

# PAPERS

RELATING TO THE

# FOREIGN RELATIONS

OF

The United States,

TRANSMITTED TO CONGRESS,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT,

DECEMBER 7, 1874.

PRECEDED BY A

LIST OF PAPERS AND FOLLOWED BY AN INDEX OF  
PERSONS AND SUBJECTS.



WASHINGTON:  
GOVERNMENT PRINTING OFFICE.  
1874.

active authority; and his son and the Queen Dowager became more obnoxious to his bands. It would seem that, stimulated by a feeling of insecurity in his seat, he began to oppress the people and repress his enemies. He took vengeance against everything foreign, especially foreign books and trinkets, and the extension of foreign trade. In 1864 he exercised greater severity, and, as is well known, about that time began a deadly persecution against the Roman Catholic, putting to death hundreds and thousands of native converts, and killing several foreign priests. The proceedings of Admiral Ross, in 1860, not being followed up by any other measure on the part of the Powers, he took courage, having, as he supposed, repelled both the Russian and French ships. It appears that a Russian man-of-war had come on the eastern coast of China in 1864, which remained there a long time for the purpose of opening negotiations in respect to the new frontier between the two countries of Russia and China, near Fort May and Fusan, but her mission was unsuccess-

The result of the visits of American men-of-war, in consequence of the destruction of the "General Sherman," and especially of the United States expedition in 1871, were all reported as a great triumph, by this master, who had, as he supposed, delivered the Kingdom from subjugation by foreigners, and asserted the power of his sway. But after the American flag had retired from his ports, and there was time to review the whole affair, the more sensible part of the rulers began to see it in a different light. The members of the naval embassy had also had an opportunity to confer with the Chinese rulers at Peking, and learn from them all the real nature of Mr. Low's attempt to open amicable relations with their sovereigns. At any rate we know that some of the Chinese in this city last year purchased many copies of all the books about foreign missions, including the monthly magazine published in this city, so every back with them.

The conclusion now reported is, that the legitimate King and his adopted brother in conjunction with the ruler of Korea, have compelled the emperor Tz'u to retire, and have assumed control. The change has been brought about without bloodshed, and the bishop (Monsignor H.) looks forward to a peaceful state of their missions, seeing that the new authorities are liberally disposed toward foreigners and Christianity.

He repeats that the disastrous and bloody result to the Chinese of our attack on Fort Nitchee was used as a strong argument with Tz'u, of the weakness of his existing foreign mission, whose weapons and tactics were no superior to ours, and their resources no great. On all three points there is much, no doubt, to be learned, but there seems to be full grounds for believing the report of an entire change of government in that kingdom.

I AM, Sir,

S. WILLIS WILLIAMS.

### No. 142.

*Mr. Williams to Mr. Fish.*

No. 34.]

LEGATION OF THE UNITED STATES,  
Peking, May 29, 1874. (Received July 18.)

SIR: In Mr. Low's dispatch, No. 221, of 10th January, 1873, he sets forth the disadvantages and complications likely to arise from per-

mitting citizens of the United States to enter the military and diplomatic service of Japan; and in your reply of 3d April, you state that the Department has no authority, by law, to prevent them from entering the service of a foreign power. Referring to these two letters, I have now to relate the particulars of a conversation which took place at the interview referred to in my last, which bear upon this point.

With curious inconsistency, the Chinese officials brought forward the employment of American officers and ships by the Japanese in their descent upon Formosa, as a violation of the spirit of Article I of the treaty of Tien-tsin, when they had not themselves deemed that act to amount to a declaration of war. How can the United States permit her citizens to help and direct Japanese troops, they asked, when this article provides that if another nation acts unjustly or oppressively toward China, she will try to bring about an amicable arrangement between them? Even if it was not so stated in the article, this permission, in their view, involved a complicity in those acts of injustice or oppression which its spirit was intended to adjust, if not restrain. To this I replied, that it was fairly implied in the spirit of the article that the United States must be the judge, in a measure, of the nature of those acts here called unjust or oppressive; it was never designed that she should interfere until she knew the facts and reasons for them, and could do so intelligently. The wording of the article involved a full hearing of the matter at issue; and it was hardly applicable in the present instance, as they admitted that they had received nothing from the Japanese government in explanation of their intentions. I then inquired if Soye-shima had not discussed the matter with them when he was in Peking last year? They answered that he had said nothing to them about his government sending a force to occupy any part of Formosa, and they would not admit that he had discussed the question of the wrongs suffered by Japanese subjects at the hands of the savages there. But it is generally known that there was considerable talk upon these points at that time, and Mr. Low's dispatch (No. 264) of June 13th conveys the impression that the Japanese ambassador had then stated his grievance, and the redress he proposed to take if the Chinese refused to do anything.

They then inquired if, in the event of hostilities arising between China and Japan, Americans who were engaged in the ranks of the enemy should be killed by Chinese troops, what notice would be taken of it by their own Government?

I answered that all Americans who entered the military service of the Japanese did so at their own risk, and that the American Government would take no notice of their death under such circumstances; all persons composing a hostile force could only be regarded as enemies by China.

They did not pursue their inquiries in this direction. \* \* \* I referred them to the translation of Wheaton's work for an authoritative explanation upon the usages in such cases in western lands; but both of us felt, no doubt, that those usages are much modified by the principle of extritoriality found in our treaties, particularly in military operations.

The employment of our citizens in peaceful pursuits, or even to aid in the suppression of a rising of their own subjects, was referred to by them as of a different character from the same persons engaging in active hostilities against them on behalf of Japan; and they would have admitted the same principle when applied to their employing foreigners against Japan. Their objection showed that they had thought

over this point; and it has its force; but there was no discussion, and it was evident that they had no wish to pursue it.

I have nothing to add to the remarks of Mr. Low in the dispatch above cited, which can strengthen them. This principle of self-government to foreigners was granted by the Chinese in the face of an overpowering force, and when they had had no practical experience, almost, of its nature and results. During the Taiping rebellion, all foreigners who aided the rebels took their own risks, and made very little noise about their doings. When Burgevine was captured in 1865, the fact that he had once been a trusted officer in the service of the imperialists, and had left them to join the rebels, led me to allow him to remain a prisoner until instructions were received. Mr. Seward replied, that upon a just conviction, he might be left in the hands of the Chinese, adding, "but this is to be understood to rest upon our own consent, upon the grounds of national honor, and not from Chinese right under treaty stipulations." (See my dispatch No. 3, and Mr. Seward's No. 7, of 6th November, 1865.)

I infer that the implied freedom of action to Americans to enter the military service of other nations, in that there is no law to prevent them, had primary reference to service in Christian nations, and when thus employed by those nations, allegiance to their own ceases. But does not this doctrine of ex-territoriality materially alter the nature of this service? There is no provision that I know of contemplating the naturalization of an American citizen in Japan or China; and it is understood here that foreigners in these countries cannot change their national character, and claim the protection of another country.

If an American citizen enters the military service of the Japanese, and another enters the same service in China, it is to be supposed that the rulers of both countries engaged these men to help them fight, if necessity required; but if they are to be led against nations with whom the United States are at peace, they are bound to refuse to serve, and to leave the flag thus employed. But supposing they refuse to desert it, and they appear in arms against each other, one under the Chinese and one under the Japanese flag, we have the spectacle of our countrymen fighting on behalf of two non-Christian governments, each side claiming the protection of its own country against the wrong-doing of its employers while trying to do all the harm they can to the opposing nation. It appears to me that this is not at all unlikely to take place within a few months, if the Japanese pursue their aggressive policy in Formosa.

Mr. McLane's decree of December 5, 1854, making it a misdemeanor to fight for or against the Emperor of China within his dominions in case of rebellion, is still in force; but I do not know whether a similar one has been issued in Japan. This decree was effectual in restraining an attempt made about the time of its publication to aid the Canton government to destroy banditti near that city; but no conviction was ever made under it during the Taiping rebellion. I think, however, it had no little moral effect in deterring many from joining the imperialists, though after Ward's force became famous, and he was killed, Mr. Burlingaine applied to have Burgevine put in command of the force, thus neutralizing the decree in effect.

The British government requires that previous permission be obtained before its subjects can enter the Emperor's military service.

It is very desirable, if Mr. McLane's decree conflicts with the implied liberty to our countrymen of entering the military service of the Japanese or Chinese, which the absence of an actual prohibition seems to involve, that instructions be given in time. At present it seems to do so.

Your dispatch of April 3, 1873, refers to General Le Gendre alone, who is not now in the employ of the United States, and was free to accept the offer made to him. This I told the Chinese officials, when they complained that American officers were employed against them; but in respect to Lieutenant-Commander Douglass Cassell and Major Wasson, who, I believe, are still in our Navy and Army, I answered them verbally, that as yet there were no hostilities existing, and consequently these officers were not doing anything at which China could complain.

It is highly probable that, if the Japanese carry out their designs upon Formosa and Corea, as shadowed forth in Mr. De Long's dispatches Nos. 302 and 309, active hostilities will arise in this part of Asia, which will almost certainly involve us in their issues and conduct. I may be pardoned, therefore, for bringing this question of employing our countrymen on either side to your notice, after what Mr. Low has written.

International law, which is applicable to western nations in times of war, has not been well defined in its application to these oriental powers, and their rulers are in constant perplexity how far they can go. We all wish to encourage them in utilizing foreign skill, science, and integrity in acquiring and applying our arts and improvements for their advantage; and as soon as they become expert in their new powers they are not unlikely to employ them to overcome their enemies.

\* \* \* \* \*

I am, &c.,  
S. WELLS WILLIAMS.

No. 343.

Mr. Williams to Mr. Fish.

No. 343.]

LAWATION OF THE UNITED STATES.

Peking, May 30, 1874. (Received July 2d.)

Sir: I have the honor to inclose for your perusal a very clear account of the events which occurred at Shanghai on the 3d and 4th instant, taken from the "Courier," and a copy of Mr. Bowditch's report of his efforts in aiding to suppress the riot, (inclosure 1,) from which you will learn all that is of importance.

Mr. Bowditch's position as senior counsel at Shanghai gave him much advantage in taking independent action, and I have heard only one opinion in commendation of his promptness and expediency. Preventive efforts are always difficult to estimate, but in this case everybody acknowledges that the sending of a detachment from the United States steamer *Ashland* and *Tuscarawas*, at the time it did, was most opportune. The mob was in that rendered powerless by its appearance. I sincerely hope that the Department will justify and induce the public voice by its special approval of his action.

You will no doubt observe on the perusal of the printed narrative that the author of the article is strongly against the Chinese, and he does not seem to be disposed to wait till he can hear their side. I do not refer to the mob, for whose conduct I find no excuse, but to the proceedings of the Ningpo guild. It is not easy, at any time, to know the exact truth about native opinion, but in this instance the views of the guild were early made known, and their temperate manner (inclosure 2) and liberal proposition to arrange the matter well to the mutual bene-

The cost bears a very slight proportion to a tribute valued last year at more than seventy millions of dollars, whose maintenance is entirely supplied entirely by foreigners, and to tributes which neither the local nor central governments can be induced to try the sharp experiment of diminishing them bear a few feet.

I am, Sir,

S. WILLIS WILLIAMS.

NO. 147.

*Mr. Fish to Mr. Williams.*

No. 174.]

DEPARTMENT OF STATE,  
Washington, July 29, 1874.

