessels going eastward or westward, respectively, nor that the destination of the cargoes eastward or westward in any way affects the tolls paid. Cana-
dian and American vessels pay the same toll for passing through the canal in the same direction, and are entirely unrestricted in respect of such tolls by their destination or by any other extraneous circumstances."

Here again, as throughout the note, the language of the treaty as to the equal treatment of the citizens of the two countries in their enjoyment of the facility of coastwise transit is lost sight of and a defensive argument is based on the circumstances that no differential toll is imposed on the vessels of either party.

Of the four classes of discrimination existing under the differential system of tolls and the differential regulations as to points of origin and transshipment, the Canadian reply deals with three, and with those only, by denying that any differential rules are applied to the disfavor of American vessels.

The Canadian reply disputes the accuracy of the figures given in the memorial of the Lake Carriers' Association respecting the levy of tolls to the aggregate amount of $53,395.67 in discrimination against the freight shipped by Canadian canals in 1891 to Ogdensburg. By confining the examination to the grain ships actually transshipped at Ogdensburg to Montreal after having come through the Welland Canal, which in 1891 amounted to 17,817 tons, the Canadian reply concludes that—

The rebate on this quantity, if allowed, would have been $3,207, and this sum constitutes the sole difference in tolls between the two routes, and the only amount in respect of which any discrimination could be claimed to exist.

There is no suggestion that the reduction of the Montreal-bound transshipments at Ogdensburg to the paltry figure of 17,817 tons may not have been the direct result of the discrimination complained of; and had the result of the order been altogether prohibitory and no transshipments of grain for Montreal been effected at Ogdensburg, it may be inferred that the Canadian government would have found therein evidence that no "difference" whatever exists "in tolls between the two routes."

Quitting the defensive argument in support of the contention that no discriminating treatment results from the system of tolls adopted in the Canadian canals, the reply of the Dominion goes on to propose a compromise agreement, as follows:

That, as regards the navigation of the Welland and St. Lawrence canals, the imposition of tolls, and the granting of rebate thereon, the same treatment will be accorded to citizens of the United States as is given to the subjects of Her Britannic Majesty without regard to ports of transshipment or export, and that the United States will continue to deal in like manner with the subjects of Her Britannic Majesty in the use of the existing Sault Ste. Marie Canal. That the provisions of article 30 of the Treaty of Washington, granting carrying powers to vessels belonging to subjects of Her Britannic Majesty, as described in that article, be restored.

The thirtieth article of the treaty of Washington reads as follows:

ARTICLE XXX. It is agreed that for the terms of years mentioned in Article XXXIII of this treaty, subjects of Her Britannic Majesty may carry in British vessels, without payment of duty, goods, wares, or merchandise, from one port or place within the territory of the United States upon the St. Lawrence, the Great Lakes, and the rivers connecting the same, to another port or place within the territory of the United States as aforesaid: Provided, That a portion of such transportation is made through the Dominion of Canada by land carriage and in bond, under such rules and regulations as may be agreed upon between the Government of Her Britannic Majesty and the Government of the United States.

Citizens of the United States may for the like period carry in United States vessels, without payment of duty, goods, wares, or merchandise, from one port or place within the possessions of Her Britannic Majesty in North America, to another port or place within the said possessions: Provided, That a portion of such transportation is made through the territory of the United States by land carriage and in bond,
under such rules and regulations as may be agreed upon between the Government of the United States and the Government of Her Britannic Majesty.

The Government of the United States further engages not to impose any export duties on goods, wares, or merchandise carried under this article through the territory of the United States; and Her Majesty's Government engages to urge the Parliament of the Dominion of Canada and the legislatures of the other colonies not to impose any export duties on goods, wares, or merchandise carried under this article; and the Government of the United States may, in case such export duties are imposed by the Dominion of Canada, suspend during the period that such duties are imposed the right of carrying granted under this article in favor of the subjects of Her Britannic Majesty.

The Government of the United States may suspend the right of carrying granted in favor of the subjects of Her Britannic Majesty under this article, in case the Dominion of Canada should at any time deprive the citizens of the United States of the use of the canals in the said Dominion on terms of equality with the inhabitants of the Dominion, as provided in Article XXVII.

With regard to the last clause of this article, giving to the United States the power to suspend the carrying rights of Canadians in the United States in the event of Canada's denying equal treatment to American citizens in the use of the Dominion canals, the Canadian reply quotes from the authorized protocol of the high commissioners—

That they desired and it was agreed that the transshipment arrangement should be made dependent upon the nonexistence of discriminating tolls or regulations of the Canadian canals and also upon the abolition of the New Brunswick export duty on American lumber intended for the United States. (For. Rcls., 1871, p. 514.)

And proceeds to argue that—

It is accordingly evident that from the language of the thirtieth article of the treaty, supplemented by the protocol of the conference on that article, the remedy which the United States reserved to themselves in the event of Canada depriving the citizens of the United States of the use of the canals on terms of equality with her own people, was provided for by that article and was long ago resorted to by the United States [through the termination of the article in question in July, 1885, by two years' notice given by the United States in 1883], thus exacting from Canada the penalty for discrimination in the use of the canals, although no inequality really existed. ** ** While, therefore, the Canadian government are unable to admit that any discrimination in the use of the Canadian canals is made against United States vessels by the terms of the order in council, they maintain that, even if the fact that transshipment is confined to a Canadian port could be construed as constituting such a discrimination, the penalty agreed upon between the United States and Great Britain, in such an event, has already been exacted by the United States.

Article XXX was one of several regulating the fishing privileges and certain phases of the intercourse of the United States and Canada which were incorporated into the treaty of Washington, and to which a duration was assigned of ten years certain and thereafter until two years' notice of their termination should be given by either party, as provided in the thirty-third article of the treaty, as follows:

**Article XXXIII.** The foregoing Articles XVIII to XXV inclusive, and Article XXX of this treaty shall take effect as soon as the laws required to carry them into operation shall have been passed by the Imperial Parliament of Great Britain, by the Parliament of Canada, and by the legislature of Prince Edward Island, on the one hand, and by the Congress of the United States on the other. Such assent having been given, the said articles shall remain in force for the period of ten years from the date at which they may come into operation; and further until the expiration of two years after either of the high contracting parties shall have given notice to the other of its wish to terminate the same, each of the high contracting parties being at liberty to give such notice to the other at the end of the said period of ten years or at any time afterward.

The language of the protocol of the conference, quoted in the Canadian reply, may be rightly taken as representing the judgment of the high commission that an engagement binding the United States to grant a privilege to Canada for a term of years was not equitably correlative with the reciprocal qualified privilege granted by Canada in
respect of the Dominion canals, which in terms was dependent upon the pleasure of Canada, and liable to be terminated at any time by adverse legislation or regulation. The meaning of the concluding proviso of Article XXX is clearly that in the event of the privileges of equal enjoyment of the Dominion canals by citizens of the United States being withdrawn or curtailed, the United States might retaliate by forthwith suspending the reciprocal transit privilege under Article XXX, even though the period fixed for the duration thereof should not have elapsed. Thus, had discriminating measures been adopted in respect to the Canadian canals at any time during the ten years' life of the article, or during the two years succeeding notice given of its termination, the United States could have at once suspended the transit privileges granted to Canadians within the territory of the United States.

This right of suspension was a mere incident of the peculiar relations of transit and intercourse created by Articles XXVII and XXX of the treaty of Washington, and is wholly different, both in intent and in effect, from the right of termination given in regard to those and sundry other articles by the thirty-third article of the treaty. The right of suspension could be exercised for cause by the United States alone, the case arising. The right of abrogation was common to both governments, to be exercised by either at its pleasure after a defined term should have elapsed, if in its judgment the continuance of the relations created by those articles should be found inexpedient. Like all engagements of intercourse and reciprocity, the articles in question were tentative, and their continuance, after a certain time, was to be dependent on their continuing to work in a manner satisfactory to each of the contracting parties. The United States, for considerations of domestic convenience, saw fit to exercise the right of abrogation at the earliest possible date permitting by the terms of the treaty. It is irrelevant to associate this exercise of an ordinary right of termination common to all treaties of commercial intercourse with the idea of a penalty for a shortcoming as yet nonexistent on the part of the other contracting party.

The Canadian argument appears to regard the authorized and normal termination of Article XXX as operating indefinitely and for all future time to exhaust the power of penalty and retaliation for any failure of Canada to fulfill the intended engagement of equality in the use of her canals. The mere statement of this proposition suffices to demonstrate its untenableness.

The proposition to secure, for Canadian citizens and products, some additional privilege of transit within the United States, as an offset or pretended equivalent for the enjoyment by Americans of the facilities of the Dominion canals on an identical footing of equality with Canadians, is not new. It was incidentally suggested in the conferences held on the 3rd and 4th of June, 1892, between the Secretary of State and the Canadian Commissioners, but was dismissed without consideration. It came up also in the same conference in the form of a proposal that the free navigation of the New York State canals and the Hudson River should be granted to Canadians in return for the removal of the discriminating canal tolls of the Dominion, and was again dismissed. It is now presented anew in its original form.

Regarded as a whole, the Canadian reply fails to meet the just complaints of the United States. It narrows the issue to the treatment of American and Canadian vessels in respect to tolls in the Welland and St. Lawrence canals, and to the denial of rebate to cargoes of grain stuffs actually transshipped in an American port for export from Mon-
treal, or a port east of that city. It ignores the adroitly devised system by which the traffic of the citizens of the United States is made to contribute a much larger percentage of tolls in the Welland Canal than the traffic of Canadians. And it is altogether silent touching the discrimination introduced into this season's Order in Council withholding the export rebate from cargoes coming from any port on the United States shore of Lake Ontario.

Respectfully submitted.

ALVEY A. ADEE.

Mr. Foster to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, June 30, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 24th instant, in regard to the discriminating tolls in the Welland and St. Lawrence canals, and to say that the subject is receiving the Department's consideration.

I have, etc.,

JOHN W. FOSTER.

Mr. Foster to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, July 2, 1892.

SIR: Referring to your note of the 24th ultimo, relative to the complaint of this Government as to the discrimination on the part of the Canadian Government against American citizens in the use of the Welland Canal, and to the Department's reply thereto, of the 30th ultimo, I have the honor to inform you that the papers relating to the subject have been laid before the President, and have been communicated by him to Congress for its consideration.

I have, etc.,

JOHN W. FOSTER.

Mr. Herbert to Mr. Foster.

BRITISH LEGATION,
Washington, July 4, 1892.

SIR: In the year 1884 the governments of the United States of America, France, Italy, Germany, Austria, Hungary, Russia, and subsequently Hawaii, were invited by Her Majesty's Government to join in concluding an international agreement with a view to prevent the supply of arms, ammunition, intoxicating liquors, and explosive substances to the natives of the Pacific islands.

A general assent was given to the proposal, but in some quarters a desire was expressed for more complete information as to the scope and form of the proposed agreement.
The trade in question is already prohibited to British subjects throughout the western Pacific, and is strictly regulated in the German Possessions in that region.

It has been prohibited under severe penalties in the French colony of New Caledonia, and is strictly regulated in the Navigator's Islands by the provisions of the final act of the Samoan Conference, to which Great Britain, Germany, and the United States are parties.

Nevertheless, Her Majesty's Government continue to receive frequent representations as to the prevalence of this demoralizing traffic; and it is evident that some more general action is required to put a stop to it entirely.

Encouraged by the favorable reception given to their former proposal, Her Majesty's Government have now prepared for the consideration of the Powers interested the draft of an International Declaration prohibiting the supply of the aforesaid articles to natives of the Pacific islands, and providing suitable penalties for any infringement of its provisions.

In accordance with instructions which I have received from the Marquis of Salisbury, I have the honor to inclose five copies of this Declaration, and at the same time to state that Her Majesty's Government hope that it will be given a favorable consideration by the United States Government.

I have, etc.,

Michael H. Herbert.

Draft International Declaration for the Protection of Natives in the Islands of the Pacific Ocean.

A declaration respecting arms, ammunition, explosive substances, and intoxicating liquor, and prohibiting the supply of these articles to natives of the Pacific islands.

1. In this declaration the following words and expressions shall have the meanings here assigned to them, that is to say:

"Subject of the contracting powers" includes a citizen of the French Republic or of the Republic of the United States of America.

"Pacific islands" means and includes any islands lying within the twentieth parallel of north latitude and the fortieth parallel of south latitude and the one-hundred and twentieth meridian of longitude west and the one-hundred and twentieth meridian of longitude east of Greenwich and not being in the possession or under the protection of any civilized power.

"Native" means any person who is or appears to be a native, not of European or American descent, of some island or place within the limits of this declaration.

"Arms" means every kind of firearm and any part or parts of firearms.

"Ammunition" means every kind of ammunition for firearms and any material for the preparation thereof.

"Explosive substances" means gunpowder, nitroglycerin, dynamite, gun cotton, blasting powder, and every other substance used or manufactured with a view to produce a practical effect by explosion.

"Intoxicating liquor" includes all spirituous compounds and all fermented liquors, and any mixture whereof is spirituous or which contains fermented liquors, and any mixture or preparation containing any drug capable of producing intoxication.

"Offense" means offense against this declaration.

2. Any subject of the contracting powers who shall give, sell, or otherwise supply, or shall aid or abet the giving, selling, or otherwise supplying to any native any arms, ammunition, explosive substance, or intoxicating liquor [Qy. except under special license from one of the contracting powers] shall be guilty of an offense against this declaration.

3. An offense against this declaration shall be punishable with imprisonment not exceeding three months, with or without hard labor, or a fine not exceeding £10, or both.

In addition to such punishment all articles of a similar nature to those in respect of which an offense has been committed found in the possession of the offender, may
be declared forfeited to the contracting power to whose nation the offender belongs.
4. A person charged with an offense may be apprehended by any commissioned officer of a ship of war of any of the contracting powers, and may be brought for trial before any of the persons hereinafter mentioned.
5. Every person so charged, if difficulty or delay is likely to arise in delivering him over for trial by the authorities of his own country in the Pacific islands, may be tried summarily, either before a magistrate or other judicial officer of any of the contracting powers having jurisdiction to try crimes or offenses in a summary manner, or before the commander of a ship of war of any of the contracting powers.

Any such commander may, if he think fit, associate with himself as assessors any one or more fit persons, being commissioned officers of a ship of war of one of the contracting powers, or other reputable persons, not being natives, who are subjects or citizens of one of the contracting powers, and, either with or without assessors, may hear and determine the case, and if satisfied of the guilt of the person charged, may sentence him to the punishment hereinbefore prescribed.

6. Sentences of imprisonment shall be carried into effect in a Government prison in Fiji or New Caledonia, or in any other place in the Pacific Ocean or in America or Australasia in which a government prison is maintained by one of the contracting powers.
7. All fines, forfeitures, and pecuniary penalties received in respect of this declaration shall be paid over by the person receiving the same to [Qy. H. B. M. high commissioner for the western Pacific] for the benefit of the contracting power from whose subject or citizen the same was received.
8. Each contracting power shall defray the cost of the imprisonment of any of its subjects or citizens, which cost shall be calculated upon the actual cost of maintaining the prisoner with an addition of [twenty] per cent as a contribution to the salaries and other expenses of the prison. A certificate under the hand of the governor of the colony, or other chief authority of the place where the prison is situated, shall be conclusive as to the amount to be paid.
An offender shall not be taken to any British colony in Australasia for imprisonment unless the government thereof shall have consented to receive such offenders.
9. It shall not be an offense against this declaration to supply without recompense or remuneration intoxicating liquor to any native upon any urgent necessity and solely for medicinal purposes, but if the person giving such liquor shall be charged with an offense against this declaration it shall rest upon the accused to prove that such urgent necessity existed, and that the liquor was given for medicinal purposes.
10. This declaration shall cease to apply to any of the Pacific islands which may hereafter become part of the dominions or come under the protection of any civilized power; nor shall it apply to the Navigator’s or Friendly islands, in both of which groups a government exists which has been recognized as such by more than one of the contracting powers in the negotiation of formal treaties; nor shall it be held to affect any powers conferred upon its own officers by any instrument issued by any of the contracting powers.
11. The contracting powers will severally take measures to procure such legislation as may be necessary to give full effect to this declaration.
12. The present declaration shall be put into force three months after the deposit of the ratifications, and shall remain in force for an indefinite period until the termination of a year from the day upon which it may have been denounced. Such denunciation shall only be effective as regards the country making it, the declaration remaining in full force and effect as regards the other contracting parties.
13. The present declaration shall be ratified, and the ratifications deposited at London as soon as possible.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Mr. Herbert to Mr. Foster.

British Legation,
Washington, July 5, 1892.

Sir: At the conference which was held in Washington in the month of February last between the Canadian delegates and Mr. Blaine and yourself, it was agreed, as you are aware, that the question of reciprocity in wrecking and towing in the waters conterminous to Canada and the United States should be dealt with by legislation on the part of the
Dominion and by instructions from the Treasury Department of the United States to give the act of Congress on this subject such a liberal construction as to include permission for all towing necessary and incidental to wrecking and salvage and the relaxation of customs laws necessary to make the reciprocal arrangement effective.

In accordance with this agreement, an act has been passed by the Parliament of Canada during its present session, and I have now the honor to inclose a certified copy of it for the information of your Government.

I have, etc.,

Michael H. Herbert.

By his excellency the right honorable Sir Frederick Arthur Stanley, Baron Stanley of Preston, in the county of Lancaster in the peerage of the United Kingdom, Knight Grand Cross of the most honorable Order of the Bath, Governor-General of Canada.

To all to whom these presents shall come, Greeting:

These are to certify that Edouard Joseph Langevin, esquire, whose name is subscribed to the annexed document, is the clerk of the parliaments of the Dominion of Canada, and that full faith and credence are due, and ought to be given, to such signature and act in all places.

Given under my hand and office seal at Ottawa, this eighteenth day of June, in the year of our Lord one thousand, eight hundred and ninety-two, and of Her Majesty's reign, the fifty-fifth.

By command.

L. A. Catelier,
Under Secretary of State.

Stanley of Preston.

Office of the Clerk of the Parliaments.

I, Edouard Joseph Langévín, clerk of the Parliaments, custodian of the original acts of the legislatures of the late Provinces of Upper and Lower Canada, of the late Province of Canada, and of the Parliament of Canada, certify the subjoined to be a true copy of the original act passed by the Parliament of Canada in the session thereof, held in the fifty-fifth year of Her Majesty's reign, and assented to in Her Majesty's name by the deputy of the Governor-General, on the tenth day of May, one thousand eight hundred and ninety-two, remaining of record in my office.

Given under my hand and seal at the city of Ottawa, Canada, on the eighteenth day of June, one thousand eight hundred and ninety-two.

[Seal.]

Edouard J. Langévín,
Clerk of the Parliaments.

An Act respecting aid by United States wreckers in Canadian waters. Assented to Tuesday, 10th May, 1892.

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. United States vessels and wrecking appliances may salve any property wrecked, and may render aid and assistance to any vessels wrecked, disabled, or in distress, in the waters of Canada contiguous to the United States.

2. Aid and assistance include all necessary towing incident thereto.

3. Nothing in the customs or coasting laws of Canada shall restrict the salving operations of such vessels or wrecking appliances.

4. This act shall come into force from and after a date to be named in a proclamation by the Governor-General, which proclamation may be issued when the Governor in council is advised that the privilege of salving any property wrecked and of aiding any vessels wrecked, disabled, or in distress, in United States waters contigu-
ous to Canada, will be extended to Canadian vessels and wrecking appliances to the extent to which such privilege is granted by this act to United States vessels and wrecking appliances.

5. This act shall cease to be in force from and after a date to be named in a proclamation to be issued by the Governor-General to the effect that the said reciprocal privilege has been withdrawn, revoked or rendered inoperative with respect to Canadian vessels or wrecking appliances in United States water contiguous to Canada.

Mr. Adee to Mr. Herbert.

DEPARTMENT OF STATE,

Washington, July 6, 1892.

DEAR MR. HERBERT: Your official note of yesterday has been received relative to reciprocal wrecking and salvage privileges in the waters contiguous to the United States and the Dominion of Canada. The act of Congress of May 24, 1890 (a copy of which I send you) provides that it "shall be construed to apply to the Welland Canal, the canal and improvements of the waters between Lake Erie and Lake Huron and to the waters of the St. Mary's river and canal."

Will you kindly inform me whether the Government of the Dominion construes its act of May 10, 1892, to cover the canals and waters in question so far as they lie within its territory? If it does I see no reason why the necessary proclamations can not be issued at an early date. It would seem to be desirable to provide that the President's proclamation and that of the Governor-General of Canada be issued simultaneously.

The President is to be away for a few days, but I think it would be possible to issue our proclamation sometime the latter part of next week.

Very sincerely, yours,

ALVEY A. ADEE.

[Public—No. 131.]

An ACT to amend an act entitled "An act to aid vessels wrecked or disabled in the waters contiguous to the United States and the Dominion of Canada," approved June nineteenth, eighteen hundred and seventy-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act to aid vessels wrecked or disabled in the waters contiguous to the United States and the Dominion of Canada," approved June nineteenth, eighteen hundred and seventy-eight, be, and the same is hereby, amended so that the same will read as follows:

"That Canadian vessels and wrecking appliances may render aid and assistance to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to the Dominion of Canada: Provided, That this act shall not take effect until proclamation by the President of the United States that the privilege of aiding American or other vessels and property wrecked, disabled, or in distress in Canadian waters contiguous to the United States has been extended by the Government of the Dominion of Canada to American vessels and wrecking appliances of all descriptions. This act shall be construed to apply to the Welland Canal, the canal and improvement of the waters between Lake Erie and Lake Huron, and to the waters of the St. Mary's River and canal: And provided further, That this act shall cease to be in force, from and after the date of the proclamation of the President of the United States to the effect that said reciprocal privilege has been withdrawn, revoked, or rendered inoperative by the said Government of the Dominion of Canada."

Approved, May 24, 1890.
FOREIGN RELATIONS.

Mr. Foster to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, July 9, 1892.

Sir: I have the honor to acknowledge the receipt of your note of the 5th instant, relative to common wrecking and salvage privileges in the waters conterminous to the United States and the Dominion of Canada. You inclose a certified copy of an act of the Parliament of Canada, assented to May 10, 1892, which is intended to be reciprocal to the act of Congress of May 24, 1890. The latter act, a copy of which is herewith inclosed, provides that it "shall be construed to apply to the Welland Canal, the canal and improvements of the waters between Lake Erie and Lake Huron, and the waters of St. Mary's River and canal." It is presumed that the Canadian act would be construed to have an equal application in so far as the canals and waters in question lie within the Dominion of Canada.

I trust you will be able to give me assurance that the Canadian act will be so construed.

The language of the act of Congress would prevent the issuance of a proclamation by the President before the Governor-General of Canada issues his proclamation, and I would suggest that the two might be issued simultaneously at such early date as may be agreed upon.

When the President's proclamation is issued putting the act of Congress into effect the Secretary of the Treasury will issue instructions that "the aid and assistance provided for in said act includes all necessary towing incident to said aid and assistance, and nothing in the coasting and custom laws restricts the salvage operations of such vessels and their appliances." This is the language of the memorandum which was submitted to the Canadian Commissioners at the conference of February 15, 1892, and is substantially the language of the second and third paragraphs of the Canadian act.

I have, etc.,

John W. Foster.

Mr. Herbert to Mr. Foster.

BRITISH LEGATION,
Newport, July 16, 1892. (Received July 18.)

Dear Mr. Foster: I have received a communication from Sir John Abbott, the prime minister of Canada, in which he informs me that he has learned with surprise and regret, on examination of Mr. Adee's memorandum on the subject of the Welland Canal tolls, which accompanied the President's message to Congress of the 1st instant, that an error occurred in the order in council which was issued in April last in regard to the said tolls.

It was not the intention of the Canadian Government to continue to shippers from Lake Ontario the privilege which was accorded them during the season of 1891 of availing themselves of the rebate on passing through the St. Lawrence canals to Montreal. But if it had been decided to do so United States citizens on the south side of Lake Ontario would have been allowed the same privilege.

Sir John Abbott states that when the draft order in council was being considered, a lengthy discussion took place as to other points con-
tained in it, which diverted attention from the provision as to Lake Ontario shipments, and when that discussion closed, the order in council was passed without noticing that the provision of the order in council of 1891 was continued.

When the Canadian government learned from Mr. Adee's memorandum of the error which had been committed, it was immediately decided to cancel that portion of the order which restricted to Canadian subjects the privilege of obtaining a rebate on the St. Lawrence canals on shipments from Lake Ontario, and to extend that privilege to United States citizens shipping freight from the United States side of the lake. As the simplest mode of dealing with the matter, a new order in council was framed on the 12th instant, copy of which I inclose for your information, amending the order in council of the 4th of April last, and making the amendments operative from that date.

Sir John Abbott points out at the same time that Mr. Adee is in error in stating that the clause as to shipments from Canadian Lake Ontario ports appears for the first time in the order in council of last April, as in reality it was contained in the order of April 29, 1891, of which I also inclose a copy.

In bringing this matter to your notice I am requested to convey to you the regrets of the Canadian government for the mistake which has so unfortunately been committed.

Believe me, etc.

MICHAEL H. HERBERT.

[Inclosure No. 1.]

Order in council.

AT THE GOVERNMENT HOUSE AT OTTAWA,

Wednesday, the 23rd day of April, 1891.

Present, his excellency the Governor-General, in council.

His excellency, under the authority conferred upon him by chapter 37 of the Revised Statutes entitled "An act respecting the department of railways and canals," and by and with the advice of the Queen's privy council for Canada, is pleased to order that the provisions of the order in council of the 25th day of March, 1891, authorizing the reduction of toll to 2 cents per ton for the passage through the Welland and St. Lawrence canals of certain agricultural products therein named, shall be, and be understood to apply to any portions of such cargoes lightered at Port Colborne and reshipped at Port Dalhousie, and also that the provisions of the said order be made applicable to the therein-named products when shipped from Canadian Lake Ontario ports.

JOHN J. McGEE,
Clerk of the Privy Council.

[Inclosure No. 2.]

Amended order in council.

AT THE GOVERNMENT HOUSE AT OTTAWA.

Present, his excellency the Governor-General, in council.

Whereas, by a clause of the order in council of the 4th of April, 1892, respecting the rebate to be allowed on certain food products traversing the Welland and St. Lawrence canals bound for Montreal or some port east of Montreal for exportation, it was provided that the right to such rebate should extend to shipments of the said products made "from any Canadian Lake Ontario port," this provision being taken from the order in council of the 29th April, 1891.

And whereas it was not intended that the restriction in favor of Canadian Lake Ontario ports should be continued;

His Excellency, under the provisions of chapter 37 of the Revised Statutes enti-
Mr. Foster to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, July 19, 1892.

DEAR MR. HERBERT: I had the pleasure to receive, this morning, your personal note of the 16th instant, announcing the revocation of the Canadian order excluding from the benefit of rebate tolls in the St. Lawrence canals cargoes originating in our Ontarian ports and destined for export from Montreal or a port further eastward. It shall be submitted to the President, with whom and with Congress the present consideration of the subject rests.

Your correction regarding the date of the regulation in question is entirely acceptable, but I do not see that the point is material. Whether originating in 1891 or revived in 1892, the discrimination is gratuitous and not applicable to any observed movement of trade in the channels it professed to discourage. Having been of no practical effect, its removal is likewise, of course, of no practical benefit.

Very truly yours,

JOHN W. FOSTER.

Mr. Herbert to Mr. Foster.

BRITISH LEGATION,
Newport, R. I., July 23, 1892.

SIR: I have the honor to inform you that I duly forwarded to the Governor-General of Canada copy of your note of the 9th instant in regard to common wreckage and salvage privileges in the waters conterminous to the Dominion of Canada and the United States, and at the same time calling his excellency's attention to your request for information as to the application of the Canadian wrecking act to the waters specially mentioned by the act of Congress of May 24, 1890, namely: The Welland Canal, the canal and improvement of the waters between Lake Erie and Lake Huron, and the waters of St. Mary's River and Canal.

I have received a telegram from his excellency in reply, in which he states that vessels or goods salvaged by United States vessels in Canadian waters may be taken through the canals mentioned above in the same way as ordinary vessels or merchandise, but the Canadian wrecking act does not authorize salvage operations by the United States vessels in these canals, as they are not waters contiguous to the United States but are bounded on both sides by Canadian territory.

I have, etc.,

MICHAEL H. HERBERT.
Mr. Herbert to Mr. Foster.

BRITISH LEGATION,
Newport, July 23, 1892.

DEAR MR. FOSTER: I very much regret the delay in my reply as to the construction of the Canadian wrecking act, which I send you to-day. I trust, in view of the fact that no wrecks are probable in the canals themselves, that Lord Stanley’s telegram, which is embodied in my note, will be found satisfactory.

Yours, very truly,

MICHAEL H. HERBERT.

Memorandum.

At an interview held at the Department of State on Monday, August 1, the Secretary of State informed Mr. Herbert, chargé of the British Legation, that, in view of the passage of the act of Congress relating to the Canadian canal tolls, the President would regard it as his duty to issue, without delay, a proclamation based upon that act, imposing tolls upon products passing through the Sault Ste. Marie Canal destined for Canadian ports, unless an assurance could be received from the Canadian Government, within a few days, that the discriminations now enforced in the Canadian canals against American ports and lines of transportation would be promptly discontinued.

Mr. Herbert answered that a few days’ delay would be necessary in order to reassemble the Canadian Cabinet, the majority of whom are now absent from the capital, and he inquired of the Secretary what time would be considered reasonable for this purpose.

The Secretary replied that he thought the cabinet might be conveniently called together and take action within a week or ten days, and that nothing would be done by the President in the matter within that time.

Mr. Herbert said he would communicate immediately with the Governor-General of Canada, by telegraph, and urge prompt action.

Mr. Foster to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, August 2, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 23d ultimo, in which, replying to my inquiry of the 9th of July, you inform me of the receipt of a telegram from the Governor-General of Canada stating that the Canadian wrecking act, assented to May 10 last, does not authorize salvage operations by the United States vessels in the Welland Canal.

The act of Congress approved May 24, 1890, extends wrecking and salvage privileges to Canadian vessels “in the waters of the United States contiguous to the Dominion of Canada,” provided like privileges are extended to American vessels “in Canadian waters contiguous to the United States.” The canals connected with the navigation
of the Great Lakes being wholly within the territory of one or the other country may not be "contiguous waters" in its strictest sense, but they are plainly incidental to waters that are contiguous and are important parts of the system of waterways constituting the boundary of the two countries, for which reciprocal wrecking and salvage privileges were intended to be provided.

The foregoing act of Congress, therefore, declared that it "shall be construed to apply to the Welland Canal, the canal and improvements of the waters between Lake Erie and Lake Huron, and the waters of the St. Marys River and Canal." But, whether this be a proper construction or is an enlargement of the act, it proceeds upon the same reciprocal basis, and only asks the same privileges in the Welland Canal which it gives in the St. Marys Falls and St. Clair Flats Canals. Whatever may be the practical importance of including these canals in the reciprocal arrangement, the President is as powerless under the act to omit them as he would be to omit one of the Great Lakes. It was this act in its entirety which the Canadian commissioners undertook to meet by reciprocal legislation or regulation on the part of the Government of Canada.

Although the President exceedingly regrets that the consummation of this arrangement, so desirable for both countries, should be in any wise retarded, he is unable to issue his proclamation putting the act of Congress in force until the Canadian Government, by construction of its present act or otherwise, can give him assurance that the wrecking and salvage privileges given by the Dominion of Canada shall apply "to the Welland Canal, the canal and improvements of the waters between Lake Erie and Lake Huron, and to the waters of the St. Mary's River and Canal," in so far as the canals and waters in question lie within the Dominion of Canada.

I have the honor to be, etc.,

JOHN W. FOSTER.

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Mr. Herbert to Mr. Foster.

BRITISH LEGATION,
Newport, R. I., August 6, 1892. (Received August 8.)

DEAR MR. FOSTER: I have just received a telegram from Sir John Abbott, the prime minister of the Dominion, in which he informs me that the canal toll question will receive the further consideration of the Canadian Government. The members of the cabinet are, however, scattered all over the country, Sir John himself having only returned two days ago from a fortnight's stay up the Restigouche; and, as so grave a question will necessitate a full meeting of the cabinet, he fears that it will be impossible to arrive at a final decision for a week or ten days longer.

While much regretting this delay, I venture to express the hope that no further action will be taken by the United States Government in the matter, until I shall have received the answer of the Canadian Government.

I am, etc.,

MICHAEL H. HERBERT.
Mr. Foster to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, August 10, 1892.

SIR: Information has reached me that the Canadian Pacific Railway is making contracts to transport Chinese persons from China and deliver them at designated points in the United States for fixed sums, the price named being, for instance, $140 from China to Chicago.

Such action on the part of the Canadian Pacific Railway, I need scarcely observe, makes it well nigh impossible to execute the Federal laws governing the entrance of Chinese persons into the United States; and even in the case of violations of those laws being detected, enormous expense is detailed in deporting the offenders. I am informed that there are at the present time at Detroit alone no less than fourteen Chinamen under detention, who were brought from the Pacific coast and attempted to be introduced into the United States in violation of existing law. It is credibly reported that there are many, probably more than one thousand, Chinamen now at Vancouver awaiting transportation into the United States by Canadian channels.

The policy of the Government of the United States to restrict the coming of Chinese laborers into this country has been made clearly known. The question raised by the difficulties of enforcing that policy throughout a long and unguarded inland frontier has been specifically presented in a kindly spirit to the Government of Her Majesty. Under date of October 22, 1890, Mr. Lincoln was instructed to bring to Lord Salisbury's attention a concurrent resolution of the Senate and House of Representatives inviting negotiation with the Government of Great Britain with a view to securing treaty stipulations for the prevention of the entry of Chinese laborers from the Dominion of Canada contrary to our laws. Mr. Lincoln communicated the proposition November 5, 1890, and his lordship deferred a reply until the views of the Canadian government should be ascertained. On February 11, 1891, Mr. Lincoln renewed the proposition and the Marquis of Salisbury stated that he would at once call the attention of the Canadian Government to it by cable. A response is yet awaited.

This incident serves to show alike the vital importance attached by this Government to the question and the indifference of the Dominion government to the subject.

The present aspects of the matter would seem, however, to overpass the bounds of mere indifference and to indicate the tolerance of a proceeding whose friendliness is open to grave question. When the policy of this country has been proclaimed and enforced by appropriate laws, it can not be deemed a friendly act should a great corporation, amenable in so many respects to the control of a neighboring government, employ its vast power and resources to thwart the purpose of this Government by becoming an organized machinery for the unlawful introduction of Chinese persons into the United States.

The question of preventing the influx of Chinese has heretofore attracted serious attention when the evil was comparatively slight and when the Chinese were often in fact contravening Canadian law or abusing Canadian hospitality in their efforts to gain admission to the United States from that quarter. I should deeply regret if their attempts should find sanction on the part of the Canadian authorities or effective aid from the Canadian Pacific Railway.
The importance of the subject constrains me to request an immediate investigation into the facts and a prompt response befitting the friendly intercourse of the two countries.
I have, etc.,

JOHN W. FOSTER.

Mr. Herbert to Mr. Foster.

BRITISH LEGATION,
Newport, August 10, 1892.

Sir: I have the honor to acknowledge the receipt of your note of the 10th instant, complaining of the action of the Canadian Pacific Railway in transporting Chinese persons to certain points in the United States, and to inform you at the same time that I have forwarded a copy of this communication to the Governor General of Canada.
I have, etc.,

MICHAEL H. HERBERT.

Mr. Herbert to Mr. Foster.

[Telegram.—Private.]

BRITISH LEGATION,
Newport, August 16, 1892. (Received August 16.)

I am privately informed that order in council was passed Saturday abolishing rebate at end of this season. Immediate change impossible, owing to contracts. Hope to make official communication in a day or two.

HERBERT.

Mr. Foster to Mr. Herbert.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 18, 1892.

When may I expect you here or note on canal tolls?

JOHN W. FOSTER.

Mr. Herbert to Mr. Foster.

[Telegram.]

BRITISH LEGATION,
Newport, August 18, 1892.

Your telegram of to-day; you will receive a letter to-morrow morning explaining delay. Have telegraphed to inquire what day I may expect communication.

HERBERT.
Mr. Herbert to Mr. Foster.

BRITISH LEGATION,
Newport, August 18, 1892.

DEAR MR. FOSTER: With reference to my private telegram of the 16th instant, I very much fear that I shall not receive the official communication from Canada in regard to the canal tolls until after your departure from Washington on Saturday.
The minute of council has to go through all sorts of formalities in the way of countersigning before it can be sent off, and Lord Stanly being in Quebec some extra delay has been caused.
Would you very kindly, in the event of the communication not reaching me by to-morrow (in which case I would wire you), have a telegram sent me here informing me what day you expect to return to Washington, or, if you prefer it, letting me know where you intend to go, and I might with your permission trespass on your well-earned seclusion.
Yours very truly,

MICHAEL H. HERBERT.

Mr. Herbert to Mr. Foster.

[Telegram].

BRITISH LEGATION,
Newport, R. I., August 19, 1892.

Could I see you to-morrow morning early at Department? Kindly reply on receipt of this in order to enable me to catch train.

HERBERT.

Mr. Foster to Mr. Herbert.

[Telegram].

DEPARTMENT OF STATE,
Washington, August 19, 1892.

You can see me any hour in the morning between 8 and 11.

JOHN W. FOSTER.

Mr. Foster to Mr. Herbert.

Telegram.

DEPARTMENT OF STATE,
Washington, August 19, 1892.