SIR: Referring to your dispatch, No. 34, and to your conversation with certain Chinese officials, in relation to the late expedition of the Japanese against the natives of Formosa, I have to reply that the instruction contained in the dispatch of April 8 was confined to the particular case then referred to, and to a time of peace. Your efforts to detach the citizens of the United States who were engaged in the expedition referred to are approved.

You state in your dispatch that you had informed certain officials in this conversation that the Americans entering into the military service of China or Japan did so at their own risk, and that the Government would take no notice of their death under such circumstances. Your answer goes further than the Department feels justified in approving.

In case such American citizens should be killed in battle in the ordinary course of civilized warfare no notice would be taken thereof; but the United States will expect that no unusual or inhuman punishment be inflicted upon any of its citizens who may be taken prisoners, but that they shall be treated according to the accepted rules of civilized warfare.

Where the exercise of a commission or the enlistment in a foreign service is not prohibited by law, the fact that a war arises between the country in whose service a citizen of the United States may be and another nation, with which the United States are at peace, does not, in the opinion of this Department, create an obligation "to refuse to serve or to leave the flag thus employed."

Such fact is of not infrequent occurrence. Citizens of all nationalities were engaged on both sides during the rebellion, and such has frequently been the case with European nations.

I fail to perceive that the doctrine of extritoriality affects the question of the rights of citizens of the United States to engage in the service of foreign powers when not prohibited by law, or that it becomes unlawful because of the engagement being made with a non-Christian power. China has not infrequently availed herself of the services of Americans, as in the case of Ward and Burgevine, and it is not for her to take exception against this Government that it refuses to interfere to prevent its citizens from entering into foreign military service which may not be prohibited by law.

It is believed by this Department that the provisions of the act of June 22, 1860, afford ample power to the ministers of the United States to issue proclamations, or writs, and even to resort to force, in case of a

violation of its provisions, and it is believed that these powers conferred upon the minister will prove sufficient in these cases.

This Department is officially informed by the Secretary of War that Mr. Wasson, said to be attached to the expedition against the natives of Formosa, has not been in the service of the United States since July 1, 1872.

I am, &c.,

HAMILTON FISH.

No. 348.

Mr. Williams to Mr. Fish.

(No. 34.)

EXTRACTION OF THE UNITED STATES,

Peking, August 13, 1872. (Received October 13.)

Sir: I have the honor to submit to you a short communication relating to the principle of extraterritoriality, which has for Americans in this part of the world a particular interest; and a case like the one here described has not hitherto occurred as a practical question to our relations with the colonial government of Hong Kong.

The case is briefly this: An American, named W. Jackson, appealed to Mr. Howard for protection against arrest, at Hongkong, on a warrant from the magistracy at Hong Kong, (Indorse 1,) whom should every such a request for the man's delivery after he had come under the jurisdiction of the colonial government, and then evidently acknowledges the interpretation, (Indorse 2.) The letter appeals to the extraterritorial treaty between Great Britain and the United States as controlling the point which now governs the question, (Indorse 3;) but after the case had been discussed, a review of the circumstances leads me to the conclusion that it does not come within the scope of the extraterritorial treaty, (Indorse 4.)

I have no additional information relating to the circumstances under which the alleged piracy was committed, nor why the man Jackson was not sooner arrested, or where he was during the four intervening months; but those details would probably not at all affect the question.

As the Hong Kong authorities have given up the case, it is now only a matter of discretion, whose opinion by the Department is requested for guidance in the future. If I hear the reasons why they gave it up I will inform you, should there be anything of interest in them.

I have, &c.,

B. WILLIAMS WILLIAMS.

(Indorse 1 to No. 34.)

Mr. Howard to Mr. Williams.

George Bruce Commissioner-General,

Washington, Aug. 20, 1872.

Sir: A man has recently arrived, to which I respectfully call your attention. A man named Jackson was sent from Hongkong by the police of the extraterritorial government of Hongkong, which would then be held responsible as out of process on a British road over the high seas. He was arrested as a British subject, who claimed to be a subject of the United States, but I do not know. After which he claimed to be an American citizen. I examined his claim and reported the facts to the Commissioner General, at the same time asking the police representative to report the fact

Browne's letter indicated Pownall or more than four months after leaving which he returned to be received at some other port, or where Pownall crossed him out, but he had been sent back to Shanghai in a British subject. He then applied to you for permission to leave the port, which was granted on the ground of his nationality. You responded by giving him a safe conduct to Hong Kong to take him with the government of Hong Kong, but you did not then have sufficient to give the Chinese even which the instructions were made, adding, as a reason, that you are "under no obligation to deliver subjects except to governments with the permission for the extradition of criminals, as secured by treaty between the respective governments."

In my view the relationship treaty between the United States and Great Britain does not apply to this case at all, and if you had authority to grant a safe-conduct to protect the subjects of Britain from being held by the mercenary army in the dominion of the Hong Kong Government, it seems to me that the provisions of such treaty are intended to apply only to the territory of the United States, and they cannot be extended to the territory of the Kingdom of China. Neither of the two governments is guilty having had of an extraterritorial treaty with China, for she has yielded all her rights over the subjects of the subjects of both nations, and they cannot exchange or exert their kingdom outside her borders.

The propriety of the course which that officer must be compelled within the jurisdiction of either, and that the criminal must have sought an asylum or be found within the territories of the other nation. This applies my conclusion that Browne is the man of the law, who will be British subject, and amenable to the laws of Great Britain. He was charged with piracy in British territory, and the British Courts will have given the sentence of the British power in their full capacities in his trial. But if a subject from another country had committed piracy on board an American ship, and had fled to Hong Kong to avoid arrest from your judicial warrant, the jurisdiction of the particular court would probably give your authorities taken to exercise a trial of American pirates, and bring him up to be tried in your courts in China, for the same cause that they would in British territory. The natural course of the treaty being reciprocal protection, the experience would you apply to Browne's case, make the present consequences less severe than would have done so if they had been confined to Chinese territory.

The case of David Williams may be referred to. He was tried in your superior court in 1864 for piracy and murder committed, and sentenced to be hung, but reprieved when he had given a general confession of his crime to you a Williams by name. The appeal was denied because the crime was committed under the dominion and through the Chinese waters, but another party referred to the connecting treaty, which was his to be wholly inapplicable, because neither of them had territorial jurisdiction where the offense was committed.

Jackson could not escape his responsibility for the offense by leaving his ship and going to China and then pleading his knowledge of an American citizen, to escape the Chinese jurisdiction, and your superior tribunal was to deliver him up as soon as the trial was completed, but I conclude that you had no right to detain him.

If your instructions had any influence in preventing his trial and a general jurisdiction of the ports, I repeat that it was granted by law, but certain facts had arisen which have given to right to refuse the application to bring him to answer the proceedings.

I shall communicate a copy of this dispatch to the British minister from the Consul-general in the Amoy District.

I am, &c.,

H. WILLIS WILLIAMS.

#### No. 149.

*Mr. Fish to Mr. Williams.*

No. 179.]

DEPARTMENT OF STATE,

Washington, August 29, 1874.

SIR: I inclose, for your information and that of Mr. Avery, a copy of an instruction of the 26th instant, No. 409,\* addressed by this Department to George F. Seward, esq., the consul-general of the United States at Shanghai, in relation to participation of citizens of the United States in the Japanese expedition to Formosa.

I am, &c.,

HAMILTON FISH.

\* See correspondence with the consul-general in China.

No. 350.

*Mr. Fish to Mr. Williams.*

[No. 350.]

DEPARTMENT OF STATE,

Washington, August 29, 1874.

SIR: I transmit herewith, for your information and that of Mr. Avery, a copy of an interview of the 20th instant, No. 46, which has been addressed to John A. Bingham, esq., the minister of the United States in Japan,\* with an enclosure, both relating to the subject of co-operative action between the United States and other western powers in that country.

I am, Sir,

HAMILTON FISH.

No. 351.

*Mr. Fish to Mr. Williams.*

[No. 351.]

DEPARTMENT OF STATE,

Washington, September 1, 1874.

SIR: Referring to my No. 379, of the 20th ultmo, I transmit herewith, for your information, a copy of an interview of the 6th of June last, No. 48, to John A. Bingham, esq., our minister in Japan, relative to the authority conferred by the act approved June 23, 1868, on ministers of the United States in missions where rights of extraterritoriality are granted.

I am, Sir,

HAMILTON FISH.

No. 152.

*Mr. Williams to Mr. Fish.*

No. 57.]

LEGATION OF THE UNITED STATES,  
Peking, September 3, 1874. (Received October 29.)

SIR: Since my dispatch of the 22d ultimo (No. 55) was sent to the Department nothing decisive has taken place between the Chinese and Japanese ministers in this city in reference to the Formosan question. There have been long and excited discussions between them, but I suppose the chief reason for delay has been the appointment of a new envoy from Yedo, who comes with full instructions. The interval has been diligently occupied by both parties in mustering their forces in readiness for the coming strife; and the people on the coast are becoming enthusiastic in the affair, owing very much to the circulation of two or three native newspapers. Yet my strong belief is that the Peking government does not relish or desire the struggle, and is ready to take any measures to restrain the tribes in Formosa from repeating their violence, if the Japanese will leave.

\* See correspondence with the minister to Japan.  
A similar despatch was addressed to Mr. Wilson, minister resident in Turkey.  
See correspondence with the minister to Japan.

I am so confident that you have been informed of every important particular connected with the arrest and discharge of General Le Gendre, by the consuls at Amoy and Shanghai, that I shall not repeat what they have written about it. Mr. Seward has sent me a copy of his dispatch No. 797, in relation to it, and I only refer to it in this place in explanation of the following short extract from a reply sent him on the 31st ultimo:

In view of the whole question, and the difficulty of finding witnesses to prove charges against General Le Gendre of having violated the neutrality act, I think you could hardly have done otherwise than discharge him. To send him to Japan for trial would have also been attended with the same difficulty of proving the charges or of getting the attendance of witnesses. The arrest has, however, had its effect in showing the Chinese our desire to carry out treaty stipulations.

I, however, inclose copies of the protest of Mr. Go Sheki, acting Japanese consul at Amoy, with Mr. Henderson's reply, and my dispatch to him upon it, (June 1, 2, and 3,) and General Le Gendre's protest, (inclosure 4,) in order to facilitate reference to them. These protests involve one or two points in international law which, so far as I can learn from Wheaton, have not been prominently brought forward in treatises on the subject.

In Europe, where Turkey is the only power under the restraint of the ex-territoriality law, there has been no risk of one of her envoys being interfered with as he went over the continent by entering into the limits of a nation where the same ban prevailed, and, therefore, the question of the status and privileges of her diplomatic agent in the territories of the other could not arise. Neither would it enter into her view to appoint as her envoy anybody beside one of her own subjects to represent her abroad, and especially in a state subject to the same disabilities, and this would prevent this point of his immunities coming up.