Note not received. Your telegram 16th stated decision of council was to abolish rebate at end of this season. This confirmed by United States consul-general at Ottawa and by Canadian press reports.
If Canadian discriminations are to continue during this season, compliance with recent act of Congress requires the President to establish tolls to run concurrently. Discussion as to future action can then proceed under parity of conditions.

JOHN W. FOSTER.
Mr. Herbert to Mr. Foster.

[Telegram.]

BRITISH LEGATION,
New York, August 20, 1892.

Much regret to say have missed connection, owing to hot box, and can not be in Washington till 2; if not inconvenient to you might I follow you to-morrow or next day?

HERBERT.

Mr. Herbert to Mr. Foster.

BRITISH LEGATION,
Washington, August 20, 1892. (Received August 22.)

SIR: I have the honor to inform you that after an interview on the 1st instant I telegraphed to the governor-general of Canada, in accordance with your request, that, in view of the passage of the Curtis act in regard to the canal tolls, the President would be obliged to take the action authorized by Congress without delay, but that before the proclamation was issued you were anxious to know whether there was a possibility of any reconsideration being given by the Canadian Government to the representations of the United States Government in regard to the Welland Canal tolls. I further informed his excellency that you had stated to me that, if you could receive an assurance within a reasonable time, say a week or ten days, that the question would be reconsidered, the proclamation would be withheld.

On the 6th instant I had the honor to give you the necessary assurance that a further consideration would be given to the question by the Canadian Government; but, as I have already explained to you verbally and by letter, their decision has been unavoidably delayed, owing to the absence of the Governor-General and the Canadian ministers from Ottawa, and I have only just received Lord Stanley’s reply.

The Canadian government have carefully considered my communication, and they desire to point out that the United States Government may be unaware that the tolls for the Welland and St. Lawrence canals are of a temporary nature only, and that it is not intended to reestablish them in their present form after the expiration of the season of 1892.

I have accordingly the honor to inform you that the features of the present tariff, giving preferential treatment to certain routes and ports and providing for transshipment at Canadian ports only, will not be readopted after the present season.

This undertaking, however, would not be binding on the Canadian government if the President of the United States should, in the meanwhile, proclaim and enforce the imposition of tolls on the Sault Ste. Marie Canal, as authorized by the recent act of Congress.

The Canadian government state that grave difficulties present themselves to an alteration of the tariff of tolls during the present season. Contracts and engagements have been entered into in various parts of this country and in Great Britain, based on the continuance of this tariff during the whole of the present season. The rights which have been established under these contracts and engagements can not be interfered with without great confusion and detriment and apparent breach of faith. They believe, therefore, that the United States Gov-
ernment will recognize the importance of the difficulties which stand in the way of an immediate repeal of the present tariff and that the assurance of its termination at the end of the present season will be regarded as satisfactory evidence of the desire of the government of the Dominion to remove any ground which has a tendency to disturb the friendly interchange of trade between the two countries.

I have, etc.,

MICHAEL H. HERBERT.

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Mr. Herbert to Mr. Foster.

BRITISH LEGATION,
Saturday, August 20, 1892.

MY DEAR MR. FOSTER: According to a telegram which I have just received from Canada I shall be able to make the communication in regard to the canal tolls on Monday.

Yours very truly,

MICHAEL H. HERBERT.

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Mr. Foster to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, August 21, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 20th instant, in relation to the question of canal tolls, which has heretofore been the occasion of correspondence and interviews between us.

Upon receiving your assurance of the 6th instant that a further consideration would be given to the question by the Canadian government and the result communicated so soon as certain causes of delay to which you referred should permit, I acquainted the President with the situation. Notwithstanding the mandatory character of the act of July 26, 1892, constraining the President to take action upon ascertaining the existence of the prescribed conditions in the Dominion unfavorable to or discriminatory against the citizens of the United States in their enjoyment of the Canadian canals on an equal footing with British subjects, the President was well disposed to withhold for a reasonable time the issuance of his proclamation, in the hope that the disappearance of those adverse conditions might indefinitely postpone such action on his part. The spirit of neighborly good will which prompted the President to this delay, for which the statute contained no precise warrant, is the more evident when the fact is considered that the season for which the Canadian provisions were prescribed was already far advanced and the movement of grain was at its height, so that each day's delay diminished the effectiveness of the remedy it was his desire to obtain from the sense of justice of the Dominion government.

On the 15th instant the consul-general of the United States communicated by telegraph the official announcement by the Canadian government that the provisions complained of would be retained until the end of the present season, when they were to cease. I remained, however, without any advices from you.
Being well aware of the circumstances to which you invite my attention, that the obnoxious tolls for the Welland and St. Lawrence canals were of a temporary nature, and, with the regulations for their application, did not in terms extend beyond the present season of canal navigation, it became evident to the President that no present effective relief was to be offered on the part of the Dominion, and that the full measure of the discrimination imposed by the Canadian order of 1892 was to be continued unabated during the full life of that order, and inasmuch as the act of Congress prescribed his duty in view of existing conditions and not of conditions which may or may not exist in future years, no recourse remained open to him but to give immediate effect to the statute by issuing his proclamation, which was done on the 20th instant.

Not until after the issuance of the proclamation, and not until one week after the official announcement at Ottawa of the decision reached by the Canadian authorities, did I receive your present note. The information which you now convey to me is that, "the features of the present tariff giving preferential treatment to certain routes and ports and providing for transshipment at Canadian ports only, will not be readopted after the present season," and you add:

This undertaking, however, would not be binding on the Canadian government if the President of the United States should in the meanwhile proclaim and enforce the imposition of tolls in the Sault Ste. Marie Canal, as authorized by the recent act of Congress.

I am at a loss to understand why the Canadian government should attach such a condition to its proposition. All that is contemplated by the President's proclamation is to establish in the American canal the same conditions as now exist and have existed in the Canadian canals for years past. Besides, I have already given you the assurance, which I now repeat, that the President's proclamation will remain in force no longer than the discriminations complained of are maintained by the Canadian government.

I may observe that the Canadian proposal embraces two points, the tariff of tolls in the Dominion canals, and the preferential treatment given to certain routes and ports and providing for transshipment at Canadian ports only. With regard to the first point, the declaration is made that it is not intended to reestablish such tolls "in their present form" after the expiration of the season of 1892, but what future form the tariff of tolls may take is left to conjecture and does not appear to be held subject to any reciprocal understanding. Such an understanding is only suggested with respect to the provisions governing preferential treatment and transshipment, which indeed form our main ground of complaint, and constitute the concrete conditions of disfavor to citizens of the United States, which the President was constrained to examine and act upon.

But this does not constitute our only ground of complaint. The substitution of a more equally balanced arrangement for the present device, whereby 57 per cent of the total American traffic passing through the Welland Canal pays 72 per cent of the tolls, could not fail to give the President unmixed satisfaction.

I lament "that grave difficulties present themselves to an alteration of the tariff of tolls during the present season," but I beg to remind you that the Government of the United States is not responsible in any degree for these difficulties, and its citizens should not be required to suffer on that account. For several years past the attention of the Canadian government has been called to its violation of article 27 of the treaty.
of 1871, and earnest remonstrances on the subject have been addressed to the British legation by my predecessors. In 1888, Mr. Bayard brought the matter to the attention of the Canadian government, but received no response from it. In May, 1891, the United States consul-general addressed the Ottawa government without eliciting any information. Again, in 1891, your legation was addressed upon the subject, without avail, as no reply was made by the Canadian government. And even when the commissioners of that government, embracing three of the members of its cabinet, visited this city and were confronted by Secretary Blaine with the repetition of the complaint of a violation of the treaty of 1871, this personal remonstrance was without effect, as, within a short time thereafter, the objectionable "order in council" of former years was reissued. In view of these repeated remonstrances and protests, if "contracts and engagements have been entered upon * * * which can not be interfered with without great confusion and detriment, and apparent breach of faith," as you inform me, I submit that such a consideration should not be addressed to the Government of the United States, nor should its people be expected to pay the penalty for such contracts. If the Canadian government has seen fit, in the face of the earnest remonstrances of the United States, to pursue the unneighborly course indicated, it should find some way to satisfy the claims of unfulfilled contracts and breach of faith, if any such are well founded, without an appeal to the forbearance of the United States.

Immediately after the conclusion of the treaty of 1871, whose beneficent effects in promoting peace between the two nations have been so conspicuous, the United States took steps to carry out the stipulation of article 27, and without unreasonable delay both the canals of the National and State governments, representing a vast system constructed at very great expense, were thrown open to the use of Canadian commerce without any charge whatever. On the other hand, heavy tolls have continued to be exacted on American commerce passing through the Welland and St. Lawrence canals, and although the absence of reciprocity of treatment was marked, it could not be made a cause of complaint under the treaty so long as the tolls were uniformly exacted from all commerce.

Not until the discrimination against American ports and lines of transportation became so oppressive as to call forth earnest protests from the carriers' associations and boards of trade of the cities of Milwaukee, Chicago, Detroit, Cleveland, Buffalo, Oswego, Ogdenburg, and other lake ports, did the Government of the United States take action. And not until its repeated protests had passed unheeded by the Canadian government was the Congress of the United States appealed to by the President. The unanimity with which Congress clothed the President with power to correct the unjust discrimination must have convinced the Canadian authorities that the complaints of the Government of the United States were regarded by the people of this country as serious and well founded.

In the interview which I had the honor to hold with you on the 1st instant I assured you of the earnest desire of the President to avoid any resort to the powers conferred upon him by the act of Congress, and I exhorted you to exercise your best influence with the Canadian cabinet to bring about a faithful observance of the treaty of 1871 and thus remove the cause of irritation between the two neighboring countries. And when it became known that such desired action was postponed till another season, and the President was thereby constrained to put
the law into operation, his spirit of conciliation led him to exercise the
minimum powers conferred upon him by Congress, and merely to estab-
lish in one of the canals of the United States the same tolls as are en-
forced in the canals of Canada, and he has coupled with this lenient
action the assurances that the tolls in this one canal will be suspen
ded concurrently with the removal of the unjust discriminations main
tained by Canada.

I have taken pains to set forth at some length the causes which have
compelled the recent action of the President, in order that the Cana-
dian government and people may know that there is every disposition
on the part of the government of the United States to maintain and
extend the most intimate and friendly commercial relations with our
Northern neighbors, bound to us by so many ties of race and commu-
nity of interest, and I yet cherish the hope, which I have already
verbally expressed to you, that before the President’s proclamation goes
into effect the Canadian government will take such action in the direction
of treaty observance as will make the enforcement of that proclama-
tion unnecessary. I am happy to reciprocate, in the name of the Presi-
dent, the desire expressed in your note “to remove any ground which
has a tendency to disturb the friendly interchange of trade between
the two countries,” but I beg to suggest that a persistent violation
of treaty stipulations which were framed with an express view to the
promotion of “friendly interchange of trade between the two countries”
does not tend to that result. Until the Canadian government is pre-
pared to resume its obligations under the treaty there can be found no
safe basis of friendly commercial intercourse.

I have, etc.,

JOHN W. FOSTER.

Mr. Herbert to Mr. Adee.

BRITISH LEGATION,
Newport, R. I., August 26, 1892. (Received August 29.)

My DEAR Mr. ADEE: In accordance with the verbal request which
you made to me some time ago, I wrote to Canada for the information
you required as to the rights of American tugs in the Welland Canal,
and I have now received a communication from Mr. Mackenzie Bowell
on the subject, from which it appears that American tugs can tow
American barges through Canadian canals, but are not allowed to do
wrecking in a Canadian canal, and the pulling of a tug “off,” if
grounded, would, in Mr. Mr. Bowell’s opinion, be wrecking.

I enclose a copy of the customs orders in council for your infor-
mation, and you will find that Nos. 19, 20, and 21 fully embrace the
subject.

I am now going to ask you in return for some information in regard
to the traffic passing through the Sault Ste. Marie Canal, if you could
kindly obtain it for me.

The points I desire information on are:
The quantity of grain and other freight passed through the canal
for the season of 1891, month by month.
A. (1) East and west bound—from Canadian to Canadian ports.
(2) From Canadian to United States ports.
(3) From United States to Canadian ports.
B. The quantity passed through during that season in United States vessels from United States to Canadian ports and from Canadian ports to United States ports.

I should be very gratified if you could obtain these statistics for me.

Yours, etc.,

MICHAEL H. HERBERT.

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Mr. Adee to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, August 29, 1892.

MY DEAR MR. HERBERT: I am greatly obliged to you for your informal note of the 26th instant, in relation to the rights of American tugs in the Welland Canal; and I have sent to Mr. Foster, who has gone on leave, a copy as explaining the views of Mr. Mackenzie Bowell on the subject.

I am afraid that his contention that the pulling off by a tug of one of her own grounded boats is "wrecking" will not tend to remove the difficulty we have found in the way of issuing the President’s proclamation.

I will endeavor to procure for you, as soon as possible, the information you desire in regard to the traffic passing through the Sault Ste. Marie Canal.

Very faithfully yours,

ALVERY A. ADEE.

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Mr. Herbert to Mr. Foster.

BRITISH LEGATION,
Newport, R. I., September 1, 1892.

SIR: With reference to my note of the 25th July last, in regard to the construction to be given to the Canadian wrecking act of May 10th, 1892, I have the honor, in accordance with a request which I have received from the Governor General of Canada, to transmit a copy of an order in council, embodying the views of the Canadian minister of justice upon the subject in question.

I have, etc.,

MICHAEL H. HERBERT.

Certified copy of a report of a committee of the honorable privy council, approved by his excellency the governor-general in council on the 16th August, 1892.

The committee of the privy council have had under consideration a dispatch herewith annexed, dated the 6th July, 1892, from the Hon. Michael Herbert, Her Majesty’s charge d’affaires, British legation at Washington, inclosing an unofficial note from the Assistant Secretary of State of the United States, in which he inquired whether your excellency’s government construes the act passed on the 10th day of May, 1892, entitled “An act respecting aid by United States wreckers in Canadian waters,” to apply to the Welland Canal, the canal improvements of the waters between Lake Erie and Lake Huron, and to the waters of the St. Mary's River and canal.

The minister of justice, to whom the matter was referred, states that annexed to the dispatch in question is a copy of the reciprocal act passed by the Congress of the United States and approved by the President. That act gives the same privileges to Canadian vessels in American waters as the Canadian act gives to United
States vessels in Canadian waters, but it provides that "it shall be construed to apply to the Welland Canal, the canal improvements of the waters between Lake Erie and Lake Huron, and to the waters of St. Mary's River and canal."

The minister of justice thinks that the object and intent of this provision are not clear. The words "wrecked, disabled, or in distress" (in their ordinary sense) are not applicable to vessels in canals, and in his view, the waters in the canals mentioned can in no way be deemed "waters of Canada contiguous to the United States," though possibly the approaches to these canals and the waters between lakes Erie and Huron, as well as the waters of St. Mary's River may come within that description.

That if the object be to secure to the United States wrecking vessels the privileges of towing salvaged ships or wreckage, or of carrying salvaged merchandise through the canals in question, the minister understands that such privilege would be allowed as to other United States vessels and merchandise, and that citizens of the United States have equal facilities with Her Majesty's subjects in this regard.

The committee, on the recommendation of the minister of justice, advise that in the event of your excellency being informed that the proclamation referred to in the act of Congress will be issued on any day named, a like proclamation under the Canadian act be issued in order that the privilege granted to Canadian and United States wrecking vessels respectively may take effect on the same day.

The committee further advise that your excellency be moved to forward a copy of this minute to Her Majesty's minister at Washington.

JOSEPH POPE,
Assistant Clerk of the Privy Council.

Mr. Herbert of Lord Stanley of Preston.

BRITISH LEGATION,
Washington, July 6, 1892.

MY LORD: With reference to my telegram of to-day, I have the honor to inclose herewith copy of an unofficial note which I have received from the Assistant Secretary of State, in which he inquires whether the Government of the Dominion construe the act of May 10, 1892, to apply to the Welland Canal, the canal and improvements of the waters, between Lake Erie and Lake Huron, and to the waters of the St. Mary's River and canal.

Mr. Adee asked me to-day to telegraph to your excellency for a reply, as he is anxious to conclude the arrangement as soon as possible.

Your excellency will observe that Mr. Adee suggests in his note that your excellency's proclamation and that of the President should be issued simultaneously.

I have, etc.,

MICHAEL H. HERBERT.

Mr. Adee to Mr. Herbert.

[Unofficial.]

DEPARTMENT OF STATE,
Washington, September 2, 1892.

MY DEAR MR. HERBERT: In further response to your unofficial note of the 26th ultimo, I regret that I am unable to procure the detailed information you desire in regard to the traffic passing through the Sault Ste. Marie Canal, as I am informed by the Treasury Bureau of Statistics that the data prepared and furnished to that office are not capable of being classified under the headings you indicate, month by month.

The inclosed proof sheets from a report now in the hands of the printer, and probably to be issued in about a fortnight, contains all the information the Bureau of Statistics can now give me concerning the traffic in question.

Very sincerely yours,

ALVEY A. ADEE.
Mr. Foster to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, September 6, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 1st instant in regard to the construction to be given to the Canadian wrecking act of May 10, 1892, and transmitting a copy of an order-in-council, embodying the views of the Canadian minister of justice upon the subject.

As I have previously said, in correspondence and in oral conference with you, the act of the United States in the same regard is precise and mandatory in prescribing the President's power to issue his proclamation; and he is unable to so until he shall be advised that the intended reciprocal privileges of wrecking shall be construed to apply, on the British side, to the Welland Canal as fully as it is to be construed on the part of the United States to cover the connecting waterways within our territory.

The President is not prepared to admit the conclusions of your note, that the words "wrecked, disabled, or in distress" (in their ordinary sense) are not applicable to vessels in canals or narrow waterways. The phrase must evidently be construed with reference to the ordinary navigation of such channels, and any of the lesser casualties to which tugs and their tows or self-propelled vessels, are liable in such waters, such as an accident to the engine or steering gear, the breaking of the tow line, the grounding of a tug or its tow in shallow waters, and the like, constitute a practical case of disability or distress within the purview of the intended reciprocity. Past experience has shown that in such contingencies, any assistance rendered by an American vessel, however legitimate, even to the case of a tug picking up or pulling off its own tow, is treated by the Canadian authorities as "wrecking," and punished accordingly, when performed in Canadian waters.

I have the honor, etc.,

JOHN W. FOSTER.

Mr. Herbert to Mr. Foster.

BRITISH LEGATION,
Newport, September 7, 1892.

SIR: I have the honor to inform you that I have forwarded to the governor-general of Canada a copy of your note of the 2d August, in which you point out that the President of the United States is powerless to issue his proclamation putting the act of Congress in regard to wrecking and salvage privileges in the inland waters contiguous to Canada and the United States into force until the Canadian Government, by construction of their recent act on the same subject, or otherwise, can give him the assurance that the wrecking and salvage privileges granted by the Dominion shall apply to the waters specially mentioned by act of Congress, so far as they lie within the Dominion of Canada.

I have now received a communication from his excellency in reply, forwarding copy of an approved minute of council on the subject, from which it appears that the Canadian Government are unable to give the necessary assurance until they are empowered to do so by act of Parliament.

I have, etc.,

MICHAEL H. HERBERT.
FOREIGN RELATIONS.

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the Governor-General in council on the 27th August, 1892.

The committee of the privy council have had under consideration certain dispatches dated 13th July, 1892, and 4th August, 1892, from Her Majesty's charge d'affaires at Washington with regard to the proclamation of the act of last session (55-56 Vic. cap.), respecting aid by the United States wreckers in the waters of Canada contiguous to the United States, such dispatches being accompanied with copies of communications addressed to the Secretary of State for the United States bearing upon the subject, and urging the simultaneous issue of proclamations bringing into force on the one hand, the act of Congress approved on the 24th of May, 1890, of similar purport, and on the other hand the act of the Canadian parliament above mentioned.

The minister of railways and canals, to whom the said dispatches were referred, reports that the act of Congress of the 24th of May, 1890, amending a previous act of the 19th of June, 1878, contained the additional proviso that it was "to be construed to apply to the Welland Canal, the canal and improvements of the waters between Lake Erie and Lake Huron, and to the waters of St. Mary's River and Canal."

The Secretary of State for the United States, in the 9th July last, expressed to Her Majesty's charge d'affaires at Washington the desire to receive an assurance that the construction so laid down will be accepted in the construction of the Canadian act.

In reply, the Secretary of State for the United States appears to have been informed by your excellency, through Her Majesty's charge d'affaires at Washington, that the Canadian act does not authorize salvage operations of United States vessels in the Welland Canal.

A subsequent letter from the Secretary of State for the United States dated 2nd August, instant, was addressed to Her Majesty's charge d'affaires at Washington, in which the Secretary of State observes, in effect, that the President is powerless under the act to omit the canal waters, and that he is unable, therefore, to issue his proclamation of the act until the provisos in question are accepted. The Secretary of State suggests that though the canal waters may not be contiguous they are "incidental to waters that are contiguous."

The minister of railways and canals also reports that the Canadian act provides for the exercise of wrecking privileges in waters of Canada "contiguous" to the United States, the Welland Canal, unlike the Sault Ste. Marie, lies far inland, and can not by any construction of the said act, come within the meaning of waters contiguous.

The minister, therefore, recommends that the Government of the United States be informed, through the proper channel, that until the government of Canada is empowered by act of Parliament, it is unable to grant the assurance desired.

The committee concurring in the foregoing recommendation of the minister of railways and canals, advise that your excellency be moved to transmit a copy of this minute, if approved, to Her Majesty's charge d'affaires at Washington.

JOSEPH POPE,
Assistant Clerk of the Privy Council.

Mr. Adee to Mr. Herbert.

DEPARTMENT OF STATE,
 Washington, September 12, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant, in further relation to the reciprocal proclamations sought to be issued under the respective acts of the Congress of the United States and the Parliament of the Dominion of Canada, in relation to wrecking and salvage privileges in the inland waters contiguous to Canada and the United States.

I learn with much regret that the Canadian government are unable to give assurance that the wrecking and salvage privileges granted by the Dominion shall apply to the waters specially mentioned by the act of Congress, so far as they lie within the Dominion of Canada, until they are empowered to do so by act of Parliament.
In the interest of the humane purposes intended to be subserved by the respective acts of legislature, I trust that a speedy and satisfactory understanding may be within reach.

I have, etc.,

ALVEY A. ADEE.

Mr. Herbert to Mr. Foster.

BRITISH LEGATION,

Washington, September 29, 1892. (Received September 30.)

SIR: I have the honor to inform you that I forwarded copy of your note of the 10th ultimo relative to the complaint of the United States Government against the alleged action of the Canadian Pacific Railway Company in transporting Chinese persons from China into the United States, to the Governor-General of Canada, and I have now received a communication from his excellency in reply transmitting a copy of an approved minute of council on the subject, a copy of which I have the honor to inclose herewith.

You will observe from the letter from the president of the Canadian Pacific Railway Company which accompanies the minute of council that he absolutely denies the allegations preferred in your note and promises to furnish documentary evidence to refute them.

As regards the observations contained in your above-mentioned note upon the indifference and want of friendliness displayed in the matter by the Canadian government, I am desired by the Governor-General of Canada to inform you that while disposed to the utmost friendliness towards the Government of the United States, the government of the Dominion does not charge itself with the duty of enforcing measures of restriction adopted by a foreign government with regard to access to its territories by persons of other nationalities.

I have, etc.,

MICHAEL H. HERBERT.

[Inclosure No. 1.]

Report of the privy council.

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the Governor-General in council on the 16th September, 1892.

The committee of the privy council have had under consideration a dispatch dated 10th August, 1892, from the British chargé d'affaires at Washington, inclosing copy of a note received from the United States Government, complaining of the action of the Canadian Pacific Railway Company in transporting Chinese persons from China into the United States, and requesting an immediate investigation into the matter with a view to putting a stop to the practice.

The minister of railways and canals, to whom the question was referred, reports that he has caused communication to be had with the company, requesting them to furnish explanations, and that he has received from the president, Mr. Van Horne, a letter in refutation of the charge conveyed by the complainant.

This letter they propose to supplement by statutory declarations in support of the denial so given.

Annexed is the letter received from the president.

The minister observes that the question is one which only indirectly concerns the department of railways and canals, and its general bearing is not at the moment under discussion.
The minister, however, desires to express the opinion, in view of the declaration made by the Canadian Pacific Railway Company, that the allegations and suggestions of the present note of the honorable the Secretary of State of the United States are not borne out by the facts, and that if his information as to the numbers of Chinese who find access to the United States through Canada, and of those who are awaiting transport thither at Vancouver, is correct, which seems doubtful, these people are not being aided and abetted by the Canadian Pacific Railway Company to evade the laws of the United States.

The minister further observes that he is of the opinion that no foundation exists for the assertion of the Secretary of State of the United States that the government of Canada has been in this matter either indifferent to the wishes of the Government of the United States or tolerant of proceedings which would imply want of friendliness towards that power.

The minister in making the inquiry before mentioned, and in communicating its results for the information of the Government of the United States, thinks it well that the Government should, at the same time, receive an intimation that, although disposed to the utmost friendliness, the government of Canada does not charge itself with the duty of enforcing the measures of restriction which the government of any other country may see fit to adopt with regard to access to their territory by persons of other nationalities.

The committee concurring in the above, advise that your excellency be moved to forward a copy hereof, if approved, to Her Majesty's chargé d'affaires at Washington.

All of which is respectfully submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk of the Privy Council.

[Inclosure No. 2.]

Mr. Van Horne to Mr. Haggart.

THE CANADIAN PACIFIC RAILWAY COMPANY,
Montreal, August 23, 1892. (Received September 30.)

DEAR MR. HAGGART: I have your note of yesterday, inclosing a copy of a communication from the Secretary of State at Washington on the subject of our action in the matter of the transportation of the Chinese.

It is evident that somebody has been making outrageous misrepresentations at Washington on the subject. There is no congregation of Chinese at Vancouver, or anywhere about our Pacific terminus, waiting to get into the United States, nor has there been at any time; nor have we sold tickets to any Chinese who lacked the proper certificates to secure their return to the United States.

I am just leaving for England, but have requested Mr. Shaughnessy to take this matter in hand and to furnish you with such statutory declarations as may be necessary to set the question at rest and to enable you to make an absolute and comprehensive denial of the whole charge.

Yours, etc.,

W. C. VAN HORNE.

Hon. John Haggart,
Ottawa.

Mr. Herbert to Mr. Foster.

BRITISH LEGATION,
Washington, October 2, 1892. (Received October 4.)

SIR: In further reference to my note of the 29th ultimo respecting the complaint of the United States Government against the Canadian Pacific Railway Company in transporting Chinese into the United States, I have the honor, in accordance with a request which I have received from the Governor-General of Canada, to transmit copy of an approved minute of council on the subject, to which are appended two communications from Mr. Shaughnessy, the vice-president of the railway company, dealing with the charges contained in your note of the 10th August last.
GREAT BRITAIN.

You will observe from these letters that Mr. Shaughnessy denies in emphatic terms that the Canadian Pacific Railway has in any way connived at the illegal entrance of Chinese immigrants into the United States, and that he points out that in every case in which Chinamen are carried over the company's route the greatest precaution is taken to prevent the unlawful introduction of Chinese persons into that country.

I have, etc.,

MICHAEL H. HERBERT.

Certified copy of a report of a committee of the honorable the Privy Council, approved by His Excellency the Governor-General in Council, on the 26th September, 1892.

On a memorandum, dated September 24, 1892, from the ministers of railways and canals, submitting, by way of supplement to his report of the 4th September, instant, respecting the admittance of Chinese to the United States over the line of the Canadian Pacific Railway, copies of letters dated 13th and 20th September, instant, received from Mr. Shaughnessy, the vice-president of the road, bearing on the subject.

The committee advise that your excellency be moved to forward copies hereof to Her Majesty's charge d'affaires at Washington.

All of which is respectfully submitted.

JOHN Mcabee, Clerk of the Privy Council.

Mr. Shaughnessy to Mr. Haggart.

Hon. John Haggart,
Minister of Railways and Canals, Ottawa:

Dear Mr. Haggart: Herewith please find copy of letter which I wrote the premier some days ago upon the subject of the alleged violations of the United States law in connection with Chinese passengers.

Since the receipt of your private letter I have had our general passenger agent at Detroit conducting a thorough investigation, and a complete statement, with affidavits, is now in course of preparation. I hope to send it to you on Friday. I could send part of the documents before that time, but probably it would be as well not, until I can put you in possession of all the facts.

Yours, very truly,

T. G. Shaughnessy, Vice-President.

Mr. Shaughnessy to Sir John C. Abbott.

Sir John Caldwell Abbott, K. C. M. G.,
Premier, Ottawa:

My dear sir: Referring again to the subject of our Chinese passenger business: We have been carrying four classes of Chinese passengers.

(1) Poll-tax passengers, of whom we are able to bring 118 each trip, or 1 per each 50 tons registered tonnage, who upon arrival at Victoria or Vancouver pay the Canadian government tax of $50 per head.

(2) Chinese passengers with Canadian certificates, being those who, after having paid the poll tax and resided in this country for a given time, visited China, and before leaving secured from the duly authorized Canadian officer certificates authorizing their return without the payment of poll tax.

(3) Chinese passengers destined to points in the United States and provided with proper certificates authorizing their return to that country.

(4) Chinese passengers for Cuba or West Indies passing through the United

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States or Canada, in bond, who are in charge and under the supervision of the customs authorities of the respective countries from the time they land in the country until they reembark at New York, Quebec, or Halifax.

The Canadian customs authorities have been most precise in their interpretation of the statute relating to poll-tax passengers. We have been held strictly to the limit of 118 per voyage. If at any time we brought a single Chinaman in excess of that number we were compelled to take him back.

During the past three months there was some difficulty about Chinamen holding Canadian "return certificates." The Department alleged that in a number of cases the certificates were forged. We had no means of detecting any such forgeries, and were therefore held harmless, but during the last session of Parliament the act was so amended as to prevent a recurrence.

We bring very few Chinamen desired to points in the United States, and none who are not provided with proper return certificates. The United States customs officer at the port of entry is in each case notified a sufficient time in advance to enable him to examine the certificates and their holders and determine the authenticity of the certificates before the passengers arrive at the frontier. In view of the company's responsibility, our agents exercise every possible precaution to prevent the sale of tickets to persons who have not the right to enter the United States.

Indeed, because so many people are interested in misrepresenting this company's actions in connection with international traffic, it has been our effort not only in this matter of Chinese passengers, but in all others relating to traffic to or from the United States, to so strictly observe every regulation as to earn the confidence of the United States authorities. I feel quite sure that every United States customs official who has had to do with our affairs will bear testimony to this fact.

The few Cuban, or West Indian, passengers who are taken through the country in bond are strictly watched by the customs authorities, and the transportation company is not relieved from responsibility until they have reembarked.

The suspicion which I understand is entertained in some quarters that this company is inclined to wink at the smuggling of Chinamen into the United States across the Canadian frontier is absolutely without foundation. It is possible that some of the Chinese passengers by this company's steamships, who were landed at Vancouver or Victoria, in strict accordance with existing laws, did subsequently improperly enter the territory of the United States, but, if so, it was absolutely without the connivance or the knowledge of any officer or employee of this company. This statement can be verified by an investigation on the part of the United States authorities at any time.

The Canadian Pacific company has no advantage over other lines in the matter of Chinese traffic. On the contrary, under existing Canadian laws, this company's steamships are restricted to the number of poll-tax passengers represented by their tonnage, while there are no regulations limiting the number of Chinamen who can come into the country by rail, and, as a consequence, it is possible for any vessels sailing to Puget Sound ports to land an unlimited number of Chinamen and send them by rail to Canada, where, upon payment of the ordinary poll tax, they will be received without question. This has been a recognized defect in the law, which it is hoped your Government will soon remedy.

Yours, very truly,

T. G. Shaughnessy,
Vice-President,

Mr. Shaughnessy to Mr. Haggart.

THE CANADIAN PACIFIC RAILWAY COMPANY,
Montreal, September 20, 1899.

Hon. John Haggart,
Minister of Railways and Canals, Ottawa:

My Dear Sir: Referring to the complaint made by the United States to the Dominion government concerning the relation of the Canadian Pacific Railway Company to the Chinese passenger traffic, you quote the following extracts from the complaint as formulated by the Hon. John W. Foster, Secretary of State of the United States, and asked of this corporation such explanation as it may be able to make:

"(1) Information has reached me that the Canadian Pacific Railway Company is making contracts to transport Chinese persons from China and deliver them at designated points in the United States for fixed sums; the price named being for instance, $1,100 from China to Chicago."  

"(2) When the policy of this country has been proclaimed and enforced by appropriate laws, it can not be deemed a friendly act should a great corporation, amenable
in so many respects to the control of a neighboring Government, employ its vast power and resources to thwart the purpose of the Government by becoming an organized machinery for the unlawful introduction of Chinese persons into the United States?

We deny most emphatically that we are making, or have made, contracts to carry Chinese, or have carried Chinese to any point in the United States who do not hold what we consider proper certificates which will enable them to return to the United States, which certificates in every instance are afterwards submitted to the United States customs authorities. Since our steamships were placed in service we have carried 30 Chinese to Chicago at rates in the neighborhood of $100 to $110, Mexican.

A grave misapprehension seems to prevail in the United States concerning the relations to the Dominion government of this corporation and its policy and spirit toward the laws and regulations by which its interests are affected.

In view of the language of the second extract from the complaint as quoted above, this company respectfully urges upon the Dominion government that it convey to the United States the assurance that the Canadian Pacific Railway Company is in no sense or respect, any more, or in any different manner, amenable to the control of the Dominion government than is any other corporation organized like this company for purely commercial purposes under the laws of Canada; and the further assurance that the relations of this company to competing transportation lines and to the business interests generally of the United States are purely commercial, in which it represents itself alone and in no degree represents any political or fiscal policy of the Dominion government as such. The statement that this company is an organized machine for the unlawful introduction of Chinese persons into the United States has no foundation in fact. It is possible that Chinese passengers landed at Victoria or Vancouver, in strict accordance with existing laws, have subsequently improperly entered the territory of the United States, but if so it has been absolutely without the connivance or knowledge of this company.

We cordially invite the fullest and most exhaustive investigation of this subject by the United States authorities, to whom we would tender all the cooperation in our power, and if any employed of this company shall be detected in aiding or abetting in the violation of any United States law or regulation governing Chinese immigration he shall be summarily dismissed from our service.

Indeed, because so many people are interested in misrepresenting this company's actions in connection with international traffic, it has been our effort, not only in this matter of Chinese passengers, but in all others relating to traffic to or from the United States, to so strictly observe every regulation as to earn the confidence of the United States authorities. We feel quite sure that every United States customs official who has had to do with our affairs will bear testimony to this fact.

We have been carrying four classes of Chinese passengers:

(1) The poll-tax passengers, whose destination is Canada, who upon arrival at Victoria or Vancouver pay the Dominion government a tax of $50 per head. We are restricted by law to the transportation of Chinese under 15 years of age, or 50 tons of the register tonnage of our steamships, which enables us to carry not to exceed 118 Chinese per trip. The Canadian customs authorities have been most precise in their interpretation of the statute relating to this class of passengers.

(2) Chinese passengers with Canadian certificates, being those who after having paid the poll tax and having resided in this country for a given time, visited China, and before leaving secured from the duly authorized Canadian officer certificates authorizing their return without the payment of poll tax.

(3) Chinese passengers destined to points in the United States and provided with proper United States certificates authorizing their return to that country.

(4) Chinese passengers for Cuba or West Indies, passing through the United States or Canada, in bond, who are in charge and under the supervision of the customs authorities of the respective countries from the time they land until they reembark. As you are aware there is a large permanent colony of Chinese at Victoria which was in existence long prior to the building of the Canadian Pacific Railroad or the establishment of its steamship line on the Pacific Ocean. The Chinese travel to and from this colony alone forms the major portion of our Chinese passenger business.

We carry very few Chinamen destined to points in the United States in comparison to the number brought by steamship lines to American ports, and what little we do carry are as a rule under the control of the Canadian customs authorities on arrival, and we have to satisfy them as to their proper exit from Canada. On arrival at a United States port of entry of Chinese destined as above, or in many instances prior to their arrival, we forward their United States certificates to the United States customs authorities, and it is only when these certificates are reported correct that Chinese are allowed to enter the United States, and our Canadian bond is released.

Attached hereto is an extract from the private instructions of this company to our station agents and ticket agents regarding Chinese, by which it appears that no
tickets are to be sold to Chinese between a point in Canada and a point in the United States, and none between two points in Canada when a portion of the route lies in United States territory. The only exception made by our general passenger agent to this rule is when Chinese have certificates enabling them to legally enter the United States, which papers, in all instances, are submitted to the proper United States authorities. We have, of course, no legal right or power to exclude from our trains Chinamen passing between two points in Canada or between two points in the United States.

Attached hereto also are some official figures furnished by our passenger department which show:

1. The number of Chinese passengers carried by Canadián Pacific Railway steamships between the 28th April (first steamer), 1891, and the 25th August, 1892, both inward and outward.

2. The number of Chinese passengers via the port of San Francisco for three months ending the 30th June, 1892, both inward and outward, as furnished us by our San Francisco agent.

3. The number of Chinese passengers landed in Canada by steamships plying between China and United States ports from the 18th June, 1892, to the 26th August, 1892.

By these tables it appears that during the sixteen months last passed we have ticketed to United States points 662 Chinese, and carried away from United States points during the same period 1,526 Chinese or about two and one-third times as many as we have brought in.

Of the whole number brought into Canada by our line 4,357, more than 70 per cent, or 3,188, became members of the large permanent colony at Victoria before referred to.

Of the whole number 5,133 brought into Canada and the United States together, 43 per cent, or 2,214, have been carried back by us to China.