In General Le Gendre's case, it has happened that the Japanese consul claims for him immunity against the jurisdiction of his own national authorities, simply on the ground of his enjoying the privileges of a diplomatic agent. This protest states, for the first time to my knowledge, that General Le Gendre was "His Imperial Japanese Majesty's special commissioner in China," but no such announcement was made by the Mikado's government to the United States legation in Japan before he left that country. None of the Japanese officials in China have informed this legation or the United States consuls of the appointment, and it seems to me that this act of courtesy was necessary as a preliminary to his being accepted as a commissioner by the Chinese officials. General Le Gendre came to Peking last year as one of Soyeshima's suite, but that subordinate position was altogether different from the present one claimed for him. But whatever his own national authorities might say or claim in the premises, I think that until he had presented his credentials, and been acknowledged by the Chinese government as a diplomatic officer, he could not be considered as such by any one. No Japanese official had informed the Chinese authorities, so far as I know, that he had been sent on a diplomatic mission by the Mikado, and his pretended national character could not be claimed in immunity of arrest by the United States consul.

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In view of all these things, I conclude that the protest of Mr. Go Sheki is entitled to no weight, and that he had no grounds for making it. To allow its propriety in any degree would allow the Japanese government the right to employ American citizens in China to carry on its

hostile operations against the peace of this country. It would compel American consuls to see their countrymen plotting in China against its government, and disregarding the obligations of treaty without the power vindicating the dignity and position of the United States.

In his protest General Le Gendre lays great stress on the fact that as he was engaged by the Japanese government in accordance with Article X of the American treaty, before it invaded Formosa, or committed any hostile act, and with the permission of the United States minister in Japan, he is, therefore, to obey all its orders during those hostilities. That article allows the Japanese government to engage American citizens in the United States (and elsewhere, too, I infer) in any lawful capacity, but his deduction that such an engagement carries with it permission to break a treaty-right is fallacious. To say, in addition, as he does in the same paragraph, referring to the neutrality act, that he is beyond its application because when he accepted his present task he was without the jurisdiction of the United States, is even still more so, for neither in China nor Japan can he place himself without that jurisdiction.

It seems to me that his protest shows throughout a singular misconception of the application of the laws he quotes. Article X is brought forward to release himself from United States jurisdiction in China, because he had been engaged by the Japanese before they had committed any hostile act within Chinese territory, and because this article was a law before the act of Congress of June, 1860, and therefore is paramount to it. But in my view there is no difference between being engaged while Japan is at war with any power in amity with the United States, and afterward engaging in active hostilities after entering her service because she ordered it. The plain intent of the proviso is to restrain American citizens from aiding Japan in any military or naval capacity at any time or place out of her own territory; and a subsequent state of war must work the same disability that an actual state would have done at the time of engagement.

General Le Gendre has rather altered the meaning of the proviso by changing the phraseology, but I do not suppose he intended to do so in any degree. It reads: "*Provided*, That no articles that are contraband of war shall be exported [from the United States], nor any persons engaged to act in a naval or military capacity, while Japan shall be at war with any power in amity with the United States." He quotes it, "*that such person shall not be engaged to act*," &c., in order, apparently, to fortify his inference as to the *time* of engagement, and prove that subsequent hostilities could have no retrospective action in invalidating his freedom to serve the Japanese in a war against China.

His remark, that the act of 1860 was framed chiefly because "some American adventurers, notably Ward and Burgevine, had taken an active part in the troubles between the Chinese government and the Taiping rebels, Burgevine having given his aid on both sides," is erroneous. When the act was framed in 1860, the proceedings of General Ward were hardly known in the United States, and Burgevine's career was from 1863 to 1865.

Even if he is correct in assigning this reason for inserting the clause in section 24, that it referred primarily to civil wars, his deduction, that the stipulation in the prior treaty with Japan overrides it, is unsound, for as soon as a person engaged in the service of Japan leaves that country and arrives in this, he comes under the operation of the treaty with China. He cannot quote the treaty with one belligerent to do wrong to the other, by breaking its treaty, and that with China should

be paramount, according to General Le Gendre's reasoning, for it is the oldest of the two. He is so taken up with his postulate, that a prior engagement with Japan justifies a subsequent wrong to China, that he is unconscious of the incongruity.

Speaking of the act of 1860, and the prior obligation of the treaty of 1858, he adds, "I say that the law of 1860 never could have been understood by its framer to apply to Japan, and that it was never intended that it should." I should have thought that, knowing that the framers of the act had the treaty of Japan before them, the general would have been led to doubt his own reasoning in his own favor, and concluded that they intended to define the limits of Article X, and restrain American citizens from doing what he and Mr. Cassell and Mr. Wasson are now doing.

Some persons have questioned whether taking the whole scope and wording of the neutrality act of 1818 into consideration, which indicate that it was apparently designed only for cases within the territory of the United States, and that at the time it was passed, the question of extritoriality was nearly unthought of, and not found in treaties, its provisions are applicable to these eastern countries. The sixth section contains the clauses which seem to link the act with proceedings like those of Mr. Cassell; but in this, it has been asserted, the intent of the framers by using the word "jurisdiction" was plainly to include ship-board, and not foreign countries like China where Americans then were not living under their own laws. However, I do not regard the exception as a good one, and as Congress has not since passed an act such as the objectors deem necessary to cover the more modern circumstances, I think Mr. Henderson was right in quoting the act when addressing General Le Gendre. No one can assert that its general scope is inapplicable to present circumstances in maintaining the neutrality of the United States; and that is the main point.

I have entered into this analysis of General Le Gendre's protest, because it has attracted the attention of the community, and the newspapers have rather taken his side. In it he says nothing upon the point, whether war exists between China and Japan, for I suppose if he proved that there was no war, he would at once infer that people might reasonably ask what was he doing here as a special commissioner. One of the most labored articles in his favor says, speaking of engaging Americans before the war and retaining them now, "That in such a case it would no more be permitted to the United States to deny the right to Japan to retain in her service, while war is going on, the American citizens engaged before the war commenced, than it would be to demand of Japan the return of the arms, ammunition, and vessels of war, bought before the expedition to Formosa was fitted out, but used after its departure." This would doubtless be true enough if there was no treaty with China involving obligations to prevent American citizens doing this very thing.

In regard to the discharge of General Le Gendre, I have only to add that, in the absence of direct proof of his having violated the acts quoted by Cousul Henderson, and the very great difficulty of procuring witnesses in China or Japan, I think that Mr. Seward acted properly in discharging him.

I have, &c.,

S. WELLS WILLIAMS.

[Inclosure 1 in No. 57.]

*Gosheki to Mr. Henderson.*

HIS IMPERIAL JAPANESE MAJESTY'S CONSULATE,  
Amoy, August 11, 1874.

SIR: I have been informed that the Hon. Charles W. Le Gendre, a citizen of the United States, who was engaged by the Japanese government, through the United States minister in Japan, in December, 1872, in conformity with the terms of article 10 of the treaty of 1858 between Japan and the United States, and now His Imperial Japanese Majesty's special commissioner in China, was, on the 6th day of August, 1874, forcibly taken before your court by United States marines, landed for that purpose from the United States steamship Yantic, upon unknown charges, and in virtue of a warrant issued by you while he was in Amoy on his way to Foo-Chow and Shanghai on business connected with his mission; that on the day following the Hon. Charles W. Le Gendre was against his will again brought before your court; that he is now forcibly detained by you at this port and rendered unable to discharge the duties intrusted to him by His Imperial Japanese Majesty; that he has already notified you that he yielded only to force, which he was unable to resist, in suffering the violence and detention to which he is now being subjected in Amoy; and that he has strongly protested against these proceedings:

Now, therefore, I, Gosheki, His Imperial Japanese Majesty's acting consul at Amoy, find it my duty to myself to protest, which I hereby do, in the most formal and solemn manner, against this act of violence toward His Imperial Japanese Majesty's special commissioner as being a manifest infraction of the rights of nations, and contrary to the privileges and immunities which public commissioners enjoy in civilized countries.

I have, &c.,

GOSHEKI.

[Inclosure 2 in No. 57.]

*Mr. Henderson to Gosheki.*

UNITED STATES CONSULATE,  
Amoy, August 10, 1874.

SIR: I have to acknowledge the receipt of your communication of yesterday, in which you complain of my action in arresting Mr. C. W. Le Gendre, a citizen of the United States, who you say is sent to China as a special commissioner of His Imperial Japanese Majesty the Emperor of Japan.

Although I have received no official notice of the establishment, or recognition of a Japanese consulate at this port, I will state for your information that on the 6th instant Mr. Le Gendre was arrested by me in the United States consulate upon the charge of advising, aiding, and abetting an expedition in hostility to the government of China, in violation of the laws of the United States and their treaty with China, and was at the time informed by me that I was acting under instructions from the United States legation at Peking.

I will add that I know of no provision in the treaty between Japan and the United States permitting citizens of the latter country to accept or exercise any position under the former which is inconsistent with their prior obligations to obey the laws of their own country, or so long as they remain its citizens, whereby they may deprive their government of its jurisdiction over them either in Japan or China.

The tenth article of our treaty to which you refer does not, even for a lawful purpose, authorize the employment by the government of Japan of citizens of the United States to engage in her diplomatic service, and even if it did under the treaty they would still be amenable to the laws of the United States.

However, I will forward your dispatch to the legation for decision and instructions.

I am, &c.,

J. J. HENDERSON.

[Inclosure 3 in No. 57.]

*Mr. Williams to Mr. Henderson.*

LEGATION OF THE UNITED STATES,  
Peking, August 31, 1874.

SIR: I have received your two dispatches of the 10th and 13th instant (Nos. 10 and 11,) both relating to the arrest of Charles W. Le Gendre, and inclosing copy of a pro-

test from Gosheki, acting Japanese consul at Amoy, against this arrest, and your reply to him.

You have, in your answer to Mr. Gosheki, clearly stated the grounds of your action; and the reference he makes in his protest to the engagement of General Le Gendre, in Japan, in December, 1872, and his subsequent appointment by that government as special commissioner to China, has no strength or validity in neutralizing your jurisdiction over him. General Le Gendre is still an American citizen, and if you have reason to believe that he is violating the laws of the United States, or the treaty with China, while within your jurisdiction, you have no need to refer to any Japanese authority in taking all proper measures to restrain him.

The tenth article of the treaty between Japan and the United States relates particularly to the engagement of American citizens in a military or naval capacity, and does not speak of diplomatic service, as you observe in your answer; but neither in one nor other of these capacities can any American citizen in China be allowed to aid or abet a hostile expedition against its government as long as the United States is at peace with it. Still there is an apparent difference in the nature and objects of the two callings, and more caution and evidence are, perhaps, required before proceeding against one in an ostensibly peaceful employment than one whose profession is war-like, and his surroundings more or less hostile.

If it was found after arrest that no proof of having violated treaty obligations was produced, or not enough to detain the prisoner, he should be discharged; but it was not competent for the Japanese consul to ask for the charges, as General Le Gendre was not under his jurisdiction, and Japanese law could not interfere.

I conclude further, that there was no infraction of the rights of nations in your acts, nor anything in them "contrary to the privileges and immunities which public commissioners enjoy in civilized countries," as Mr. Gosheki expresses it. The case is no doubt a singular one, but the Japanese government will clearly understand that their employment of American citizens does not remove such persons from the paramount claim of their own national laws, wherever those laws reach. Neither does an engagement in either of the above-mentioned callings by the Japanese government, when there was no hostile expedition started against China, authorize American citizens to engage further in active hostilities under the Japanese flag, and screen themselves by their previous obligations to serve their employers, as releasing them from their duty to keep the peace with China, while within her limits.

I am, &c.,

S. WELLS WILLIAMS.

[Inclosure 4 in No. 57.]