This company has ticketed to the United States 662 Chinese in sixteen months, or an average of about 41 per month, while there were landed at San Francisco, from reports furnished us, 1,245 Chinese for United States points in three months, or an average of 415 per month, or ten times the number per month brought by this company.

The Canadian Pacific Railway Company has no advantage over other lines in the matter of Chinese traffic. On the contrary, under existing Canadian laws, this company's steamships are restricted to the number of poll-tax passengers represented by their tonnage, while there are no regulations limiting the number of Chinamen who can come into the country by rail, and as a consequence, it is possible for any vessel sailing to Puget Sound ports to land an unlimited number of Chinamen and send them by rail to Canada, where, upon paying the ordinary poll tax, they will be received without question. This has been a recognized defect in the law, which, it is hoped, your Government will soon remedy.

Yours, very truly,

T. G. SHAUGHNESSY,
Vice-President.

Statement of Chinese passengers via port of San Francisco for three months ending June 30, 1892, as furnished by our San Francisco agent.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>INWARD</strong></td>
<td></td>
</tr>
<tr>
<td>For United States</td>
<td>1,245</td>
</tr>
<tr>
<td>For other countries</td>
<td>1,276</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>2,521</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OUTWARD</strong></td>
<td></td>
</tr>
<tr>
<td>From the United States</td>
<td>827</td>
</tr>
<tr>
<td>From other countries</td>
<td>172</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>999</td>
</tr>
</tbody>
</table>
Chinese passengers landed in Canada by steamship lines (not Canadian Pacific) plying between China and United States ports 13th June, 1892, to 26th August, 1892.

**INWARD.**

<table>
<thead>
<tr>
<th>Line</th>
<th>Passengers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upton Line (Union Pacific)</td>
<td>586</td>
</tr>
<tr>
<td>Northern Pacific Railroad Line</td>
<td>123</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>709</strong></td>
</tr>
</tbody>
</table>

**OUTWARD.**

<table>
<thead>
<tr>
<th>Line</th>
<th>Passengers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upton Line (Union Pacific)</td>
<td>147</td>
</tr>
<tr>
<td>Northern Pacific Railroad Line</td>
<td>92</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>156</strong></td>
</tr>
</tbody>
</table>

Statement of Chinese passengers carried by Canadian Pacific Railway steamships, 23th April (first steamer), 1891, to 25th August, 1892.

**INWARD.**

<table>
<thead>
<tr>
<th>Destination</th>
<th>Passengers</th>
</tr>
</thead>
<tbody>
<tr>
<td>To Canada:</td>
<td></td>
</tr>
<tr>
<td>Pacific coast points</td>
<td>4,268</td>
</tr>
<tr>
<td>Inland points</td>
<td>89</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4,357</strong></td>
</tr>
<tr>
<td>To United States:</td>
<td></td>
</tr>
<tr>
<td>Pacific coast points</td>
<td>381</td>
</tr>
<tr>
<td>Inland and eastern points</td>
<td>281</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>662</strong></td>
</tr>
<tr>
<td>To other countries</td>
<td>114</td>
</tr>
<tr>
<td><strong>Total inward</strong></td>
<td><strong>5,133</strong></td>
</tr>
</tbody>
</table>

**OUTWARD.**

<table>
<thead>
<tr>
<th>Destination</th>
<th>Passengers</th>
</tr>
</thead>
<tbody>
<tr>
<td>From Canada:</td>
<td></td>
</tr>
<tr>
<td>Pacific coast points</td>
<td>595</td>
</tr>
<tr>
<td>Inland points</td>
<td>82</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>677</strong></td>
</tr>
<tr>
<td>From United States:</td>
<td></td>
</tr>
<tr>
<td>Pacific coast points</td>
<td>615</td>
</tr>
<tr>
<td>Inland and eastern points</td>
<td>911</td>
</tr>
<tr>
<td><strong>Total outward</strong></td>
<td><strong>2,214</strong></td>
</tr>
</tbody>
</table>

[Extract from “Instructions to Station and Ticket Agents” dated July 1, 1890. Signed F. G. S.]

**CHINESE PASSENGERS.**

168. Chinese must not be ticketed to any point in the United States from Canada or any other foreign country, or by any route that will pass through any portion of the United States, or from a United States point to a United States point or other point by a route which leaves the United States and reenters it. The law does not permit them to reenter the United States.

169. Chinese merchants and tourists (not laborers) are permitted to reenter the United States under severe restrictions. Communicate with the general passenger agent before ticketing such passengers to or through United States territory.

170. Chinese may be ticketed to Canada from a point in any other country, provided they observe requirements of the Canadian law, known as “the Chinese Immigration Act of 1885,” section 4 of which reads as follows: “Every person of Chinese origin shall pay into the consolidated revenue fund of Canada, on entering Canada at the port or other place of entry, the sum of $50, except the following persons, who shall be exempt from such payment—that is to say, first, the members of the diplomatic corps or other Government representatives and their suite and their
servants, consuls, and consular agents; and, second, tourists, merchants, men of
science, and students, who are bearers of certificates of identity, specifying their
occupation and their object in coming to Canada, or other similar documents issued
by the Chinese Government, or other government whose subjects they are, and every
certificate or other document shall be in the English or French language, and shall
be examined and indorsed (visé) by a British consul or charge d'affaires or other
accredited representative of Her Majesty, at the place where the same is granted,
or at the port or place of departure, but nothing in this act shall be construed as
embracing within the meaning of the word 'merchant' any huckster, peddler, or per-
son engaged in taking, drying, or otherwise preserving shell or other fish for home
consumption or exportation."

171. The above does not prohibit the ticketing from one Canadian station to
another Canadian station, provided the Chinese do not leave Canadian territory en
route, or the ticketing from one United States station to another United States sta-
tion, provided the Chinese do not leave United States territory en route. Chinese
from the United States, destined to trans-Pacific ports, are permitted to travel
through Canada under bond in charge of the railway employes who are personally
responsible for them at $50 per head.

Mr. Foster to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, October 3, 1892.

SIR: I have the honor to acknowledge the receipt of your note of the
29th ultimo, in response to mine of the 10th of August last, relative to
the alleged action of the Canadian Pacific Railway Company in trans-
porting Chinese persons from China into the United States.

I am gratified to note the denial of the Canadian Pacific Railway
Company that it has "sold tickets to any Chinese who lacked the
proper certificates to secure their return to the United States;" as also
the statement that "there is no congregation of Chinese at Vancouver,
or anywhere about our Pacific terminus, waiting to get into the United
States."

It had in the meantime been intimated to me, unofficially and through
informal channels, that the instructions of the Canadian Pacific Rail-
way Company to their agents positively prohibit the sale of through
tickets to Chinese persons from points in China or Canada to points in
the United States, and that severe displeasure would be visited upon
any agent violating these orders and committing an act so evidently
detrimental to the interests of the United States. These statements go
far toward relieving the Canadian Pacific Railway Company from the
imputation of unfriendliness which might properly have been laid to
its charge had it been found that the corporation in question had in
fact employed its vast power and resources to thwart the purposes of
this Government by becoming an organized machinery for the unlawful
introduction of Chinese persons into the United States.

Had the reply of the Dominion Government communicated with
friendly acquiescence the sentiments and purposes which, as I am led
to believe, inspire the Canadian Pacific Railway Company in dealing
with this subject, my acknowledgment thereof would have been an
agreeable duty.

As it is, I am compelled to notice the statement in the approved
minute of the Canadian privy council which your note transmits to me,
"that no foundation exists for the assertion of the Secretary of State
of the United States that the government of Canada has been in this
matter either indifferent to the wishes of the Government of the United
States or tolerant of proceedings which would imply want of friendli-
ness towards that power," and the further suggestion that the Government of the United States should "receive an intimation that, although disposed to the utmost friendliness, the government of Canada does not charge itself with the duty of enforcing the measures of restriction which the government of any other country may see fit to adopt with regard to access to their territory by persons of other nationalities."

My assertion of the indifference of the Dominion government to this subject finds abundant foundation in the silence with which the Canadian authorities have treated the proposal, made in virtue of a concurrent resolution of Congress, through Her Britannic Majesty's Government nearly two years ago, inviting negotiations with a view to securing treaty stipulations for the prevention of the entry of Chinese laborers from the Dominion of Canada, contrary to our laws. I observe that the present minute of the dominion privy council makes no reference whatever to the statements in this regard presented in my note to you of August 10, 1892. The reference to my so-called assertion that the government of Canada has been in this matter tolerant of proceedings which would imply a want of friendliness to the United States appears to rest entirely on a perversion of the sense and words of my note of August 10, of which I invite your perusal.

As for the concluding "intimation," suggested in the minute of the privy council and officially conveyed to me in your note as a declaration emanating from the Governor-General of Canada, it appears wholly to ignore the considerations of friendly respect for the laws and institutions of a neighboring State, which prompted the proposals of October 22, 1890, for a conventional understanding in this regard. This Government is not unaware that Canada, like the United States, has upon its statute books laws restrictive of the immigration of Chinese persons, and it has every disposition to respect those laws. While in the absence of treaty engagements to that end it could not well charge itself with enforcing the Canadian laws with regard to Chinese persons entering Canadian territory, it certainly would not knowingly take any step or countenance any action tending to evade or defeat those laws.

The concurrent tenor of the laws of the two countries in respect to Chinese immigration so clearly indicates the desirability of a friendly understanding between them in furtherance of their common interests and the duties of a good neighborhood that I can not too deeply deplore the indifference with which the proposal of October 22, 1890, for the conventional regulation of the matter has been treated by the Dominion Government.

I have, etc.,

JOHN W. FOSTER.

Mr. Foster to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, October 4, 1892.

SIR: As the result of our several recent conferences on the subject of giving effect to so much of the understanding reached in concert by the Secretary of State and the delegates of the government of the Dominion of Canada on February 15, last, as relates to the prevention of destructive methods of fishing in the contiguous waters of the United States and Canada and the preservation of the fisheries thereof, I have now the honor to submit the views of this Government in the matter, to the end of reaching a formal agreement thereon.
The proposition of February 15, 1892, in this regard was that a commission of two experts should be appointed—one by the Government of the United States and one by the Government of Great Britain—to consider and report to their respective governments, either jointly or severally, as to the restrictions and regulations which should be adopted on the following subjects:

(1) The prevention of destructive methods of fishing in the territorial and contiguous waters of the United States and Canada, respectively, and also in waters outside the territorial limits of either country.

(2) The prevention of the polluting and obstructing of such contiguous waters to the detriment of fisheries and navigation.

(3) The close seasons which should be enforced and observed in such waters by the inhabitants of both countries; and

(4) On the subject of restocking and replenishing such contiguous waters with fish and the means by which fish life may be therein preserved and increased.

I deem it convenient thus to quote in full the text of the tentative understanding of last February as expressive of the general scope and direction of the inquiries to be jointly set on foot, and as the groundwork upon which to essay a fuller and more precise international agreement.

The several lines of inquiry having relation to the different aspects, whether general or particular, of the questions so presented, fall so far as this Government is concerned, within the purview of the operations conducted for a number of years past by the United States Commission of Fish and Fisheries, which, in its investigations and in the practical application of its methods and making use of the extensive establishment and ample means appropriated by Congress, has amassed a stock of information, much of which may be found available for the purposes of investigation and recommendation for which the joint commission is proposed to be organized. I am advised that the United States Fish Commission has within itself the resources in men and means to conduct such further inquiries in relation to the statistics, methods, and condition of the fisheries in question as the joint commission, or the American representative thereon, may indicate as desirable for their information.

A similar fish commission is understood to exist in the Dominion of Canada, and to have pursued like valuable investigations and practical operations for a number of years past.

The necessary machinery and a large part of the data for the proposed joint investigation appear, therefore, to be already at the command of the Government of the United States and Her Britannic Majesty's Government without the necessity for creating other or independent methods for accomplishing the purpose in view by convention or coincident legislative appropriation. As the object is to arrive at such concurrent recommendations as may commend themselves to the good judgment of the respective governments and open the way in case of accord thereon for a formal conventional agreement in promotion of the mutual interests of their respective citizens and subjects as regards their equal and common benefit in the conservation of food fishes in the territorial and contiguous waters of the United States and Her Britannic Majesty's possessions in North America, it seems most desirable for the two parties to avail themselves in common, so far as may be practicable, of the means already at hand, in order that the end in view may be the more speedily attained.

That this may be conveniently accomplished, I have the honor to propose for the consideration of Her Britannic Majesty's Government
the following bases for an agreement to be reached by a diplomatic exchange of notes:

I. The Government of the United States of America and of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland agree that a commission of two experts shall be appointed, one on behalf of each government, to consider and report to their respective Governments—either jointly or severally, or jointly to both governments, with regard to matters in which they may be in accord, and severally to their respective governments with regard to matters of nonconcurrency—concerning the regulations, practice, and restrictions proper to be adopted in concert on the following subjects, viz:

(a) The limitation or prevention of exhaustive or destructive methods of taking fish and shellfish in the territorial and contiguous waters of the United States and Her Majesty's possessions in North America, respectively, and also in the waters of the open seas outside the territorial limits of either country to which the inhabitants of the respective countries may habitually resort for the purpose of such fishing.

(b) The prevention of the polluting or obstructing of such contiguous waters to the detriment of the fisheries or of navigation.

(c) The close seasons expedient to be enforced and observed in such contiguous waters by the inhabitants of both countries as respects the taking of the several kinds of fish and shellfish.

(d) The adoption of practical methods of restocking and replenishing such contiguous and territorial waters with fish and shellfish, and the means by which such fish life may be therein preserved and increased.

II. The commissioners to be so appointed shall meet at the city of Washington within three months from the date of this present agreement, and shall complete their investigation and submit their final reports thereof to the two governments, as herein provided, within two years from the date of their first meeting.

III. The contracting governments agree to place at the service of the said commissioners all information and material pertinent to the subjects of their investigation which may be of record respectively in the offices of the United States Commission of Fish and Fisheries and in the department of marine and fisheries of the Dominion of Canada, and further to place at the disposal of said commissioners, acting jointly, any vessel or vessels of either of said Fish Commissions of the United States and of Canada as may be convenient and proper, to aid in the prosecution of their investigation in the contiguous or adjacent waters aforesaid.

It is further agreed that, if required by either or both of the said commissioners, a competent employé of either or both of the said Fish Commissions of the United States and of Canada shall be detailed to assist the said commissioners in the preparation of their reports.

IV. Each government will defray the expenses of its commissioner and of such employé as may be detailed to assist him as provided in the preceding section.

V. The two governments agree that so soon as the reports of the commissioners shall be laid before them as aforesaid, they will consider the same and exchange views thereon, to the end of reaching, if expedient and practicable, such conventional or other understanding as may suffice to carry out the recommendations of the commissioners, by treaty or concurrent legislation on the part of the respective governments or the legislatures of the several States and provinces or both, as may be found most advisable; but nothing herein contained shall be
deemed to commit either government to the results of the investigation hereby instituted.

I beg that you will submit the foregoing draft of an agreement to Her Britannic Majesty's Government for consideration, with the intimation that, if it be accepted, this Government will be prepared forthwith, for its part, to give it full force and effect from the date when such acceptance may be notified to it.

I have, etc.

JOHN W. FOSTER.

Mr. Foster to Mr. Herbert.

DEPARTMENT OF STATE,
Washington, October 4, 1892.

SIR: I have had the honor to receive to-day your note of the 2d instant, supplementing your previous note of the 29th ultimo by communicating, at the request of his excellency the Governor-General of Canada, copy of an approved minute of council on the subject of the alleged action of the Canadian Pacific Railway Company in transporting Chinese persons into the United States.

I am pleased to observe that the appended communication from the vice-president of the Canadian Pacific Railway fully bear out my understanding, as expressed in my note of the 3d instant, of the good disposition of the company and their desire and purpose to respect the laws of the United States by taking precautions to prevent the unlawful introduction of Chinese persons into the United States.

I have, etc.,

JOHN W. FOSTER.

Mr. Foster to Mr. Herbert.

DEPARTMENT OF STATE.
Washington, October 11, 1892.

SIR: I have given attentive consideration to the project which I had the honor to receive with your note of the 4th of July last for an international declaration for the protection of natives in the islands of the Pacific Ocean by prohibiting the supply to them of arms, ammunition, explosive substances, and intoxicating liquors, and providing penalties for any infringement of such prohibition.

When this proposition was first brought to the attention of this Government by Mr. West's note of August 11, 1884, my predecessor, Mr. Frelinghuysen, promptly responded, on the 22d of the same month, that "this Government looks with favor upon any humanitarian work, and would like more information as to the scope and form of the proposed agreement." In this concurrence in principle I cheerfully acquiesce, and welcome with pleasure the opportunity now afforded to consider the formulated plan.

While the sentiments and convictions of this Government indorse
the effective restriction of deleterious commerce with the native Pacific islanders, the method of giving expressions thereto is necessarily influenced by the disparity of policy and interests between the United States and the great European states in the Pacific Ocean. The disparity has become even greater since the present proposal was first put forth in 1884.

Nearly all of Polynesia has now passed under European jurisdiction. Were the United States a colonizing power, expanding its jurisdiction in the same way as the other great powers among the islands of the Western Pacific, question might legitimately arise as to the share of responsibility that properly should fall to us in the police control of those regions. As it is, the Government of the United States is without colonial interest of any kind in that quarter of the globe, and its administrative responsibilities are remotely confined to participation in the encouragement of good government and autonomy in the Samoan group. To the colonizing or protecting powers the question at issue becomes largely a matter of local municipal government; to the United States it is one of moral influence and cordial cooperation within the just limits of domestic and international rights. Although its responsibilities in the matter are not so great, this Government is none the less interested in the humanitarian purposes of the proposed convention, and I am happy to express, by direction of the President, his assent to its general scope, provided paragraph 5 be so amended, with respect to American citizens, at least, that they shall be handed over to the authorities of their own Government when arrested for offenses against the declaration. Were it thought to be strictly permissible under our system of government to confer criminal jurisdiction over American citizens upon alien magistrates and officers, in practice it would not be likely to meet with favor.

He approves the suggestion of the seventh paragraph to designate Her Britannic Majesty’s high commissioner for the Western Pacific as a proper person to receive for the benefit of the contracting powers all fines, forfeitures, and pecuniary penalties arising under the declaration. But he does not approve of the suggestion of the second paragraph to except from the prohibition of the declaration sales of liquor, arms, etc., made under a special license of one of the contracting powers. Such a provision would destroy uniformity of action, and, he fears, might lead to abuses which would substantially defeat the object of the declaration. A slight verbal error is observed in the second division of the first paragraph, where the expression “the Republic of the United States of America” should be changed to read “the United States of America.”

It is proper that I should add that the character of the proposed declaration is such as to make its acceptance subject to the approval of the Senate, and in so far as any further legislation should be necessary in order to give it full effect, as contemplated in paragraph 11, contingent to that extent upon the future action of Congress. This Government will be glad to be advised in due time of the views upon this project of other governments whose adhesion to it has been solicited, and to give attentive consideration to the exact form which it is eventually proposed to have it take.