*Protest of C. W. Le Gendre against his arrest by the United States consul at Amoy, August 7, 1874.*

Selected by the government of Japan to come to Southern China, and represent it here on a mission of peace as its special commissioner, I solemnly protest against the violence used toward me by the authorities of the United States at Amoy, in depriving me of my liberty, and forcibly and against my will bringing me before them, in virtue of a warrant, in which, in violation of all principles of law, no mention of the offense or crime of which I must necessarily be accused is mentioned.

My quality as a United States citizen, and my connection as such with the Japanese government, while the latter is engaged in carrying out a scheme of pacification within the boundaries of aboriginal Formosa, cannot be invoked (as it may ultimately be) by the United States authorities in justification of their act, for the very nature of the duties which I have come here to perform entitles me to certain privileges and immunities which both China and western powers are bound to respect; and by depriving me of my liberty, while thus vested with this character, this court has committed toward Japan an unfriendly act, which that country cannot fail to resent, and which, in the course of time, the United States, in their well-known policy of justice, will certainly regret.

While as a public officer of Japan, I turn my eyes toward the United States and protest against the wrong which I am now made to suffer, and for which I claim redress as a citizen of these same United States, I feel deeply grieved for the error which I believe has been committed here by this court. This error is the more apparent when we come to consider the different circumstances under which the American authorities might have been placed in their relations with me in my double capacity as Japanese officer and United States citizen. I will suppose the worst case; that is, that the late

action of Japan in aboriginal Formosa constituted an act of war against China, or, as some have called it, a war without declaration.

It must be remembered that I was engaged by the Japanese government long before the Formosa mission started. Now, the treaty of 1858 between the United States and Japan says that Japan shall have the right to engage in the United States \* \* \* naval and military men \* \* \* to enter its service, \* \* \* provided that such persons shall not be engaged to act in a naval or military capacity while Japan may be at war with any power in amity with the United States, and I do not think that this proviso prohibits Japan from employing American citizens to act in a military or naval capacity who have been engaged before Japan went to war. Neither does the act of Congress passed April 20, 1818, commonly called the " neutrality law ;" for, when I accepted my present task under the Japanese government, I was without the jurisdiction of the United States.

Now we come to the act of 1860. In passing this act the object of Congress was to arm the ministers and consuls of the United States in China, Japan, and Siam with certain powers that would enable them to carry into effect the treaties with those powers, for which purpose previous jurisdiction was insufficient. It provides that "it shall be competent for each of the said ministers to issue all manner of writs to prevent the citizens of the United States from enlisting in the military or naval service of either of the said countries, to make war upon any power with whom the United States are at peace or in the service of one portion of the people against any other portion of the same people, and he may carry out his power by a resort to such force as may at the time be within his reach belonging to the United States."

However stringent this law may appear at first sight, it can have but very little bearing upon the case at issue. It is, it is true, a law of the United States, binding, so far as it goes, upon all American citizens. But the treaty of 1858 between Japan and the United States is also a law of the United States. Mr. Wheaton says: "Under the Constitution of the United States, by which treaties made and ratified by the President, with the advice and consent of the Senate, are declared to be the supreme law of the land, it seems to be understood that the Congress is bound to redeem the national faith thus pledged, and to pass the laws necessary to carry the law into effect." (Wheaton's International Law, section 226, page 339.) Now, we have seen that, by the terms of the treaty of 1858 between Japan and the United States, persons who retain the character of citizens of the United States and are in the service of Japan may, without blame to themselves or Japan, serve that country in a war begun after their entering the service. If so, how could Congress, which was bound under the Constitution to legislate for the purpose of carrying into effect the terms of the treaty, pass a law that would virtually set at naught the provisions of this same treaty? In vain would we agree that the law of 1860 applies to United States citizens and not to Japan. It is beyond question that Japan can claim certain privileges from the United States under the terms of the treaty of 1858. If, by depriving United States citizens of a certain proportion of their liberty in their relations with Japan and her people, either or both are debarred from enjoying these privileges, and if the enactment of the law of 1860 is the means of doing this, I say that the law of 1860 never could have been understood by the framers thereof to apply to Japan, and that it was never intended that it should. Now, we must not forget that the law of 1860 was framed chiefly because some American adventurers, notably Ward and Burgevine, had taken an active part in the troubles between the Chinese government and the Tai-Ping rebels, Burgevine having given his aid in turn to both sides. Congress was anxious to prevent, by legislation, the recurrence of such proceedings, not only in China, but in all the countries where it was likely they might again take place, and, to prevent all possible transgression of the law, this body extended the prohibition from enlisting in the service of contending parties in cases of civil wars among those nations to entering the army or navy of either of those countries while at war with some power with whom the United States have treaties of peace and amity. In what relates to China or Siam, neither of which has such a clause in her treaty as the one referred to above, this law can be carried out, but it cannot be legally enforced in the case of Japan. It could be, however, were the law to be embodied in a new treaty, but it has not been so embodied, and, until it has been, it cannot affect or modify the treaty of 1858 without the express consent of Japan in every case. In the present instance we must infer that this consent has not been given from the fact that, contrary to the stipulations of the law of 1860, but in accordance with the terms of the treaty of 1858, an American was engaged by the government of Japan to serve in connection with the Formosa mission previous to a declaration of war against either the aborigines of the island or the Chinese Empire, and the provisions of this same treaty can be invoked by both Japan and the citizens of the United States in justification of their acts in all the courts where the laws of the United States are enforced.

CHS. W. LE GENDRE.

AMOY, August 7, 1874.

No. 153.

*Mr. Fish to Mr. Williams.*

No. 153.]

DEPARTMENT OF STATE,

Washington, October 23, 1874.

SIR: Referring to your dispatch No. 154, in relation to the case of Walter Jackson, who was charged with the crime of piracy and assault with intent to commit murder on board a British vessel on the high seas, I inclose for your information a copy of an instruction\* of this date, addressed by the Department to Mr. George F. Seward, the consul-general of the United States at Shanghai, in reference to this case.

I am, &c.,

HAMILTON FISH.

## No. 154.

*Mr. Cadwalader to Mr. Williams.*

No. 194.]

DEPARTMENT OF STATE,

Washington, November 2, 1874.

SIR: I transmit herewith for your information a copy of dispatch, No. 425,<sup>†</sup> of the 2d instant, addressed by this Department to Mr. George F. Seward, consul-general of the United States at Shanghai, in relation to the arrest of General Le Gendre, late consul of the United States at Amoy, on account of his connection with the Japanese expedition to Formosa.

I am, &c.,

JOHN L. CADWALADER,  
*Acting Secretary.*

## No. 155.

*Mr. Henderson to Mr. Davis.*

No. 30.]

UNITED STATES CONSULATE,  
Amoy, June 1, 1874. (Received July 20.)

SIR: I have the honor to inform you that through the courtesy of Commander A. Kautz, of the United States steamship Monocacy, last week, I had the pleasure of visiting Liang Kiau Bay, in Formosa, where the Japanese forces are encamped. (See my dispatch No. 28.)

We started from Amoy on the evening of the 27th ultimo, and arrived at Takao roads at sundown on the following day, where we had intended remaining over night, but the weather was so stormy we were unable to land, and after lying at anchor some three hours, proceeded down the coast against a strong southwest monsoon, and at daylight next morning anchored at Liang-Kiau Bay. This bay is formed by a small curvation in the shore-line, and affords not the slightest protection against the southwest monsoon. Consequently a heavy sea was breaking upon the shore in front of the Japanese camp, rendering it im-

\* See Information No. 425 to consul-general at Shanghai.

<sup>†</sup> See infra.

possible for us to communicate with them. After remaining there a few hours the storm became more violent, and vessels in the harbor began to drag their anchors. Commander Kautz, thinking it unsafe to remain, and that we could not land for several days, put to sea, and returned to Amoy, where we arrived on the evening of the 30th.

However, while at Liang-Kiau, we communicated with the British gunboat Hornet, and from her officers and other reliable sources I learned the following facts:

Japanese land forces now there number about three thousand. The Japanese corvette Nashin, and transport Shaftesbury at anchor in the bay, and the Japanese gunboat Wooshin and six other vessels, had been there but were gone. These vessels are nearly all commanded by citizens of the United States.

On the 23d the Japanese skirmishers had an engagement with the natives, and report sixteen savages killed, with six Japanese killed and thirty wounded.

The Japanese have the cordial co-operation of the Chinese at Liang Kian.

The Chinese corvette Yang Boo and gunboat Fusing visited Liang Kian on the 23d ultimo.

Although I have no official information from any source that Americans are taking part in these operations, I know personally that Lieutenant-Commander Douglas Cassel, U. S. N., and three or four other citizens of the United States, accompany the expedition.

I have the honor to inclose herewith copy of a dispatch, and translation of same, which I received on the 30th ultimo from the Chinese Taotai at this port, and respectfully request instructions as to course to pursue toward citizens of the United States implicated.

It will doubtless be remembered that these savages have heretofore been treated as an independent people, not only by foreign governments, but by the Chinese themselves, who have not hitherto pretended to claim that part of the island where the savages reside, or in any manner be responsible for their conduct. (See Consul Legendre's dispatch No. 13, of February 20, 1868, from the board of trade at Foochow to him, dated February 7, 1868.)

It is to be hoped that this affair will, at least, settle this question of responsibility for the future.

Although the Japanese have landed at a place occupied by Chinese, they claim it is by the express permission of the imperial government at Peking.

If the difficulty between China and Japan should assume a more formidable shape before I receive instructions to do otherwise, I will enjoin upon American citizens in Formosa the observance of the strictest neutrality.

I have, &c.,

J. J. HENDERSON.

[Inclosure 2 in No. 30.—Translation.]

*Tautai Tin to Mr. Henderson.*

I have the honor to inform you that on the 8th day of the 4th moon of this year, (23d May,) I have received a dispatch from the board of trade at Foo Chow, stating that on the 30th day of the 3d moon of the same year (15th May) a dispatch was received by them from Viceroy Li, of the Fah Keen and Che Kiang provinces, which says that on the 23d day of the 3d moon of the same year, (May 8,) his excellency had

received a dispatch from the Japanese commander-in-chief, dated the 27th day of the 2d moon, (April 16,) which says as follows :

"From time immemorial the savages of Formosa have always been in the habit of killing and plundering, and should they find any person cast ashore or in danger they become very happy, and not long ago several of my countrymen, who encountered bad weather, being driven on that shore and endangered, were massacred by them.

"Now, my government having appointed me commander-in-chief to penetrate into the savage country, summon their headmen, show them kind feelings in every way, open their hearts, discuss the points, and demand the surrender of the savages who have committed the murder, and have them punished, so as to show good example to others and prevent a repetition of the offense hereafter; also, to protect future passers-by; therefore I take my country soldiers with me to go by sea to the savage country at Formosa, and to inform you of my proceedings."

I also inclose another writing, which says that—

"Sixty-six Loo Choo islanders, when passing Formosa, were shipwrecked on that coast, and fifty-four men were plundered and killed by the Bawtan tribes, and only twelve escaped.

"Another party of men belonging to Pee-chung Chin, named Leepah, and three others, were also wrecked on that coast and plundered by the Pilam tribe, but the lives of the four men were spared. My government, therefore, send a commissioner to proceed to the spot, to conquer their hearts, and to make them comprehend human nature better and show good feelings toward others.