I have the honor to be, with the highest consideration, sir, your obedient servant,

F R 92—21

JOHN W. FOSTER.
Sir Julian Pauncefote to Mr. Foster.

BRITISH LEGATION,

Washington, November 15, 1892. (Received November 17.)

SIR: With reference to your note to this legation of the 10th August last, and to the conversation which Mr. Herbert held with you on the 3d ultimo, respecting the complaint of the United States Government against the action of the Canadian Pacific Railway in regard to Chinese immigration into the United States, I have the honor, in accordance with instructions which I have received from the Earl of Rosebery, to inclose for your information copy of a dispatch on the subject which has been addressed by his lordship to Mr. Herbert.

I have the honor at the same time to assure you that you are mistaken in supposing that the previous communications of the United States Government in regard to the question of Chinese immigration have been treated with indifference.

Those communications have received, on the contrary, very careful and friendly consideration, and Lord Rosebery desires me to state that the subject shall again be pressed on the attention of the Canadian ministers. But both on account of the attitude of the Chinese Government in regard to the treatment of its nationals in British colonies and in consequence of the vast length and natural features of the Canadian frontier the question is beset with great difficulties.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclusion.]

Earl of Rosebery to Mr. Herbert.

FOREIGN OFFICE, September 20, 1892.

SIR: I have received your dispatch No. 219 of the 11th ultimo, inclosing copy of a note which you have received from the Secretary of State, remonstrating strongly against the action of the Canadian Pacific Railway in transporting Chinese persons, by contract, from China to certain points in the United States.

Mr. Foster is mistaken in supposing that the previous representations made by the Government of the United States with regard to Chinese immigration from Canada have been treated with indifference. They have received very attentive consideration and have formed the subject of considerable correspondence between Her Majesty's Government and that of the Dominion.

I inclose herewith extracts from minutes of the Canadian privy council showing the grounds on which the Canadian ministers have felt unable to take action in the direction desired by the United States, and I may add that, in view of the strong remonstrances which have been received from the Chinese Government against the legislative restrictions already imposed on Chinese in Canada and the Australian colonies, Her Majesty's Government could not urge the government of Canada to propose any fresh measures of that nature.

The Canadian government, however, as will be seen in the minutes, have expressed their willingness to prevent in all proper and legitimate ways the violation of the laws of the United States by the citizens of the Dominion, and the present representation of the United States Government shall be forwarded to them without delay, with a request that it may receive their prompt attention.

I am, etc.,

ROSEBERY.
Report of a committee of the privy council.

APRIL 15, 1891.

The committee of the privy council have had under consideration a further dispatch, dated December 27, 1890, from Lord Knutsford, inquiring when a reply may be expected on the subject of the resolution of the Senate of the United States (in which the House of Representatives had concurred) respecting the proposal that negotiations would be entered into with Great Britain and Mexico, with a view to securing treaty stipulations with those governments for the prevention of the entry of Chinese laborers from the Dominion of Canada and Mexico into the United States contrary to the laws of the United States.

The subcommittee of council to whom the matter was referred observe that the frontier between the United States and Canada has a length of over 3,500 miles extending from the Atlantic to the Pacific Ocean, and this frontier is for the most part a mere geographical line dividing large expanses of land and water.

It is not seen how it would be possible to apply effective police protection along a line extending across the continent of America, even were it found desirable to do so.

The subcommittee state that the total number of residents in Canada of persons of Chinese origin as established by the last census (1881) was only 4,383.

It is not probable that at the present time this number is materially exceeded; an estimate based upon the best information attainable places the number at present in Canada at less than 6,000.

Persons of Chinese origin who enter Canada pay a per capita tax of $30, whereas their legal right to freedom of movement from point to point in the Dominion is the same as that of any other subjects or citizens of foreign countries who enter Canada. There is no Canadian law by virtue of which restrictions could be placed on Chinese residents in Canada to fetter their freedom of movement any more than on any other foreign resident.

The Dominion are therefore of opinion that no practical way exists by which effect could be given to the request embodied in the resolution of the Senate and House of Representatives of the United States above referred to.

Extracts from a report of the privy council.

FEBRUARY 19, 1892.

The committee of the privy council have had under consideration a dispatch dated May 19, 1891, from Lord Knutsford, respecting the proposal that negotiations should be entered into between the United States, Great Britain, and Mexico with the view of preventing the entry of Chinese laborers into the United States by way of Canada or Mexico.

The minister of customs has, after careful investigation, reason to believe that the reputed entrance of Chinese laborers into the United States from or via Canada has been exaggerated, and that such reports are largely due to sensational newspaper items having little or no foundation in fact, as in the case narrated in the dispatch of Lord Salisbury to Sir J. Fanecefofo, bearing date February 11, 1891, wherein it is stated that the United States minister had informed him (Lord Salisbury) that "it happened that a Chinaman had found himself on the bridge between the United States and Canada at Niagara unable to go south on account of the law of exclusion from the United States, or north on account of the poll tax in Canada," which incident was upon investigation at the time of its reported occurrence found not to have occurred.

That ChInamen do sometimes succeed in evading the United States exclusion act by smuggling themselves into the United States from Canada is probably true, and it is certainly true that they sometimes succeed in evading the payment of the capita tion tax imposed under the Chinese immigration act by smuggling themselves from the United States into Canada, but it is believed that in neither case in numbers sufficient to cause anxiety or to warrant an expenditure on the part of Canada necessary to effectually prevent such smuggling, even were it found practicable.

ChInamen leaving Canada for the United States or elsewhere violate no Canadian law. They are entitled to the same freedom of movement as citizens of any other country. "Certificates of leave" are provided for by the Chinese immigration act, and can not be refused them when applied for. The Chinese immigration act does not, however, permit of reentrance into Canada except on payment of the prescribed capital tax or the production of a "certificate of leave." The minister further observes that the United States Government, in asking that the Chinese who may have left Canada without a certificate of leave should be readmitted without payment of the capital tax, is asking that Canada do what it refused to do under like or similar circumstances.
Chinese laborers, former residents of the United States and holders of certificates taken out in good faith and confidence, entitling them under the act of May 6, 1882, chapter 125 of the United States Statutes at Large, to leave the United States and return thereto, found themselves on their return, under the provisions of the exclusion act of September 15, 1888, chapter 1015 of said statutes, absolutely debarred from admittance to that country. Vide extracts hereto attached from the United States acts above referred to, as well as copy of a circular issued by the United States Treasury Department, dated August 1, 1891, embodying the decision of the Supreme Court of the United States, in which Mr. Justice Field in delivering the opinion of the Court remarks, referring to the act of 1888: "And it further declared no certificates of identity under which by the act of May 6, 1882, Chinese laborers departing from the country were allowed to return, should thereafter be issued, and it annulled every certificate of the kind which had been previously issued, and provided that no Chinese laborer should be permitted to enter the United States by virtue thereof." Vide also the Canadian act, chapter 67, Revised Statutes, hereto attached, particularly sections 8, 13, 17, bearing upon the same subject.

The minister can only repeat the words embodied in the report on the reference jointly to him and to the minister of agriculture, of a copy of Lord Knutsford's dispatch of the 18th November last, that he is of opinion that no practical way exists by which effect could be given to the request embodied in the resolution referred to of the Senate and House of Representatives of the United States and he does not think he would be justified in recommending any further legislation of a restrictive character against the Chinese who are in the Dominion, and who have made their home under the law as it now exists, particularly in the direction suggested by the American minister in London to Lord Salisbury as set forth in his lordship's dispatch of May 14, viz, that Canada should by legislation assume the responsibility of placing officers on the frontier to "assist the United States in enforcing the provisions of the statutes of that country" in preventing Chinese from crossing the frontier without the permission of the United States authorities.

The minister desires, however, that his lordship be assured that it is now and always has been the desire of the Canadian government to prevent in all proper and legitimate ways the violation of the laws of the United States by the citizens of the Dominion.

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Mr. Foster to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, December 1, 1892.

Sir: I have the honor to acknowledge the receipt of your note of the 15th ultimo, in further response to my note to Mr. Herbert of August 10 last, relative to the entry of Chinese laborers into the United States from the Dominion of Canada. I am glad to be assured that I was mistaken in supposing that the previous communications of this Government in regard to that question had been treated with indifference, though I can not see how it was possible for this Government at the time of my writing to avoid that conclusion, since for two years it had awaited in vain any response to its proposals for a conventional agreement with respect thereto.

I take note with pleasure, therefore, of Lord Rosebery's assurance that the subject has received careful and friendly consideration and that it shall be pressed again on the attention of the Canadian ministers.

I have, etc.,

John W. Foster.

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Sir Julian Pauncefote to Mr. Foster.

BRITISH LEGATION,
Washington, D. C., December 5, 1892. (Received December 6.)

Sir: I have the honor to inform you that the draft agreement for the preservation of the fisheries in the waters contiguous to Canada and the United States, proposed in your note of the 4th October last,
was duly submitted to the Canadian Government, and I have now received a dispatch from the Governor-General, in which his excellency states that the terms of the agreement are acceptable to his Government, as appears from an approved minute of Council, of which I have the honor to inclose a copy.

I have, etc.,

JULIAN PANCEFOTE.

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency, the Governor-General in council, on October 21, 1893.

The committee of the privy council have had under consideration a dispatch, hereto attached, dated October 6, 1892, from Her Majesty's representative at Washington, covering a communication from the United States Secretary of State, dated October 4, 1892, to Mr. Herbert, resulting from several conferences on the subject of giving effect to so much of the understanding reached by the United States Secretary of State and the delegates from the government of Canada on February 15 last, as relates to prevention of destructive methods of fishing in the contiguous waters of the United States and Canada and in other waters, and the preservation of the fisheries thereof; and with the object of reaching a formal agreement, the Secretary of State submits the views of his Government.

The minister of marine and fisheries, to whom the question was referred, observes that the proposition of February 15, 1892, is referred to as the appointment of a commission of two experts, one by each government, to consider and report, either jointly or severally, as to the restrictions and regulations on the following subjects, namely:

"(1) The prevention of destructive methods of fishing in the territorial and contiguous waters of the United States and Canada, respectively, and also in waters outside the territorial limits of either country.

"(2) The prevention of the polluting and obstruction of such contiguous waters to the detriment of fishing and navigation;

"(3) The close seasons which should be enforced and observed in such waters by the inhabitants of both countries; and

"(4) On the subject of restocking and replenishing such contiguous waters with fish egs and the means by which fish life may be therein preserved and increased."

He therefore proposed certain bases for an agreement to be reached by a diplomatic exchange of notes:

I. The Government of the United States of America and of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland agree that a commission of two experts shall be appointed, one on behalf of each government, to consider and report to their respective governments, either jointly or severally, or jointly to both governments, with regard to matters in which they may be in accord, and severally to their respective governments with regard to matters of nonconcurance concerning the regulations, practice, and restrictions proper to be adopted in concert on the following subjects:

"(a) The limitation or prevention of exhaustive or destructive methods of taking fish and shell-fish in the territorial and contiguous waters of the United States and Her Majesty's Possessions in North America, respectively, and also in the waters of the open seas outside the territorial limits of either country to which the inhabitants of the respective countries may habitually resort for the purpose of such fishing.

"(b) The prevention of the polluting or obstructing of such contiguous waters to the detriment of the fisheries or of navigation.

"(c) The close seasons expedient to be enforced and observed in such contiguous waters by the inhabitants of both countries as respects the taking of the several kinds of fish and shell-fish.

"(d) The adoption of practical methods of restocking and replenishing such contiguous and territorial waters with fish and shell-fish, and the means by which such fish life may be therein preserved and increased."

II. The commissioners to be appointed shall meet in the city of Washington within three months from the date of this present agreement, and shall complete their investigations and submit their final reports thereof to the two governments, as herein provided, within two years from the date of their first meeting.

III. The contracting governments agree to place at the service of the said commissioners all information and material pertinent to the subjects of their investigations which may be of record, respectively, in the offices of the United States Commission of Fish and Fisheries, and in the department of marine and fisheries of the
Dominion of Canada, and further to place at the disposal of said commissioners, acting jointly, any vessel or vessels of either of said fish commissions of the United States and Canada, as may be convenient and proper to aid in the prosecution of their investigation in the contiguous or adjacent waters aforesaid.

"It is further agreed that, if required by either or both of the said commissioners, a competent employee of either or both of the said fish commissions of the United States and of Canada shall be detailed to assist the said commissioners in the preparation of their reports.

"IV. Each government shall defray the expenses of its commissioners, and of such employee as may be detailed to assist him, as provided in the preceding section.

"V. The two governments agree that so soon as the reports of the commissioners shall be laid before them as aforesaid, they will consider the same and exchange views thereon, to the end of reaching, if expedient and practicable, such conventional or other understanding as may suffice to carry out the recommendations of the commissioners by treaty, or concurrent legislation on the part of the respective governments or the legislatures of the several States and provinces, or both, as may be found most advisable; but nothing herein shall be deemed to commit either government to the results of the investigation hereby instituted."

The minister of marine and fisheries reports that although the information at the command of the Canadian Government may not be so complete as that connected with the long established Fish Commission of the United States, important material has been collected by the department of marine and fisheries, and that conferences between the experts proposed to investigate and deal with the subjects will no doubt lead to a full possession of the main facts connected with the fisheries in which the two countries are so much interested.

The minister, therefore, reports to your excellency that the terms of the draft agreement as submitted by the Secretary of State for the United States are acceptable.

The committee advise that your excellency be moved to transmit a copy of this minute to Her Majesty's representative at Washington for his information.

All of which is respectively submitted for your excellency's approval.

JOHN J. MCGEE,
Clerk of the Privy Council.

Mr. Herbert to Lord Stanley, of Preston.

No. 89.]

BRITISH LEGATION,
Washington, 6, October, 1892.

My Lord: With reference to my dispatch No. 79, of the 13th ultimo, I have the honor to inclose copy of a note which I have received from Mr. Foster, submitting the draft of an agreement which he suggests should be effected by an exchange of notes in regard to the preservation of the fisheries in the waters contiguous to Canada and the United States.

Mr. Foster told me a few days ago that he thought, for the reasons which he has repeated in this note, that a convention was unnecessary at the present moment; and that his proposal as to the form of the agreement to be reached would be simpler and more expeditious.

I have, etc.

MICHAEL H. HERBERT.

Mr. Foster to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, December 6, 1892.

Sir: I have the honor to acknowledge the receipt to-day of your note of the 5th instant, by which you inform me that the Canadian government has accepted the draft agreement for the preservation of the fisheries in the waters contiguous to Canada and the United States proposed in my note to Mr. Herbert, October 4th last.

This reply consequently completes the agreement by exchange of notes as proposed by my communication on the 4th of October last, and fixes this day as the date of the agreement.
I have much pleasure in giving immediate effect to this agreement so far as depends upon the executive power, by informing you that the President has appointed as the representative expert of the United States for the purposes of the stipulated joint investigation; Mr. Richard Rathbun, of the United States Fish Commission.

I beg that you will advise me of the name of the expert to be appointed on behalf of her Majesty’s Government in order that Mr. Rathbun may be instructed to confer with his Canadian colleague as to the time of meeting and plan of operations.

I have, etc.,

JOHN W. FOSTER.

Sir Julian Pauncefote to Mr. Foster.

BRITISH LEGATION,

Washington, December 10, 1892. (Received December 12.)

SIR: I have the honor to inform you that a copy of your note of the 24th August last, setting forth the reason which compelled the President to issue his proclamation relative to the Sault Ste. Marie Canal tolls, was transmitted to the Governor-General of Canada, and that I have now received a dispatch from his excellency in reply, forwarding copy of an approved minute of council concurring in a report which the Canadian minister of railways and canals has drawn up on the subject of the Welland Canal tolls and your above-mentioned note.

I have the honor to inclose copy of that communication.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the Governor-General in council, on the 15th November, 1892.

The committee of the privy council have had under consideration a dispatch hereto attached, dated 25th August, 1892, from Her Majesty's chargé d'affaires at Washington, inclosing a copy of a note from the honorable the Secretary of State for the United States, setting forth the reasons which have compelled the President to issue the retaliatory proclamation in relation to the question of canal tolls.

The minister of railways and canals to whom the dispatch and inclosure were referred, reports under date 15th November, 1892 (report hereto attached), in which report the committee concur.

The committee, on the recommendation of the minister of railways and canals, advise that your excellency be moved to forward a copy hereto of the right honorable the Secretary of State for the colonies, and also to Her Majesty's minister at Washington.

All which is respectfully submitted for your excellency’s approval.

JOHN J. MCGEE,

Clerk of the Privy Council.

Mr. Herbert to Lord Stanley, of Preston.

BRITISH LEGATION,

Newport, August 25, 1892.

MY LORD: With reference to my telegram of to-day, I have the honor to inclose copy of a note which I have received from the United States Government, in reply to my note of the 20th instant on the canal toll question, setting forth the reasons which have compelled the President to issue the retaliatory proclamation.

I have, etc.,

MICHAEL H. HERBERT.
Memorandum.

DEPARTMENT OF RAILWAYS AND CANALS,
Ottawa, Canada, November 15, 1892.

The undersigned, to whom was referred the communication of the 24th of August, 1892, from the Secretary of State to the British minister at Washington, on the subject of canal tolls, begs to report to your Excellency as follows:

The undersigned notes with pleasure Mr. Foster's assurance that the delay which occurred between the passage of the "Curtis bill" on the 26th July, 1892, and its proclamation on the 20th of August following was prompted by a spirit of neighboring good will on the part of the President towards Canada, and by a desire to avail himself of possible concessions on her part to avoid the necessity for its final proclamation. Prompted by an equal desire to avoid any cause of disagreement, and with a view to the continuance of those friendly relations with the United States which it has always been their endeavor to maintain, the government of Canada, while holding firmly to their contention that they were justified in adopting the tariff of tolls and rebates which has been complained of, nevertheless consented to waive their rights in this particular instance and agreed not to reestablish, after the close of the present season, the system of rebates and transshipment regulations heretofore in force, in consideration of continued immunity from tolls on the Sault Ste. Marie Canal and the restoration to Canada of the right of transit for domestic products under Article 30 of the treaty of Washington, which was abrogated by the United States in 1855. The undersigned regrets that the President was unable to accept this statement, made by the Government of Canada in the minute of council of the 16th August, 1892, as a sufficient reason for indefinitely postponing the imposition of tolls on the Sault Ste. Marie Canal.