"I take soldiers with me as a precaution in case of emergency; that is to say, should they refuse to come to terms with us or endanger our persons, then we cannot help ourselves, and we would be compelled to chastise them a little, which we are bound to do, &c." (Here ends the Japanese dispatch.)

Now the Viceroy says :

"I have examined into this affair, and find that the whole island of Taiwan has figured a long time in the map of my country; that although the natives consist of savages and half-castes, they have for upward of two hundred years resided and subsisted themselves in that territory, like Kwaugtung, Kwangsoo, Hoonan, Hooper, Huenan, and Kweichow, which have savages as well, and are called Yiao, Tung, Miao, and Lee, yet they are all in Chinese territory from time immemorial.

"According to ancient history these territories belong to China, and although the savages inhabit the high mountains, their nature like wild beasts, and civilized law not having been able to reach them, nor are we taken notice of by them, yet they reside within the dominions of our territory and are our subjects.

"I have also examined into the international laws, and find that any living or moving object or inhabitants, no matter whether born in the land or come from abroad, are amenable to the laws of the country they reside in. Fasheal says that anything in the country of any nation belongs to that nation. He also says that any territory discovered or conquered by any nation, and so recognized by treaty, no matter whether it was done fairly or not fairly, and so held for a long time, no person has any right to question whether it belongs to them or not. He further says that every nation should attend its own business and mind its own duty.

"I have examined the above facts and find that Formosa actually belongs to China; therefore, Chinese laws should be administered to its people, and there is no occasion to allow any other nation to interfere with our duties.

"The Japanese commander-in-chief states in his dispatch that the savages at Formosa had killed harmless people and endangered them, and that he had received orders to proceed to the savage territory and punish the principal guilty party life for life, also to teach them a lesson for the future, because they are very wicked and have been always killing harmless people.

"According to the laws of China they must be punished. Formosa belonged to China a long time ago. The Japanese government, without consulting the Tsungli Yanien as to how and in what manner the affair is to be settled, sends a commander-in-chief and troops at once to that place. This is against international law, and does not agree with the first and third articles of the Japanese treaty with China, which was ratified on the tenth year of Tung Tchih.

"And now, after carefully examining everything, we find that the first part of the Japanese dispatch says that they will send for the savage chief, to open their hearts and persuade them not to repeat the offense. Again, and that although they take a commander-in-chief and soldiers to Formosa, it is merely to be prepared in case of an attack by the savages and to punish them.

"The meaning of the Japanese commander-in-chief is only to punish the principal savages who were implicated to prevent future troubles, and there is not the least intention to go to war with China.

"With regard to the two complaints already made by the Japanese, the one relating to the Pie-chung-chin men, I have to remark, that none of the men were hurt, and that they were handed over to the authorities who had sent them to the Japanese consul at

Shanghai, through deputies appointed by me, and thus they were restored to their homes.

"Some time ago I ordered the Taotai and Deputy at Formosa to erect watch houses and gates from Pang Liao to Liang Kiao, and soldiers and volunteers were stationed all along, in order to protect foreigners and others who may be cast away on that inhospitable shore. Certainly, after this, any Japanese merchantman passing to and fro that coast will not be molested.

"Last year when the Pee-chung-chin men were driven there nobody got hurt. This is a proof.

"The Loochoo Island is tributary to China, and is called by the Chinese "Choing San." Both the king and inhabitants have full respect toward China. I value their lives equally as my people, and have given special orders to the Chinese authorities to make the savages responsible, and to deliver the men who have done wrong and have them punished, life for life.

"Finally, I say that Formosa belongs to China, and it is the Chinese who have to manage their own affairs. There is no necessity to allow the Japanese to act in any way for us.

"All the foreign ministers at Peking will concur with me, and say that the remarks made by me are quite reasonable.

"I have also addressed the Japanese commander-in-chief in the same day, and requested him to take his troops back to his country, and act in accordance with treaty.

"I have also addressed in the same day the board of trade at Foochow, to notify the public in general.

"On the 28th day of the 3d moon (13th May) the board of trade received a letter from the superintendent of customs, Tartar General Wooing, stating that on the same day, (13th May,) through the war department, by "fire-post," a secret communication was received from the Tsung li Yamen, copied from an official memorandum by Her Britannic Majesty's principal Chinese secretary, Mai, and by him personally handed to the Tsung li Yamen. It says as follows:

"Whenever one party goes to war with another party, foreign nations are not allowed to work underhand by assisting them.

"I am now given to understand that the Japanese have hired foreign vessels to convey their soldiers, &c., and I, minister, wishing to preserve public interests, ought to investigate into the matter.

"There are four rules to be observed. Rule 4 says as follows:

"As the Japanese have proceeded to China, and landed on Chinese territory, I make a particular rule, that is: If my country's subjects should save the Japanese, and help them by their power and influence, no matter whether it is my government's duty to prevent them or not, or whether the Japanese have the approbation of the Chinese government or not, my government will give explicit orders when things assume another aspect. British subjects can serve neither the Japanese nor Chinese government. This will be fair and just. Were I to give notice just now, it will cause the Japanese and Chinese to break friendship. I have plainly given orders to my respective consuls not to notify to the people as yet before they hear from me again.

"Should British subjects have anything to do with this affair, the consuls are to discourage them, and prevent them from having anything to do with it." (Here ends the viceroy's dispatch.)

Now, says the board of trade:

"That on receipt of this dispatch they wrote to the Taotai, and requested him to communicate its contents to the Chinese local authorities and the nearest consuls."

Now the Taotai says:

"I have before this received instructions from the viceroy on the subject, when I made up my mind to address you, but as I have again received a dispatch on the subject, I do so now, and beg to request you that, should you find any of your countrymen interfering in this affair, you will please stop them, and thus preserve friendship, which is very important.

AMOY, 12th day, 4th moon, 13th year of Tung Tchih, (27th May.)

### No. 156.

*Mr. Henderson to Mr. Davis.*

No. 31.]

UNITED STATES CONSULATE,  
Amoy, June 3, 1874. (Received July 20.)

SIR: Since sending my dispatch No. 30, with reference to the Japanese invasion of Formosa, I had a long conversation with the Chinese

admiral and Taotai at this port on that subject, and particularly the complicity of certain prominent Americans in the affair. The Taotai thought it a matter of common notoriety that Americans *were* taking part, and a very active one, too; and remarked that it had frequently been stated in the newspapers that the expedition had been concocted and was being managed by Americans. They professed to regard America as China's oldest and truest friend, and thought justice and good faith demanded that our Government should at once prevent its citizens from taking any part in the performance. The admiral made a special request that I would do what I could to bring about an amicable settlement of the trouble that would be just and honorable to China.

I cannot help thinking it a little unfortunate, for appearance' sake at least, that citizens of the first Government in the great family of nations, just now trying to teach China international rights and obligations, should be about the only foreigners implicated, and especially that so many of them, until quite recently, held responsible positions in our civil and military service, and *particularly* that one of them is now a lieutenant-commander in our Navy.

I assured them that it had always been the pride of the United States to maintain a scrupulously impartial neutrality in difficulties between other nations in which they had no concern, and that, when apprised of any unlawful conduct on the part of either their officers or citizens in China, it would inquire into the matter and do justice; but as yet I had no certain information that Americans were taking any part in the transaction, other than that of innocent observers; that I had been over to Formosa to see for myself what was going on, but the weather was so stormy I was obliged to return without landing; and, until I received the Taotai's letter on the subject, a day or two ago, I was not aware that China claimed the savage territory at all, and had been so informed by a high officer in their service; that, besides all this, it had frequently been stated in newspapers that the Japanese had gone to Formosa with the express consent of the government at Peking. They both claimed to have authority from Peking to declare the latter report untrue.

The character and sources of the information I have received about this affair, until within the last four or five days, has not seemed to justify me in taking any official notice of it; and, judging from what I know of the history of Formosa and its savage inhabitants, I was disposed to believe that China had given permission to the Japanese to go there and punish the savages, and really supposed she would be glad of it, if they had to be punished at all. But after what developed in the conversation yesterday, I concluded this morning to telegraph to the legation for instructions as to the course to pursue toward Americans implicated, and did so.

I have, &c.,

J. J. HENDERSON.

[Inclosure.—Newspaper extracts.]

[From *The Daily Press*, Hongkong, June 2, 1874.]

#### THE WAR IN FORMOSA.

(From our special correspondent.)

JAPANESE CAMP, Langkiaou, May 21, 1874.

Langkiaon, where the Japanese are encamped, is a small plain, one or two square miles in extent and surrounded by hills, on the west coast of Formosa, about ten miles

from the South Cape, and forty miles from Takow. There are a few Chinese villages in it. Communication with the north is generally by junk, as the path through the hills is not safe from attack.

The Japanese have lately been busily occupied in changing the position of their camp. The old one was on an open level plain, that answered capitally till the rain began to fall, when the unfortunate soldiers found themselves sleeping literally in water. The new camp is on a line of sand-hills nearer the shore, and less regular, but far more healthy and comfortable. In spite of the work and the rain, a few small parties have managed to get away into the bush to try their breech-loaders on the savages. Two or three men have thus fallen on both sides. On one occasion such a large party of savages jumped out upon six Japanese that they had to run, leaving one of their number on the ground. His head now decorates some savage hut. Let us hope that it will be the only trophy of the kind that the savages will gain in the war. The tribe against whom proceedings are carried on are supposed to be the actual murderers of the Lewchewans, and are called the Bawtan, or the "peony" savages.

There are two American officers here, Commodore Cassell and Colonel Wasson. Such, at least, is the rank which they bear while serving the Japanese. They seem to have had hitherto, in an unofficial way, the general direction of the expedition; and, unless they belie their reputation, they will do good service in the war. These two gentlemen the other day went, unattended by an escort, to a neighboring savage village to see the chief. It had been agreed that they should meet in the open country; but, the savages not appearing, the officers went on to the village. This was an act requiring more nerve and real courage than some dashing exploit on the battle-field. A peaceable arrangement was made, which included all the villages south of Langkiaou except one, which is to be punished for some act of hostility.

#### MAY 22.

This morning early the later sleepers among us were awakened by a salute of several guns. This announced the arrival of General Saigo, the commander-in-chief of the expedition. He came in the Delta, which also brought 1,200 troops. A Japanese gun-boat came in at the same time, and an hour or two afterward the Shaftesbury, with 600 soldiers, raising the number to about 2,500. Three thousand are expected in all. The Delta is said to have been bought standing, with her fittings and stores, and apparently officers as well, for they are all on board, though a new captain commands her. A fine Chinese corvette, the Yang Woo, and a small gunboat, have also come in, bringing three Chinese mandarins from Taiwanfoo to visit the Japanese commander-in-chief. With the four Japanese vessels and Her Majesty's steamship Hornet, which have been here for some days, there are, therefore, ten steamers anchored together in the bay.

A small party of troops bivouacked last night in the mountains, about four miles away. Early this afternoon two men were seen coming in wounded. At the same time about one hundred men hurried off to take part in the fighting. They were in irregular detachments, apparently without any officers. They went along at a half run as eager and delighted as possible. Many of them were carrying their two-handed swords as well as rifles. The swords are awkward enough for scrambling through the bush; but the Japanese cannot bear to leave them behind, hoping that some time or other they may come up with the savages. If they do there will be fearful work. It is a common sight to see men employing their leisure moments in sharpening and re-sharpening their sabers or sword-bayonets. They think breech-loaders are excellent weapons for fighting at a distance, but they have a most blood-thirsty longing for hand-to-hand work.