The Secretary of State of the United States comments unfavorably upon the fact that he did not receive the dispatch conveying the final action of the Canadian government "until after the issue of the proclamation, and not until one week after the official announcement at Ottawa." The undersigned begs to say that no announcement was made at Ottawa or in Canada, of the decision arrived at by the government, beyond some paragraphs which appeared in the newspapers professing, as a matter of news, to indicate the action taken. The official announcement, forwarded with all possible dispatch through the Governor-General, was in Mr. Foster's hands within one week of the meeting of the council on the 15th August, and on the very day on which the proclamation was issued, and before its issue, Mr. Foster was informed by the British chargé d'affaires, unofficially, of the conclusion which had been arrived at, and was told that the official dispatch was expected by him at any moment. Mr. Foster appears to regard as unnecessary, and somewhat in the nature of a threat, the proviso in the proposal of August 16, to the effect that the undertaking not to reestablish the system of rebates and transshipment regulations after the present season (upon certain conditions named therein) would not be binding on the Canadian government if the President of the United States should, in the meantime, proclaim and enforce the imposition of tolls on the Sault Ste. Marie canal. In another communication addressed to the British chargé d'affaires, Mr. Foster cites the proposal as proof that the Canadian government are convinced that their course was in violation of the treaty, or they would not have agreed to abandon the rebate system.

The undersigned begs to remark that neither of these conclusions is warranted. The Canadian government, whilst holding to what they believe to be their right, were willing, for the sake of amity and good feeling, to waive that right so far as the rebates were concerned after the close of the current season on the conditions that Canadian citizens should have the use as heretofore of the Sault Ste. Marie Canal, and that the privileges of domestic transit should be restored as in article 30 of the treaty of Washington. It was certainly not contemplated by the Government to waive their right in respect of the Canadian canals and at the same time to leave the people and merchandise of Canada subjected to the imposition of tolls on the Sault Ste. Marie Canal. The proviso in the communication of August was simply meant to give expression to this fact, and should not be interpreted as in any sense a "threat;" nor should Canada's attempt to avoid a dispute with the United States in this respect be interpreted as a proof of her conviction of unsoundness in her contentions.

Mr. Foster next draws attention to the neglect of the Canadian government to respond to representations made on the subject of discriminating canal tolls by the United States and cites three instances to prove his contentions.

First. That "in 1888 Mr. Bayard brought the matter to the attention of the Canadian government, but received no response." It is true that in 1888 the subject was brought to the attention of the Government in two ways—one by a note addressed by Mr. Bayard to the British minister at Washington on the 21st July, inclosing a memorandum as to alleged discriminatory rates of toll on the Welland Canal, and
the other by a resolution introduced into Congress by Mr. Dingley on June 4 of that year. Both of these were considered by the Canadian government, and a minute of council was passed thereon, setting forth the facts as to the tolls on the Welland Canal and the St. Lawrence canals, and a certified copy of the minute was, on August 13, 1888, sent to Mr. Bayard by the British minister. The record of this latter fact appears in the United States Foreign Relations, 1888, pp. 516, 525.

In the second place, Mr. Foster states that "in May, 1891, the United States consul-general addressed the Ottawa government without eliciting any information."

The undersigned finds that in May, 1891, Consul-General Lay addressed a letter to the late Sir John A. MacDonald, asking whether grain transshipments made at United States ports were precluded from the benefit of rebates? Sir John A. MacDonald personally, perhaps, made no answer, but on April 21 preceding the secretary of the department of railways and canals (over which Sir John was presiding as minister), had, by instruction, answered a precisely similar inquiry from Mr. Lay, furnishing him with the full official information.

The third instance cited is that "in 1891 the British legation was addressed upon the subject without eliciting any reply from the Canadian government."

The dispatch referred to was one enclosing a memorial of the Lake Carriers' Association, and reached the Canadian government on the 23rd October, 1891. It was at once referred to the minister of railways and canals for report and engaged the attention of that department, but the report was not expedited, owing to changes in the government consequent upon the death of Sir John A. MacDonald and to the fact that the season was then about closing, not to reopen until the spring of 1892. Before that time the matter was informally discussed in conference of February, 1892, at the State Department in Washington. The decision of the Secretary of State for the United States, and to Mr. Foster, the present Secretary, who also took part in the conference; and it is surely a misapprehension for Mr. Foster, writing on the 24th August, 1892, to say that at such a date the subject had only been discussed at the conference of February, but also at another conference which took place in Washington in June, the dispatch itself being formally replied to later by a minute of council.

The undersigned cannot allow to pass, without remark, the statement made by Mr. Foster that Canada is justly chargable with pursuing an "unneighborly course" in maintaining what she believes to be her rights under the treaty of Washington, nor the assumption that in this matter Canada is willfully violating the terms of the treaty. The difference of opinion which exists as to the treaty rights of the two countries is to be regretted, but it forms no basis for a charge that either country, in maintaining its own views, proceeds with a willful disregard of solemn obligations or a desire to be unfriendly to the other.

The undersigned is confident that a fair review of the conduct of both countries in the matter of privileges of inland navigation will not be to the disadvantage of Canada.

Mr. Foster states that "immediately after the conclusion of the treaty of 1871, * * * the United States took steps to carry out the stipulation of Article 27, and without unreasonable delay the canals of the national and State governments, representing a vast system, constructed at very great expense, were thrown open to the use of Canadian commerce."

The facts are that although the Michigan (Sault Ste. Marie) Canal was immediately opened by that State to the use of Canadian vessels, five full years elapsed from the date of the treaty before Canadian vessels had the privilege of using the New York State canals, and this delay was due, not to any restriction on the part of the State authorities, but solely on account of the legislation of Congress and regulations of the Federal authorities. During this period repeated representations were made by the Canadian Government, but without avail. It was shown that the United States Government required every Canadian vessel to report at the first port in the United States territory and to unload cargo thereat. This regulation prohibited any Canadian vessel from traversing a single mile of the Erie or Champlain canals with cargo, or even from entering with her cargo either of those canals.

Even in 1876, when, through the efforts of the British Government, the representations of Canada were at last heard at Washington, permission was given to Canadian vessels to pass through the Champlain Canal and go as far as Albany, the first port below the canal, but no further, although the bulk of their cargo was for New York.

The only canal embraced in the category of those which the United States were to recommend the State governments to grant the equal use of, which has been of benefit to Canada, is the Sault Ste. Marie; the others were actually closed to Canadian vessels up to 1876 in consequence of restrictions imposed and enforced by the United States Government itself, and the concessions of their use subsequently has been of no practical value.
It is worth while in this connection to contrast the neighborly spirit shown by Canada.

In the treaty of 1854 there was a stipulation providing for the use of Canadian and United States vessels reciprocally. From 1854 until 1866, when the treaty was abrogated, United States vessels were granted free and equal use of all the Canadian canals, while not a single State canal was thrown open to the free and equal use of Canadian vessels, nor is there any record that the United States Government during this long period used its friendly offices to that end. Even after the abrogation of this treaty in 1866, and until the ratification of the treaty of 1871, United States vessels were continued in the free and equal use of the Canadian canals, though like reciprocal privileges were not granted Canadian vessels in State canals in the United States.

Since 1871 United States vessels have been allowed to come from the Hudson River ports with cargo, through the Richelieu River, and after traversing the River St. Lawrence, to navigate the Ottawa River and its system of canals (not included in the treaty), taking return cargoes from Ottawa, the great center of lumbering operations, to the Hudson River ports, including New York, thus successfully competing with Canadian vessels, which are debarred from the like privileges in the Hudson River.

The Canadian canals which are open to the equal use of the United States vessels have nearly all a depth of from 9 to 14 feet (the Welland, the one most valuable to American commerce, being 14 feet), have already cost Canada for construction $42,000,000, and taking the period from 1886 to 1891 as an average, necessitate a yearly expenditure, over revenue, of more than $250,000.

It is therefore a fact that while Canadians are practically prevented from the use of the Erie and Champlain canals (being debarred from objective points which might render these canals of value to them as a means of access), the "vast system of canals constructed at very great expense," which Mr. Foster referred to, as opened to Canadian commerce, narrows itself down to the use of St. Clair Flats Channel (which it should be noted Canada has an equal right to use, irrespective of the treaty of 1871) and the Sault Ste. Marie Canal. Of the free use of this latter canal our people are now deprived by the recent proclamation of the President. It may be observed in this connection that by the terms of the transfer of the canal from the State to the Federal Government it was stipulated that the canal should be "free of tolls."

It is plain to which country the great balance of advantage has accrued, and the undersigned believes that Canada has no reason to fear a full comparison of the action of the two governments, as manifested in the record of inland navigation, and of the spirit of fairness and friendliness and respect for treaty obligations which each country has evinced.

The undersigned desires also to observe that in the treaty of 1871 the commission- ers stipulated that the privileges of transit for internal commerce across intervening territory of either country were to be granted. For this privilege of transit, to be enjoyed by Canada, she gave in return a like reciprocal privilege to the United States, bound herself to place no export duty on such goods as went in transit, and at large financial cost, for a perpetual yearly payment, the export duty on lumber imposed theretofore by the government of New Brunswick.

In 1855 the United States abrogated clause 30 of the treaty of Washington, and thus deprived Canadians of the benefit of such transit as was therein granted. Canada, however, still allows the United States the privilege of carriage in transit between her ports, and still provides for the export-duty exemption in regard to logs cut in the State of Maine and carried through New Brunswick for export to the United States. In other words, Canada still accords a valuable and costly privilege to the United States after the withdrawal from Canada by the United States of all reciprocal treatment.

The undersigned here desires to call the attention of your excellency to a matter the importance of which consists in a certain seeming imputation of bad faith on the part of the representatives of Canada, which it is desirable to remove. This matter is the mention made in the message of President Harrison to the Senate, transmitted 20th June, 1892, of the report of Mr. Blaine with regard to what transpired in respect of canal tolls at the conference of February, 1892, as to which Mr. Blaine says:

"The fifth was an informal engagement to repeal and abandon the drawback of 18 cents a ton given to wheat that is carried through to Montreal and shipped therefrom to Europe."

The facts as follows: At the conference of February the discussion of the canal tolls came up unexpectedly, not having been among the subjects set down and agreed upon for discussion. Allusion was made to the fact that there was an unanswered dispatch upon the subject from the United States, and the Canadian delegates assured Mr. Blaine that upon their return to Ottawa they would have the matter taken
up and carefully considered, with a view to meeting any just complaint and disposing of the question in as friendly a spirit as possible.

The following letter written by Mr. Blaine to Hon. N. C. Blanchard on the 15th of February, whilst the conference was in progress at Washington, and when the discussion was fresh in his memory, corroborates this:

"DEPARTMENT OF STATE,
"Washington, February 15, 1892.

"SIR: I have the honor to acknowledge the receipt of your letter of the 2d instant, relative to the discrimination of the Canadian government against American citizens in the use of the Welland Canal.

"On the 18th of September, 1891, the Lake Carriers' Association presented to this Department a memorial regarding the matter, and the subject was fully presented to Sir Julian Pauncefote, Her Britannic Majesty's minister at this city, on the 10th of October following. No formal reply thereto has been received beyond an acknowledgment of the receipt of the Department's note and a statement by Sir Julian that it had been referred to his Government. The matter has been brought to the attention of the Canadian commissioners now in this city, and an assurance given by them that the complaint which we have preferred shall have careful and prompt consideration, with a view to a faithful observance of the treaty stipulations.

"Replying to your further inquiry, I would say that the only treaty stipulation in force applicable to the use by American and Canadian citizens of the canals connected with the Great Lakes and the St. Lawrence River is contained in the twenty-seventh article of the treaty of Washington, and is clearly intended to be reciprocal in character.

"I have, etc.,

"JAMES G. BLAINE.

"HON. N. C. BLANCHARD,
"Chairman Committee on Rivers and Harbors,
"House of Representatives."

It will be observed that the fourth sentence in Mr. Blaine's letter coincides with the statement of the Canadian delegates, and differs from his later recollections, as contained in the statement of Mr. Blaine to the President. It differs also, it would seem, from Mr. Foster's recollection of what had occurred.

In the later conference of June a certain misunderstanding which appeared to be in the minds of Mr. Blaine and Mr. Foster as to what had previously been said was fully discussed, and, as the Canadian delegates supposed, thoroughly removed, and it can not be regarded as other than a matter for regret that after this it should have been thought necessary to detail the circumstances to Congress in such a way as to give rise to a suspicion of bad faith on the part of the Canadian delegates.

In conclusion, the undersigned would again declare that Canada and the Canadian government are actuated by a desire for the continuation of the most friendly relations between the two countries, and he ventures to hope that upon further consideration of the proposal made to that end by the Canadian government, in August last, the Government of the United States may be inclined to accept it as a reasonable and final settlement of the question in dispute.

The undersigned recommends that your excellency be moved to cause this present document to be communicated to the United States Government and to the Government of Her Britannic Majesty.

Respectfully submitted.

JOHN HAGGART,
Minister of Railways and Canals.

Sir Julian Pauncefote to Mr. Foster.

BRITISH LEGATION,
Washington, December 14, 1892. (Received December 15.)

SIR: I have the honor to inform you that a copy of your note of the 6th September last with respect to wrecking privileges for American vessels in the Welland Canal, was transmitted to the governor-general of Canada, and that I have now received from his excellency in reply a dispatch inclosing copy of an approved minute of privy council concurring in a report of the minister of railways and canals dealing with
the subject, and to which are attached regulations submitted by him with a view of enabling the United States wrecking vessels to render aid to disabled American vessels in the Welland Canal.

I have the honor to inclose a copy of that minute.

I have the honor, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

PRIVY COUNCIL, CANADA.

Certified copy of a report of a committee of the honorable the privy council, approved by his excellency the governor-general in council, on the 15th November, 1892.

The committee of the privy council have had under consideration a dispatch, hereeto attached, dated 9th September, 1892, from Her Majesty's chargé d'affaires at Washington, covering a copy of a note received by him from the Secretary of State for the United States, dated the 6th of September, 1892, in which the Secretary of State acknowledges the receipt of a copy of the minute of council passed on the 27th of August last, with respect to wrecking privileges for American vessels in the Welland Canal whereby there was conveyed the intimation that as the waters of the canal are not "contiguous" to the United States they did not seem to come within the scope of the enactment of last session respecting reciprocity in wrecking and towing.

The minister of railways and canals, to whom the dispatch and inclosures were referred, observes that the Secretary of State in his present communication represents that the President is not prepared to admit certain conclusions of a note, probably addressed to the United States Government by the British chargé d'affaires, which has not been communicated to this government, but which is presumed to have been based on the minute of council of the 27th August last.

The minister further observes that the gist of these conclusions appears to have been that the words "wrecked, disabled, or in distress" (in their ordinary sense) are not applicable to vessels in canals or such waterways.

Upon this the Secretary of State of the United States observes as follows:

"The phrase must evidently be construed with reference to the ordinary navigation of such channels, and any of the lesser casualties to which tugs and their tows, or self-propelled vessels, are liable in such waters, such as an accident to the engine or steering gear, the breaking of the towline, the grounding of a tug or its tow in shallow waters, and the like, constitute a practical case of disability or distress within the purview of the intended reciprocity. Past experience has shown that in such contingencies any assistance rendered by an American vessel, however legitimate, even in the case of a tug picking up or pulling off its own tow, is treated by the Canadian authorities as wrecking and punished accordingly when performed in Canadian waters."

The minister observes further in relation to the foregoing that by section 6 of the Consolidated Orders in Council, Cap. 21, it is expressly provided that the rule prohibiting foreign vessels having other vessels in tow and having parted with them in Canadian waters from again taking them in tow to move them further in Canadian waters shall not apply to "an accidental parting of such vessel by breaking hawser or other temporary damages."

The minister of railways and canals concurs in the view of the Secretary of State for the United States that distress of the temporary nature indicated should be within the purview of the intended reciprocity if it is not otherwise provided for, but the Secretary of State is mistaken if he supposes that assistance in any such case has ever been punished when performed in Canadian canals.

The minister with respect to the main question now under discussion between the two governments, namely, whether the Welland Canal should be included in the reciprocal arrangements for wrecking, and desiring to assist to a satisfactory conclusion, submits for the consideration of your excellency in council a set of regulations which may be found available for the purpose contemplated.

The committee concurring therein recommended that the same be adopted.

The committee advise that your excellency be moved to forward a copy hereof to Her Majesty's minister at Washington.

All which is respectfully submitted for your excellency's approval.

John J. McGee,
Clerk of the Privy Council.
Special rules and regulations in respect of American wrecking vessels in the Welland Canal.

In the event of an American vessel being wrecked, disabled, or in distress in the course of a passage through the Welland Canal it shall be permitted to American wrecking vessels and their appliances, subject to the existing canal regulations and to the conditions hereunder, to afford assistance to such vessels, provided always:

(1) That such assistance be rendered within such time as the canal authorities consider reasonable in view of the necessity for clearing the canal from obstruction.

(2) That the operations of such wrecking vessels and their appliances shall be conducted to the satisfaction of and carried on within the time or times fixed by the superintending engineer of the canal or other duly authorized officer of the government.

(3) That, in the event of delay occurring either in the rendering of the necessary assistance or in the completion of the necessary work of removal of the vessel the canal authorities shall proceed to take such steps as to them may seem necessary.

(4) The concession hereby made shall give no right to any American wrecking vessel or its appliances to lie in the canal except for the time during which it is employed in the actual wrecking operations, or in going to or returning from the same.

Mr. Herbert to Lord Stanley of Preston.

BRITISH LEGATION, Newport, September 3, 1892.

My Lord: With reference to your excellency's dispatch No. 49 of the 25th ultimo, I have the honor to inclose a copy of a note which I have received from Mr. Foster in which he repeats that the President cannot issue his proclamation until he is advised that the Canadian wrecking act can be construed to apply to the Welland Canal.

I have, etc.,

MICHAEL H. HERBERT.

Mr. Foster to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, December 28, 1892.

SIR: I have had the honor to receive your note of the 14th instant, transmitting an approved minute of the Canadian privy council in reply to my note of September 6 last, relative to the subject of reciprocal wrecking privileges in the waters contiguous to the United States and Canada.

Adverting to an observation contained in that note, the minute cites section 6 of the consolidated orders in council, chapter 21, to the effect that the rule prohibiting foreign vessels having other vessels in tow and having parted with them in Canadian waters from again taking them in tow to move them further in Canadian waters, shall not apply to "an accidental parting of such vessel by breaking hawser or other temporary damages."

Continuing, it then states that "the Secretary of State is mistaken if he supposes that assistance in any such case (viz., distress of temporary nature indicated) has ever been punished when performed in Canadian canals."

My observation was with respect to "Canadian waters" generally, and not particularly to "Canadian canals;" and it is believed to have been warranted by actual cases cited in Mr. Evarts's note to Sir Edward Thornton December 17, 1878. (Foreign Relations, 1879, p. 481.) While I am glad to be assured that such cases have never happened in the
canals, and that an American tug would not be prohibited from picking up its own tow, from which it had accidentally parted, I regret that assurance could not also have been given that it would be permitted to pull off its own tow if grounded or wrecked, for in that phase of the question rests entirely its pertinence to the present discussion.