#### MAY 23.

We hear this morning that the result of yesterday's fight was fifteen savages and six Japanese killed on the spot. A visit to the hospital showed ten wounded men there, one, and perhaps two, mortally hurt. The Japanese brought in all their men who were killed, and cut off and carried back the heads of the savages, which, however, were immediately buried. One of the savages killed was a chief, and in his pouch was found a quantity of percussion-caps; but he was fighting with a matchlock. The work was severe. The savages generally waited under cover, rising up suddenly and firing first, and then running away to take up a fresh position. In one place a slight stockade was erected across a ravine, and a stand was made there. The Japanese are extremely brave. The only fault to be found with them is that they are too regardless of their own lives, preferring to rush in rather than to adopt the savage tactics, and make the most of the cover.

The Chinese inhabitants are both delighted and astonished at this slaughtering of their enemies. They are on excellent terms with the Japanese, who, with equal justice and wisdom, pay well for everything they want. The Chinese do not well understand the big copper coins, but thoroughly appreciate the new silver currency.

The Chinese mandarins came on shore to-day, at noon, to see the commander-in-chief. They were received by a guard of honor of two hundred soldiers. The visit was very

short. It is not known what passed. The mandarins were not of sufficiently high rank for the Japanese to be willing to discuss anything of importance with them; and probably not much took place beyond an interchange of compliments.

We are having a sample of Formosa weather. In the morning, though the sea was quiet, still there was a surf which rendered care necessary in landing. This afternoon, in an incredibly short space of time, such a sea has got up that the two small gunboats are rolling almost gunwales under, and communication between the shore and the ships is a matter of real difficulty. Cloudy weather, with a mixture of drizzling rain and heavy down-pour, render fever and ague a too probable contingency.

The Japanese commanders do not want to have any more fighting for two or three days, fearing to frighten the enemy away. They wish to wait till they can attack from several quarters at once, and so have a chance of preventing the escape of the savages.

The Nepaul sails to-night for Nagasaki.

No. 157.

*Mr. Henderson to Mr. Davis.*

No. 32.]

UNITED STATES CONSULATE,  
Amoy, June 6, 1874. (Received August 5.)

SIR: I have the honor to inclose copies of correspondence between Com. A. Kautz, U. S. N., and myself, on the subject of the Japanese expedition to Formosa and American intervention therein. Also copy of a notification which I have issued in co-operation with the United States naval forces on this station, hoping it will, in view of the peculiarity of attending circumstances, meet the approval of the Government, and maybe, for the time being, discourage Americans from having anything more to do with that enterprise.

I have, &c.,

J. J. HENDERSON.

[Inclosure 1 in No. 32.]

*Mr. Henderson to Commander Kautz.*

No. 20.]

UNITED STATES CONSULATE,  
Amoy and Dependencies thereof, June 4, 1874.

SIR: I have the honor to state that I have received an official dispatch from the Chinese authorities of this province, informing me that the island of Formosa is a part of the Chinese Empire, and that the Japanese armed forces now at Liang Kian have entered that island in violation of law and their treaties.

They request me to prevent citizens of the United States from having anything to do with the affair, and say that they have demanded that the Japanese evacuate the island at once. I suppose there is no doubt but there are some Americans engaged in this business, and if so it is probably in opposition to the laws of the United States and our treaty obligations with China; and as United States consul charged with the execution of those laws and obligations over there, I respectfully request your co-operation and assistance in compelling them to desist.

If this suggestion accords with your sense of duty, we can hereafter determine what mode of procedure we will adopt.

I am, &c.,

J. J. HENDERSON.

[Inclosure 2 in No. 32.]

*Commander Kautz to Mr. Henderson.*

UNITED STATES STEAMER MONOCACY,  
*Amoy, China, June 5, 1874.*

SIR: I have the honor to acknowledge the receipt of your communication of the 4th instant, requesting my co-operation in compelling the Americans to leave the forces of the Japanese now in Formosa.

I have referred the matter by telegraph to the commander-in-chief of the United States naval forces on the Asiatic station, and will advise you of the nature of his reply as soon as I receive it.

I am, sir, your obedient servant,

A. KAUTZ,  
*Commander United States Navy.*

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[Inclosure 3 in No. 32.]

NOTIFICATION.

UNITED STATES CONSULATE,  
*Amoy and the Dependencies thereof, June 6, 1874.*

Whereas the Chinese authorities of the Foh-kien province have informed me that a Japanese armed force has invaded the island of Formosa; that that island is a part of the Chinese Empire, and have requested me to prevent American citizens from taking part in the enterprise; also, that they have demanded of the Japanese forces its immediate evacuation; and

Whereas citizens of the United States in China are under the protection and subject to the jurisdiction and laws of their own country:

Now, therefore, I, the undersigned consul, charged with the care of American interests and the execution of the laws of the United States and treaty obligations with China in the island of Formosa, hereby notify and command all citizens of the United States to at once withdraw, and hereafter abstain from all enterprises unfriendly to the Chinese government, and to avoid all acts which are inconsistent with the said laws and treaty obligations.

Any citizen of the United States who shall refuse to comply with, or offend against, the provisions of this notification, shall forfeit the protection of the American Government.

J. J. HENDERSON,  
*United States Consul.*

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No. 158.

*Mr. Seward to Mr. Davis.*

No. 764.]

UNITED STATES CONSULATE,  
*Shanghai, June 16, 1874. (Received July 18.)*

SIR: The telegram which I had the honor to dispatch to you on the 8th instant was sent at the earliest moment after I had received positive information that Mr. Cassel was in the service of the Japanese. It now appears that Dr. Williams had an earlier intimation of this fact from Mr. Bingham, and he has acted in the matter in such manner as to indicate that I am not singular in my opinion that Cassel should be withdrawn from the expedition. In order that you may see exactly what Dr. Williams's view is, I transmit herewith a copy of two dispatches of his, dated, respectively, the 5th and 8th of June; the former to Mr. Henderson, the other to myself.

I have transmitted the substance of Dr. Williams's dispatch to Mr. Henderson by telegraph.

I have not received an answer from you to my telegram of the 8th

instant. If such shall come, instructing Mr. Cassel to withdraw, it will save all questions with him and be a source of gratification to the Chinese. If it shall not come, Dr. Williams's instructions will probably accomplish all that is necessary.

There is no late news from Formosa. The most interesting matter since I last addressed you is contained in the inclosed translation of a dispatch from the imperial commissioner at Foo-Chow to the officer commanding the Japanese expedition.

I am, &c.,

GEORGE F. SEWARD.

[Inclosure in No. 764.]

[Newspaper extract from North China Daily News of June 14.]

*Fukien, Viceroy, to Japanese General.*

A dispatch from the viceroy of Chekiang and Fukien to the general in command of the Japanese forces in Formosa.

In reply to your dispatch, informing me that you had received imperial orders to land an army to admonish and punish the Seng Fan (unreclaimed aborigines) of Formosa, I had some time since the honor to reply thereto, requesting that you would withdraw your troops, bringing forward citations from international law in support of my demand.

Subsequently, on the 12th day of the 4th moon, I received information from the military intendant that the troops under your command had encamped themselves in the neighborhood of the stockade-town of Lang-chian-chai, in Fung-shan-hsien, and had engaged in a fight with the unreclaimed aborigines dwelling on Chinese soil. The intendant had deputed the "peace-reclaiming" Lieutenant-General Chen-chun-pang and the acting "Formosa-defense" Prefect Chwan-i-li, and others, to repair with all speed to the scene. On the 8th they had an interview with you, inquiring as to whether my first dispatch had reached you or not. You replied in the affirmative, and, further, mentioned that the expedition was based on the agreement made last year between the Fuh-Tan, minister of your great country, (So-ee-si-ma,) and the Tsung-li Yamen; also that an ambassador was at present being sent to Peking, to deliberate specially on the matter. That when instructions came from the capital a reply would be given; in the meanwhile the troops could not be withdrawn.

Further, on the 7th day of the 4th moon I received information that the consul for your honorable country at Amoy had visited the above-named military intendant, and personally informed him that the army would proceed to Lang-chian, for purposes of observation, and that your vessels of war would not be permitted to interfere with or give trouble to Chinese subjects, in order that the friendly relations of the two countries might be maintained. The intendant inquired as to the cause of this military movement, to which the consul replied that it was intended merely to give a slight admonitory warning and punishment to the aborigines, and that no violence would be done to Chinese soil.

The writer, on receipt of this information, was deeply impressed with the solicitude of your government to preserve the harmony of the two countries and to strengthen the bond of friendship previously existing. On hearing also that your sovereign's orders were couched in cordial terms toward China, being anxious by sinking all petty differences, to preserve the eternal friendship of the two nations, he (the writer) was further overjoyed beyond expression. Other reflections, however, compel me to convey to you intimations of a different character.

The treaty established between your honored country and my own is of recent date, and it was hoped that it would lead to amicable relations between us as limitless as the heavens and the earth. But in regard to this expedition, you are instructed by your sovereign to lead an army on territory under the dominion of China, and on soil subject to my government; while no instructions whatever have reached me from Tsung-li Yamen in regard to the matter. The movement on your part proceeds purely from lightly believing floating reports, and wrongly considering that the "Seng-fan" are not subject to Chinese control. Your action is in breach of international law, and in dereliction of the amicable treaty just established. The public opinion of China and foreign countries will necessarily proclaim you in the wrong.

Besides sending a copy of my first dispatch, I have now the honor to bring forward various unmistakable proofs, the result of investigation; firstly, of China's title to the

territory in question, and secondly, of the breach of international law and treaty stipulations of which you are guilty.

That the "Lang-chian" tribe—people, property and land—are under the control of China, there are various and incontrovertible proofs. I bring forward three.

1. Eighteen tribes of Southern Lang-chian have heretofore been tributary to the Fung-shan-shien. They pay each year "Fan" taxes to the extent of over 20 Tes, as the records of Fung-shan will show.

2. In Formosa are established two prefects of the north and south divisions with the sole duty of administering the "Fan" affairs. These officers each year repair to the interior and reward the Seng Fan with salt, cloth, and other articles.

3. Stockade City (Lang-chian) is also termed "Fuh-an-chieh;" in it is erected a monumental temple to the Minister and Duke Fuh-Kung Kang of our dynasty.

The proofs are numerous and irrefragible; the only thing is that, in consequence of difference of habits, our country has not yet been able thoroughly to bring the people within the pale of the law.

In reference to the treaty entered into between our countries, clause No. 3 says: The government affairs and laws of both countries have similarities and differences. Each nation is independent, and must not encroach upon or interfere with the affairs of the other. Now in regard to Formosa, "Seng Fans," they have been long tributary to China; that they have not been completely brought within the pale of the law is a question of administration; but according to treaty it is for China to regulate it, and your honorable country is not justified in interfering. Moreover, clause No. 1 states that the territories subject to each country shall not be encroached upon by the one or the other, but must be maintained inviolate by each respectively. Again clause 14 runs as follows: "Certain ports are laid down (for trade.) Japan shall not fight "with her enemies at these ports, or in the adjacent seas." Since you are not permitted to fight with enemies in seas adjacent to China, your fighting actually on our territory and with our tributary tribes, would be naturally the more unjustifiable.

By disembarking and encamping, as you now have done, your troops in the neighborhood of Lang-chian, "Chai" town, where we have established border outports, and by engaging in warfare with the "Fan" people, who have been in the habit of paying taxes to us, you are at variance, from beginning to end, with every article of the treaty. Presuming that another country were, in imitation of the example now started by your honored country, without previous consultation, to deliberately and suddenly order its generals to lead their armies, seize your soil, and kill your people, would your honorable country, I would ask, quietly submit to the act without question? If you will but only reflect you will, I am convinced, at once see the error of your ways.

According to information obtained from the military intendant of Formosa, I learn that you (the general in command) and the diplomatic-agent, Chin-Cheng, state that, at an interview between your ambassador and the Tsung-li-Yamen at Peking last year, it was mentioned that the "Seng Fan" were not tributary to China, that this expedition was then discussed, and is now being carried out in accordance thereto. It will be found that in the case of all treaties hitherto established between China and other countries high ministers and ambassadors, each accredited with full powers, have, in accordance with their respective imperial instructions, arranged the terms of the treaty containing a special article making known the accredited powers held by each. The ministers on both sides affix their seals and signatures to the covenant, but not until the imperial signatures of both countries are added is the treaty finally published, or does the same come into force. Now, in respect to the assertion that the matter had already been agreed to by the Tsung-li-Yamen, was an agreement or treaty drawn up in accordance with the rules established in such matters? Were the seals affixed thereto, or have you no official letter, a proclamation, or any interchange whatever in writing, by which to attest your statements? On my part, I have received no intimation of any kind from the Tsung-li-Yamen, but I presume that you, when receiving orders to conduct a distant campaign, must have been instructed minutely on all subjects. If, therefore, a covenant was really entered into at the time mentioned, I beg that you will give me a draft-copy of the stipulations entered into, and it will then be my duty to allow you to act in accordance thereto. But if at the period named no written proof of a satisfaction was drawn up, it becomes my duty to request that you will withdraw your troops, return to your country, and no longer encamp your soldiers on territory under the sway of China, in order that treaty obligations be conformed to.

It would appear that your government, in consequence of the "Seng-Fan" having on two occasions killed and molested subjects under distress, has therefore ordered this expedition to enter the Fan country, to execute the parties implicated, and thus to insure a non-repetition of former atrocities. In regard to the first, it is a case of subjects of our own tributary county of Chung Shaou (comprising Sin-Chin) meeting with disaster at sea and being murdered by the Seng-Fan. This is a matter concerning the writer, whose duty it is to order the mandarins of the locality to deal severely with the case; there is no necessity for you to interfere. In regard to the other four subjects, Lipah and others of your province of Peichung, who were merely robbed and not

murdered, this is also a case for me to deal with, according to the eighth article of the treaty, stating that cases of robbery, &c., are to be inquired into and judged by the local authorities. Strict injunctions will be given to the said officers to apprehend and punish the guilty parties with the same equity as if Chinese had been the victims. The officers will be open to censure in the event of remissness, and no fear need be entertained of their trifling with instructions. There is, therefore, no necessity for your troops to weary themselves, and entail expense by a protracted stay in Formosa.

In thus addressing you again, expounding in incisive terms the obligations of treaty stipulations, I am influenced by a desire to preserve the harmony of our two nations.

Your present action, considered from the light of ambassadors of all foreign countries residing at Peking, down to the public opinion of the people of China and foreign countries, will be condemned as unjustifiable, and I feel convinced that with the interest of your country at heart, you will, when aware of the error committed, at once change your schemes and withdraw your soldiers to your own country, in order to avoid the censure of the world and to preserve amity between our countries. An important dispatch.

[Inclosure 2 in No. 764.]

*Mr. Williams to Mr. Henderson.*

LEGATION OF THE UNITED STATES,  
Peking, June 5, 1874.

SIR: I have been credibly informed that two American citizens, Douglas Cassel and James R. Wasson, reported to me also as holding commissions in our navy and army, are actually engaged in an armed expedition sent by the Japanese government to punish certain acts of violence committed some time since by the aborigines living in the island of Formosa, upon the crew of a vessel under the Japanese flag; and that both of them have left Japan to aid in the purpose thus openly declared of landing in Formosa.

So far as I can ascertain the consent of the Chinese government has never been formally asked or obtained by the Japanese government to land anywhere in the island of Formosa for the purpose of punishing the aborigines, a region which is claimed by the Chinese as an integral portion of their dominions, and has been so acknowledged by all nations.

I have just heard that part at least of the expedition put in at Amoy for supplies, and after remaining awhile sailed for the southern end of Formosa, where an unopposed landing was effected. Some acts of violence were, it is said, committed by the Japanese upon the unoffending inhabitants or aborigines in that region, which, it is admitted, is not the part of the island where the alleged outrage on the shipwrecked crew was perpetrated.

However this may be, for my information is not precise, this enterprise of the Japanese within the territory of the Emperor of China is one which is not recognized by this Government, and therefore one which no citizen of the United States can lawfully aid, as it is in violation of the peace which now exists between this and his own government. Even if these two men are employed in the military service of the Japanese, that does not permit them to engage in what must now be regarded as an unlawful proceeding, even if it is not really a filibustering expedition.

This being the case, as far as I am now informed, I wish you, as soon as you can, to warn Mr. Cassel and Mr. Wasson that they are doing acts in violation of the peace existing between the United States and China, and require them to desist immediately, and retire from the expedition, under penalty of arrest and trial for those acts. They will not pretend that they have the consent of their own government, or any of its officers, to aid in hostilities with China, but it may be they have been told that the expedition is not really against China, because she does not exercise jurisdiction over the whole of Formosa, and these aborigines always have been quite independent of her control, and it is in their territory only that the Japanese intend to land. These ideas cannot now be alleged in excuse, if it be true that the Japanese government has itself countermanded the expedition for reasons best known to itself.

The appointment of Chin Pao-ching as imperial commissioner to go to Formosa to arrange this affair will, I hope, be a wise selection, and that he will adjust all difficulties; but you will give this warning to Mr. Cassel and Mr. Wasson, and to any other Americans who may be connected actively with the expedition, if they are within your jurisdiction.

I am, &c.,

S. WELLS WILLIAMS.

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[Inclosure 3 in No. 764.]

*Mr. Williams to Mr. Seward.*

LEGATION OF THE UNITED STATES,  
Peking, June 8, 1874.

SIR: I have received your dispatch of the 30th ultimo, No. 366, with inclosures of copies of a letter from Minister Bingham, and your circular letter to the southern consuls, both relating to the Japanese expedition to Formosa.

I received a letter from Mr. Bingham of the same date as yours, and have informed the foreign office of his action in stopping the steamer New York, and urging the Japanese government to detach the American officers engaged in the expedition. The information respecting this whole affair in their possession was somewhat erroneous, and they were under the impression that the New York was a man-of-war, and Messrs. Le Gendre, Cassel, and Wasson were the leaders and commanders of the expedition.

I inclose a dispatch for Mr. Henderson, of Amoy, which may strengthen your circular in showing that the enterprise Mr. Cassel and Mr. Wasson are engaged in, is one which they cannot lawfully aid. I trust they will have already left it before the dispatch reaches Amoy.

The Chinese government will be much re-assured to learn that the United States authorities are determined to take all proper measures to restrain Americans from assisting this Japanese invasion of Formosa, consistent with treaty obligations; but they have exhibited so much hesitation in their action that they have missed the full effects it would have had upon the local officials at the ports, if these latter had early been informed how the expedition was regarded.

I think their own want of precise information had something to do with their inaction, and I made it a reason for urging them to set up a telegraph-wire between the capital and southern provinces, by which they could learn such things sooner. It will be the most intelligible argument to them for encouraging the telegraph, when they begin to see their awkward position in an affair like this, because they have it not.

I am, &c.,

S. WELLS WILLIAMS.

No. 159.

*Mr. Seward to Mr. Davis.*

No. 766.]

UNITED STATES CONSULATE-GENERAL,  
Shanghai, June 23, 1874. (Received August 5.)

SIR: Referring to Mr. Henderson's dispatch, No. 32, I have the honor to inform you that his notification appeared to me to indicate a failure to appreciate our responsibility in this matter of the Americans connected with the Japanese expedition, and of the law applicable as a remedy. I therefore addressed him a letter, copy of which I inclose.

At a later moment the inclosed telegrams have passed between Mr. Henderson and me. I have no idea that the request indicated in Mr. Henderson's message was made only to him, and I do not believe that any good would have come of his interference.

I am, &c.,

GEORGE F. SEWARD.

[Inclosure 1 in No. 766.]

*Mr. Seward to Mr. Henderson.*

No. 157.]

UNITED STATES CONSULATE-GENERAL,  
Shanghai, June 17, 1874.

SIR: I have received for transmission to Washington your dispatch No. 32, inclosing copies of letters which have passed between Commander Kautz and yourself, and a copy of your notification of the 6th of June.

It occurs to me that the final clause of your notification is not sufficiently stringent. As the Chinese government has by treaty yielded up jurisdiction over our people so that it cannot punish them even by fine, it is obligatory upon us to deal with them. In this connection I refer you to a dispatch of Mr. Marshall to Mr. Marcy, of November 25, 1853; the same to Mr. Cunningham of November 1, 1853; Mr. Cushing to Mr. Marcy September 19, 1855, and Fitz Roy Kelly and James Stephen, opinion, May 22, 1862.

And in regard to the actual provisions of law violated by our people in entering the service of the Japanese upon this expedition, I refer you to the act of 20th April, 1818.

For all practical purposes *quoad* Americans, the jurisdiction of the United States is extended to all parts of the Chinese Empire, and that act may, I think, be as rigidly enforced in China as within the territory of the United States.

What I write to you in these matters is of course advisory only, and always subject to revision by the legation.

I am, &c.,

GEORGE F. SEWARD.

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[Inclosure 2 in No. 766.]

[Telegram.]

*Mr. Seward to Mr. Henderson.*

HENDERSON, Amoy :

Answer the Viceroy in a very friendly way, but avoid assuming any prerogative.  
SEWARD.

SHANGHAI, June 20, 1874.

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[Inclosure 3 in No. 766.]

[Telegram No. 317.]

*Mr. Henderson to Mr. Seward.*

AMOY, 2<sup>o</sup>, 1874, 10h. 10m. a. m.

SEWARD, Shanghai :

Viceroy quotes first article treaty of '53, and asks me to assist imperial commissioner to peaceably settle trouble with Japanese. Can I act?  
HENDERSON.

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No. 160.

*Mr. Seward to Mr. Davis.*

No. 768.]

UNITED STATES CONSULATE-GENERAL,  
Shanghai, June 23, 1874. (Received August 5.)

SIR : I have the honor to inform you that the first formal assent to construct a telegraph on Chinese soil has just been accorded to the Great Northern Telegraph Company by the Viceroy of Fohkien. The line will be run from Foochow to the anchorage twelve miles below.

I believe that Mr. DeLano contributed largely to this success. The manager of the company called on me yesterday to state the fact, and to say that he considers the company largely indebted to Mr. DeLano.

I am, &c.,

GEORGE F. SEWARD.

No. 161.

*Mr. Henderson to Mr. Davis.*

No. 36.]