As regards the real question at issue, I find it well stated in the minute of the privy council to be "whether the Welland Canal should be included in the reciprocal arrangement for wrecking." For the satisfactory adjustment of that question it submits a set of "special rules and regulations in respect of American wrecking vessels in the Welland Canal," which it hopes may be found available for the purposes contemplated. Having previously explained to you how under the act of Congress of the United States the President is constrained to insist upon the application of the arrangement to that canal, it only remains to determine whether the rules which are proposed will in effect accomplish that purpose. They begin as follows:

In the event of an American vessel being wrecked, disabled, or in distress in the course of a passage through the Welland Canal, it shall be permitted to American wrecking vessels and their appliances, subject to the existing canal regulations and to the conditions hereunder, to afford assistance to such vessels, provided, always, etc.

Then follow certain restrictions and regulations. The applicability of the rules is expressly limited to the case of aid and assistance to be rendered to an American vessel. It also, by omission, excludes the salvage of property wrecked. The act of Congress of May 24, 1890, proposes to give to Canadian vessels and wrecking appurtenances the privilege of rendering aid and assistance "to Canadian or other vessels and property wrecked, disabled, or in distress." The act of Parliament assented to May 10, 1892, fully recognizes the extent of the proposed reciprocal arrangement by providing in its first section that "United States vessels and wrecking appliances may save any property wrecked and may render aid and assistance to any vessels wrecked," etc., in the waters of Canada. The rules, therefore, even apart from their conditions and limitations, do not purport to be coterminous with the act of Congress or the act of Parliament. Omitting entirely any provision for the rendering of aid to any other than an American vessel, or for the salvage of property of any vessel, they can not be said in any sense to extend in effect the proposed reciprocal arrangement to the Welland Canal.

The simplest way, and of course the most acceptable one to this Government, would be to have the applicability of the Canadian act, which, as far as it goes, has been accepted as satisfactory, extended by legislation or by order in council, as may be possible, to the Welland Canal. This Government has not been disposed, however, to be strenuous upon the manner in which it is done. Indeed, trusting to a friendly and reasonable interpretation of the conditions and restrictions of the rules under discussion, this Government would accept them as tantamount to such an extension of the arrangement if they were made to apply to all cases of assistance by any vessel of the United States to all vessels and property wrecked.

Occasions for American wrecking vessels and their appliances to render assistance to other than American vessels or to save property in the Welland Canal would probably be quite infrequent, and were the President not constrained by the positive terms of the act of Congress he might not be disposed to attach so much importance to their inclusion in the arrangement. As it is, he hopes that the probable in-
frequency of such cases may contribute to remove any practical objection thereto on the part of the Canadian government.

The arrangement is one of much importance to the shipping interests of both countries, and I sincerely hope that an agreement may be reached and an arrangement put in force before the opening of navigation the coming season. May I ask you, therefore, to kindly give me a reply to this note as promptly as possible?

I have, etc.,

John W. Foster.

Mr. Foster to Sir Julian Paunceforte.

Department of State,
Washington, December 31, 1892.

Sir: I have the honor to acknowledge the receipt of your note of the 10th instant, wherein, having reference to my note of the 24th of August last setting forth the reason which compelled the President to issue his proclamation of August 18, 1892, relative to the Sault Ste. Marie Canal tolls, you communicate to me a copy of an approved minute of the Canadian privy council concurred in a report or memorandum which Mr. Haggart, the Canadian minister of railways and canals, has drawn up on the subject of the Welland Canal tolls and my above-mentioned note.

I regret to be again called upon to enter on the unpleasant controversy occasioned by the discriminations maintained against American commerce, but inasmuch as the Canadian minister's report has been embodied in the official communication you are pleased to address to me, it seems necessary that I should advert to certain statements therein, in the interest of a clear understanding, excusing myself, however, from a detailed reply to all the points discussed in the report.

It is true, as stated by Mr. Haggart, that prior to the issuance of the President's proclamation, I was informally advised that a proposition looking to the abandonment of the Welland Canal discriminations was on its way, but the chargé of the British legation, Mr. Herbert, expressly informed me that he was not authorized to make any official statement of its contents. The announcement of the action of the Dominion government as telegraphed by the United States consul-general at Ottawa and confirmed by the Canadian journals, if not "official," as averred by Mr. Haggart, proved to be exceedingly accurate on comparison with the note of Mr. Herbert. The report is incorrect in its allegation that the official announcement of the Canadian proposition was in my hands "on the very day on which the proclamation was issued." The proclamation was issued August 18, 1892, as is shown by the official copy herewith inclosed, and published in the newspapers on August 20th, while Mr. Herbert's note announcing the Canadian determination was dated "August 20, 1892, 7 p.m.," and (Sunday intervening) did not reach the Department until the 22d of August.

The attempt is made in the report to defend the Canadian government against the charge of neglect to respond to the representations made by the Government of the United States on the subject of canal tolls. It seems sufficient in reply to recall the statement made by the British minister in the conference of February last that the Dominion authorities were in default in this matter.
Mr. Haggart repels with much spirit the intimation in my note of August 24, that in respect to the canal tolls the Canadian government was pursuing an "unneighborly course," and in contrasting the conduct of the two governments relative to the use of the canals, he alleges "that full five years elapsed from the date of the treaty (of 1871) before Canadian vessels had the privilege of using the New York State canals," and that "during this period repeated representations were made by the Canadian government, but without avail." The events thus cited are given such gravity and throw so much light upon the present controversy that I deem it important to notice them somewhat in detail.

The use of the New York State canals was the subject of considerable correspondence during the five years following the conclusion of the treaty of 1871, and this correspondence has been published by the Canadian government in two parliamentary documents. It appears from the first of these (Return 111, 3d Sess., 3d Parliament, 1876) that in 1871, within a few months after the treaty had been proclaimed, President Grant addressed letters to the governors of the different States affected by the treaty, calling their attention to the provisions of Article 27. Under date of December 4, 1871, the governor of New York replied that there were "no restrictions now to be found in the laws of the State upon the equal use of the canals by British subjects and American citizens," and the British minister in Washington was so advised (Return 111, pp. 1, 2). Thus matters rested until November 18, 1874, when a complaint from the privy council of Canada was forwarded to Washington that Canadian vessels were excluded from the use of the Whitehall (Champlain) and Erie canals in violation of Article 27 of the treaty. (Ibid., p. 4.) But after considerable correspondence and a thorough investigation, a minute in council, approved by the governor-general of Canada, February 18, 1875, declared that no case of exclusion could be found, and "that the Canadian government no longer continues to be of opinion that Canadian vessels are excluded from the canals of the State of New York." (Ibid., p. 11.)

However, in August, 1875, the Canadian minister of customs submitted, through the privy council and the British minister, a complaint to Washington that the collector of the United States customs at Rouses Point refused to permit a cargo of lumber shipped at Brockville, Canada, to pass through the Champlain Canal to the port of New York, and, further, that the collector at Plattsburg had decided that Canadian barges would not be allowed "to pass from Rouses Point to New York with foreign merchandise in bond." The impelling motive of the complaint is found in the following statement of the report: "The principal value of the free navigation of the Champlain Canal to Canadian vessels consists in the right to carry cargoes by that route to the port of New York;" adding that the decision of the collector at Plattsburg "renders the provision of the Washington treaty, so far as the navigation of that canal is concerned, practically useless to Canada." (Ibid., p. 14.)

The subject was brought to the attention of the Secretary of State at Washington by the British minister on September 6, 1875, and on October 9 the Secretary of the Treasury, Mr. Bristow, replied that under Article 27 of the treaty of Washington, "the use of the Champlain Canal could be granted to Canadian vessels destined with cargoes to the southern terminus of the canal," but that it did not recognize "the right of Canadian vessels to transport cargoes in bond from Canada to New York." (Ibid., p. 24.)
This action of the Government of the United States is characterized in one of the documents transmitted to the Canadian parliament, as furnishing "another illustration (if any were necessary) of the extraordinary propensity which seems inherent in the American statesmen to evade in every possible way the fulfillment of their treaty, or other obligations, whenever and wherever the people of Canada appear to be in the remotest degree concerned." (Return 104, 1877, p. 6.)

During the correspondence in 1876 it was developed that an old Treasury regulation, based upon a law enacted in 1799, required goods in Canadian vessels destined to an interior port of the United States to be unloaded at the frontier, but on attention being called to the fact the regulation was at once modified to allow of the unobstructed passage of such vessels and cargoes to the southern terminus of the canal at Albany. It does not appear that this regulation ever deprived a single vessel of the free navigation of the canal. It was the larger question of the navigation of the Hudson River which operated to the disadvantage of the Canadian vessels, and of this the Canadian government complained. The Government of the United States met this complaint with the frank statement that the treaty did not secure to Canadian vessels the use of the Hudson River; and this position has never been seriously controverted by the British Government or the Canadian authorities. It is, however, a significant fact that the discriminating tolls in the Welland Canal were not imposed on American commerce until after it became apparent that the free navigation of the Hudson River could not be obtained under the treaty of 1871; and it is further worth noting in this connection that the Canadian Government has offered to remove those discriminating tolls if the navigation of the Hudson River should be conceded to Canadian vessels.

It appears to be contended by Mr. Haggart that the opening of the New York canals to Canadian traffic, when accomplished, fell short of the intendment of the treaty of Washington, because "permission was given to Canadian vessels to pass through the Champlain Canal and to go as far as Albany, the first port below the canal, but no further, although the bulk of their cargoes was for New York." The minister ignores the salient fact that the Hudson River is a natural waterway, rising and lying wholly within the territory of the United States, and in no sense an international water course to which the riparian rules of international law are applicable. In the conferences which preceded the signature of the treaty of Washington, this question of the international right to navigate natural water courses belonging to adjacent States was fully considered, resulting in the stipulation of Article 26 for the equal use of the St. Lawrence, and the Yukon, Porcupine, and Stikine rivers, an engagement which fitly stands alone as the formal expression of a natural right, independently of the conventional rights created by other articles of that treaty. The use of the Hudson River does not appear to have been considered in this relation.

That Canada permits American vessels to enter and use the Ottawa River is not in point, for the right to do so is not claimed by the United States as flowing from the engagements of the treaty of Washington, or as a natural right. It may be more properly estimated as an interested act on the part of Canada for her own advantage by opening wider markets for Canadian products.

I note the minister's observation that, "It is plain to which country the great balance of advantage has accrued" from the engagements of the treaty of Washington. The statement of the protocolists of the Joint High Commission, which framed that treaty, shows that this ques-
tion of mutual advantage was most scrupulously and fairly weighed, detail being offset against detail, and arrangements devised for their realization for a term of years, after which their continuance was optional with either party. Some of the most important of these terminable engagements remain unabrogated, others, though abrogated as a matter of formal record, continue in great part as a matter of convenience and interest by concurrent sufferance. If Canada continues in practice certain phases of the abrogated provisions of Article 30, it must be assumed that she finds it to her advantage to do so, for it could hardly be expected that she would voluntarily sacrifice her rightful interests for any abstract theory of neighborliness. I should be very sorry to expose my Government to the charge of want of international comity, but when it is remembered that the maintenance of the provisions of Article 30 by the Dominion government enables its railroads to reap a large and profitable harvest from a portion of the American carrying trade, in successful competition with our own railroads on account of the interstate commerce law, the action of the Canadian government in this respect does not seem to call for a relaxation of the attitude of the United States on the canal tolls.

As to the minister's controversy of the mention, made in President Harrison's message of June 20, 1892, of the understanding reached in the conference of February, 1892, with regard to the canal tolls, I can only say that the considerations advanced by Mr. Haggart do not in any wise make necessary a revision of Mr. Blaine's report of the February conference, as explained by the undersigned in his report of the June conference. The citation made from the letter of Mr. Blaine to Mr. Blanchard certainly does not sustain the minister's contention. On the very day the conference adjourned and while the animated discussion as to the discriminating tolls was fresh in his mind, Mr. Blaine wrote that "an assurance had been given by them (the Canadian commissioners) that the complaint we have preferred shall have careful and prompt consideration, with a view to a faithful observance of the treaty stipulations." The commissioners who were present at that conference certainly have not forgotten the vehemence with which Mr. Blaine characterized the discriminating tolls as a plain and unjustifiable violation of Article 27 of the treaty; and it is a trifle with words to contend that he did not understand the assurance given was in effect to result in a removal of the objectionable discrimination. Assuredly he did not expect the abrupt reimposition, without notice or intimation of any kind to this Government, of all the objectionable and violative provisions of the order of the preceding year and even with additional discriminations. I cheerfully bear witness to the good disposition and friendly assurances of the Canadian commissioners in the February conference, as in gratifying contrast with the subsequent action of the Dominion government.

It only remains for me to notice the proposal which is renewed in the memorandum transmitted with your note of the 10th instant, as a basis of settlement of the existing controversy, to wit; "Not to reestablish, after the close of the present season, the system of rebates and transshipment regulations heretofore in force, in consideration of continued immunity from tolls on the Sault Ste. Marie Canal, and the restoration to Canada of the right of transit for domestic products under Article 30 of the treaty of Washington, which was abrogated by the United States in 1885." It would seem sufficient to say in reply that this proposal, as contained in the note of your legation of June 24th last, was transmitted to the Congress of the United States by the President, and was
before that body when it passed the act of July 26, 1892, authorizing and directing the President to impose tolls on the Sault Ste. Marie Canal. This action of Congress, taken with such unanimity, must be accepted by the Executive as expressive of the judgment of the legislative department of the Government that the proposal now renewed is inadequate and inadmissible, and I am directed by the President to say that in this judgment he fully concurs.

The question at issue respecting the canal tolls is a plain one. Article 27 "Secures to citizens of the United States the use of the Welland * * * Canal * * * on terms of equality with the inhabitants of the Dominion. The Canadian government claims the right to charge products passing through the Welland Canal destined for export by way of Montreal 18 cents per ton less tolls than products destined for export via an American lake or river port and over an American railroad to the seaboard. The Government of the United States claims that this is a discrimination against American ports and lines of transportation, and hence against American citizens, and that, therefore, it is a violation of the treaty. It does not settle this issue on its merits to grant to Canadian vessels the right (not now possessed by them) to navigate the Hudson River, or to grant Canadian products a right of transit, which has been formally withdrawn from them. The Government of the United States is fully convinced of the justice of its claims, and it can neither in equity nor in honor consent to purchase a compliance with a solemn treaty stipulation, by a further concession not required or contemplated by the treaty.

The President has seen with regret that the Dominion government, under the circumstances indicated, has thought proper to renew the proposal of June last, after it had been found inadmissible. He had earnestly hoped that an assurance would be seasonably given that the objectionable discriminating order against American commerce would not be renewed for the coming year. He still cherishes the hope that the Canadian government may conclude that the course which it has followed in this matter does not tend to promote the good relations which should exist between two neighboring countries, and, in his name, I appeal to you, Mr. Minister, to exert your good offices to bring about a better understanding upon the basis of a faithful observance of treaty stipulations.

I have, etc.,

JOHN W. FOSTER.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas, by an act of Congress approved July 26, 1892, entitled "An act to enforce reciprocal commercial relations between the United States and Canada, and for other purposes," it is provided "That, with a view of securing reciprocal advantages for the citizens, ports, and vessels of the United States, on and after the first day of August, eighteen hundred and ninety-two, whenever and so often as the President shall be satisfied that the passage through any canal or lock connected with the navigation of the Saint Lawrence River, the Great Lakes, or the water ways connecting the same, of any vessels of the United States, or of cargoes or passengers in transit to any port of the United States, is prohibited or is made difficult or burdensome by the imposition of tolls or otherwise which, in view of the free passage through the St. Marys Falls Canal, now permitted to vessels of all nations, he shall deem to be reciprocally unjust and unreasonable, he shall have the power, and it
shall be his duty, to suspend, by proclamation to that effect, for such time and to such extent (including absolute prohibition) as he shall deem just, the right of free passage through the Saint Marys Falls Canal, so far as it relates to vessels owned by the subjects of the governments so discriminating against the citizens, ports, or vessels of the United States, or to any cargoes, portions of cargoes, or passengers in transit to the ports of the government making such discrimination, whether carried in vessels of the United States or of other nations.

"In such case and during such suspension tolls shall be levied, collected, and paid as follows, to wit: Upon freight of whatever kind or description, not to exceed two dollars per ton; upon passengers, not to exceed five dollars each, as shall be from time to time determined by the President: Provided, That no tolls shall be charged or collected upon freight or passengers carried to and landed at Ogdenburg, or any port west of Ogdenburg, and south of a line drawn from the northern boundary of the State of New York through the Saint Lawrence River, the Great Lakes, and their connecting channels to the northern boundary of the State of Minnesota.

"Sec. 2. All tolls so charged shall be collected under such regulations as shall be prescribed by the Secretary of the Treasury, who may require the master of each vessel to furnish a sworn statement of the amount and kind of cargo and the number of passengers carried and the destination of the same, and such proof of the actual delivery of such cargo or passengers at some port or place within the limits above named as he shall deem satisfactory; and until such proof is furnished such freight and passengers may be considered to have been landed at some port or place outside of those limits, and the amount of tolls which would have accrued if they had been so delivered shall constitute a lien, which may be enforced against the vessel in default wherever and whenever found in the waters of the United States; and

"Whereas the government of the Dominion of Canada imposes a toll amounting to about 20 cents per ton on all freight passing through the Welland Canal in transit to a port of the United States, and also a further toll on all vessels of the United States and on all passengers in transit to a port of the United States, all of which tolls are without rebate; and

"Whereas the government of the Dominion of Canada in accordance with an order in council of April 4, 1892, refunds 18 cents per ton of the 20-cent toll at the Welland Canal on wheat, Indian corn, pease, barley, rye, oats, flaxseed, and buckwheat, upon condition that they are originally shipped for and carried to Montreal or some port east of Montreal for export, and that, if transhipped at an intermediate point, such transhipment is made within the Dominion of Canada, but allows no such nor any other rebate on said products when shipped to a port of the United States or when carried to Montreal for export if transhipped within the United States; and

"Whereas the government of the Dominion of Canada by said system of rebate and otherwise discriminates against the citizens of the United States in the use of said Welland Canal in violation of the provisions of Article 27 of the treaty of Washington, concluded May 8, 1871; and

"Whereas said Welland Canal is connected with the navigation of the Great Lakes, and I am satisfied that the passage through it of cargoes in transit to ports of the United States is made difficult and burdensome by said discriminating system of rebate and otherwise, and is reciprocally unjust and unreasonable;

Now, therefore, I, Benjamin Harrison, President of the United States of America, by virtue of the power to that end conferred upon me by said act of Congress approved July 26, 1892, do hereby direct that from and after September 1, 1892, until further notice, a toll of 20 cents per ton be levied, collected, and paid on all freight of whatever kind or description passing through the St. Mary's Falls Canal in transit to any port of the Dominion of Canada, whether carried in vessels of the United States or of other nations; and to that extent I do hereby suspend from and after said date the right of free passage through said St. Mary's Falls Canal of any and all cargoes or portions of cargoes in transit to Canadian ports.

In testimony whereof I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the city of Washington this 18th day of August, in the year of our Lord one thousand eight hundred and ninety two, and of the Independence of the United States of America the one hundred and seventeenth.

[Seal.]

By the President,

JOHN W. FOSTER,
Secretary of State.