UNITED STATES CONSULATE,  
*Amoy, June 23, 1874. (Received August 16.)*

SIR: On the 19th instant I received a visit from the Chinese Admiral Lec, and Taotai Chain, of Foochow, the latter bringing me a letter from the Viceroy on the Formosan difficulty, an extract from which is here-with inclosed.

Their business was to thank me for the friendship I had manifested, as they said, towards the Chinese government in ordering Americans to withdraw from the Japanese expedition to Formosa; to see if some further action would not be taken on their cases, and especially to ask me to go to Formosa and assist them in bringing matters to a peaceable understanding with the Japanese commander-in-chief, in this connection calling my attention to the first article of our treaty of 1858. They seemed to think that Mr. Le Gendre, an American, had planned and was managing the expedition, and therefore it was my duty to assist in getting the Japanese away. I reminded him that whatever Mr. Le Gendre or other Americans had to do with the affair was by authority of the Japanese government and not the United States. The Taotai, with much apparent confidence, desired my opinion on the merits of the questions between China and Japan. I replied that it would not be proper for me to express an opinion on that part of the subject; but having received instructions from the United States legation at Peking, I was now prepared to warn all Americans to withdraw from the expedition under penalty of arrest and trial for violating the neutrality laws, and as soon as an opportunity was offered I would send them word to that effect. (The admiral having promised to furnish a gunboat for that purpose, it was agreed that a messenger should be sent to Formosa to give the requisite notice as soon as a ship could be got in readiness.)

What I had done in the matter I considered to be nothing more than my duty, and I was entitled to no thanks for it. As to my going with them to see the Japanese commander-in-chief, I thanked them and the Viceroy very much for the high compliment they paid me in asking me to perform so important an office, but I thought it would be inconsistent with my official station to act in that capacity, and in no event could I do so without express instructions from my own Government. I thought it certainly the interest of every nation to preserve peace between China and Japan.

At that time I attached no particular importance to this request, but when, two days after, it was renewed by them with much importunity, with the offer to place a man-of-war at my disposal and give me every facility for comfort and convenience, I telegraphed the fact to Mr. Seward for instructions, and was advised by him to answer the Viceroy in a friendly way, but to assume no prerogatives.

I presume nothing could be accomplished by complying with their request, even if there were not more potent objections. I shall, therefore, do nothing inconsistent with a strictly neutral course.

To-day I dispatched a messenger, per China steamer, with instructions to go to the Japanese camp and serve personally Messrs. Cassel and Wasson, and any other American found taking part in the expedition, with a notice to withdraw, under penalty of arrest and trial for violating the law of neutrality.

I also inclose to each of the gentlemen named a dispatch to the same effect.

The best information I can get leads me to believe that Mr. Le Gendre has not been, and is not now, in Formosa, but he is in Japan directing the affair. The Chinese officers seem to blame him more than any other one person, and are very anxious he should be at once stopped from having anything to do with it, even as adviser.

The Japanese openly avow an intention to remain in Formosa and occupy the savage territory, and report that the greater part of its inhabitants have already surrendered to them with this understanding, but say they have no desire to interfere with that part of the island belonging to China. It is my opinion, however, that in the event of a declaration of war by Chiua, they will, if possible, take possession of the whole place, including the treaty-ports.

I have, &c.,

J. J. HENDERSON.

[Inclosure in No. 36.]

*The Viceroy to Mr. Henderson.*

[Extract.]

JUNE 9, 1874.

Now, we have investigated this Formosa business, as well as the statements of the Taotai of Formosa, and the captain of the Yang Boo, to the effect that this expedition to the savages of Formosa has been planned by the former consul at Amoy, Le Gendre; also, one Cassel and many others were assisting, &c. We have also examined and found that Formosa has long belonged to China, and the savages are certainly under Chinese jurisdiction, and other nations have nothing to do with them. On this occasion Japan has sent soldiers to punish the savages without previous consultation with the foreign office and the Japan commander-in-chief, Hiang, without awaiting a communication from me, on his own motion took soldiers and formed a camp at Liang Kian, in entire violation both of international law and the treaty between China and Japan. We twice sent communication to Hiang, Japan, commander-in-chief, requiring him to take back his soldiers, and twice sent communication to the board of trade to be forwarded to your honorable self to be examined and acted on, all which is on file.

We have received your dispatch in which you show your desire to carry out treaty obligations, and in settling matters to preserve lasting peace and friendship, as well as you purpose to perform your duties, for all which we desire to express our hearty thanks.

We have appointed Chian, second in the board of trade, having rank of Taotai and formerly acting prefect of Foochow, to go to Amoy, and have sent a communication to Li, Admiral at Amoy, telling him to await the coming of Chian, and then with him have a consultation with the United States consul, and with him concert some plan of action. And in accordance with the provisions of article 1 of the treaty of the eighth year of Heinfung, (1858,) that the two countries shall mutually assist in preserving friendly relations, we ask your honorable self to request the Japanese commander, Hiang, to take his soldiers back to Japan.

And if in the vessels that are gone to Formosa there are any citizens aiding the Japanese, we ask you to punish those that are acting improperly, whether on land or sea, in accordance with the eleventh article of the treaty and the laws of your country.

From the time when your honorable self arrived in China you have always managed affairs in strict accordance with right; so that the streets are full of praises of yourself by rulers and people, and we ourselves are truly thankful.

Now that there are affairs in Formosa over which you are consul, you can show your friendly feelings by acting in accordance with treaty, by taking measures in connection with Admiral Li and Prefect Chian. Thus can you show friendly feeling.

We have sent a communication to Admiral Li, and also one to Prefect Chian, ordering him to go to Amoy and arrange the whole affair with you, for which purpose we give them full powers. And we request you to act with these two, not only as officials, but as friends.

Hoping thus, with best regards.

To Mr. HENDERSON,

*United States Consul, Amoy and Formosa.*

## No. 162.

*Mr. Seward to Mr. Davis.*

No. 788.]

UNITED STATES CONSULATE-GENERAL,  
Shanghai, July 21, 1874. (Received September 11.)

SIR: I have the honor to inclose to you further extracts from the North China Daily News, in regard to the Formosa expedition. Two of these are taken from the issues of the 5th and 7th of July, and give brief statements, the one by a Japanese, and the other by a Chinese correspondent, of the diverse views held in regard to the expedition. Two others are from the issue of the 14th of July. The one sets forth the strength of the Japanese navy, the other remarks upon the activity shown at the Shanghai arsenal.

The Chinese have available six vessels which have been constructed here. Four of these are gunboats of six hundred tons, more or less. Two are heavy frigates. They have also some fifteen vessels constructed at the Foochow ship-yard. These are mostly gun-vessels of one thousand tons; are all new and steam well. They have still other craft, which have been used in the different provinces for revenue purposes and in cruising after pirates. I should say, roughly, that the number of these vessels is six or eight. They are small, but would be useful in a contest with the Japanese.

In point of fact, the Chinese navy is probably to-day well able to cope with the Japanese, notwithstanding the advantage the latter have in the possession of two iron-clads. These latter are inferior vessels, imperfectly clad, and with indifferent steaming capacity.

The extract of the 15th July gives a letter from the Japanese consul at Amoy to the Taotai at that port; and that of the 17th, a letter from a foreign correspondent in Formosa, which speaks favorably of the occasion of the expedition and its management. The extracts of the 21st give some desultory information of no particular interest.

\* \* \* \* \*

After Mr. Dreyer, of the telegraph company, had left Shanghai on this mission, I learned privately from Mr. Sheppard, our active officer at Tien-tsin, that the Chinese commissioner to Formosa had, among other things, recommended the establishment of a telegraph between Foochow and Formosa. This I communicated to Mr. Dreyer by telegraph, and, as a consequence, he visited Formosa, and has made a contract with the commissioner for the cable and the dependent land lines at each end. The cable will be about ninety miles long, the Formosa land line two hundred, and the Foochow end about fifty. This contract remains to be approved by the telegraph company at Copenhagen. The assent of the Chinese government has, I believe, been given already.

The present moment seems opportune for the creation of telegraph facilities between this and Peking. I have urged Mr. Dreyer to proceed thither at once, have asked Mr. Sheppard to do what he can with the Viceroy Li, and suggested the matter to Doctor Williams.

I am, &c.,

GEORGE F. SEWARD.

[Inclosures in No. 788.]

[From the North China Daily News, July 14, 1874.]

NAVAL FORCES OF JAPAN.

We are enabled to give the following particulars about the Japanese navy, taken from a statement which was drawn up by a competent authority, about the end of last year:

Rio-jio-kan, wooden corvette, screw-steamer; 280 horse-power; length, 215 feet

greatest breadth, 33 feet; draught, 17½ feet. Protected by a girdle of 4-inch iron plates, 3½ feet above and 4 feet under the water-line, about 15 feet fore and aft being without armor. Carries 12 cast-iron rifled guns, muzzle-loaders, 10 of which have a caliber of 5½ inches and 2 of 6½ inches. The greatest speed of this vessel is 9 knots, and for this reason, as well as for the insufficiency of its armor, it may be a match for a wooden vessel of the same strength, but would have no chance whatever against the most ordinary iron-clad. This vessel visited Shanghai last year.

Nishin-kan, wooden corvette, screw-steamer; 250 horse-power; length, 204 feet; greatest breadth, 29 feet; draught, 14 feet; carries 6 cast-iron guns of about 5½ inches and 1 Armstrong muzzle-loader of 7 inches. She is said to be a fast and serviceable vessel, and is, we believe, the one now in port.

Tsukuba-kan, wooden corvette, screw-steamer; 200 horse-power; length, 197 feet; greatest breadth, 29½ feet; draught, 15 feet; carries 6 steel Armstrong guns of 5 inches, 2 cast-iron guns of about the same caliber, and 2 smaller bronze guns of native fabrication. This vessel is very old and used up; her greatest speed not more than 6 knots.

Kusuga-kan, wooden paddle-steamer; 300 horse-power; length, 243 feet; greatest breadth, 27 feet; draught, 11 feet; carries 4 bronze guns of 5 inches, 2 cast-iron guns of about the same caliber, and 1 Forbes gun of 7 inches.

Ho-shio-kan, compound-system gunboat, screw-steamer; 75 horse-power; length, 145 feet; greatest breadth, 22½ feet; draught, 7 feet; carries 1 Armstrong breech-loader of 7 inches, 1 idem of 5½ inches, and 2 small steel guns.

Mo-shium-kan, wooden gunboat, screw-steamer, of about the same dimensions as the preceding; carries 1 Forbes muzzle-loader of 7 inches, 1 Armstrong muzzle-loader of 5½ inches, and 2 smaller Armstrong guns.

Dai-itchi-Teibo-kan or Teibo I, wooden gunboat, screw-steamer, 60 horse-power; length, 132 feet; greatest breadth, 22 feet; draught, 7½; carries one cast-iron gun of 6½ inches; 1 Krupp gun of 5½ inches; and 2 small steel guns.

Dai-in-Teibo-kan or Teibo II, same construction and dimensions as the preceding; carries 2 Armstrong muzzle-loaders of 6½ inches, and 2 small steel Forbes guns.

Un-yo-kan, wooden gunboat, screw-steamer, about the same dimensions as the preceding; carries 1 rifled muzzle-loader of about 6 inches, 1 of about 5 inches, and 2 small Armstrong guns.

Chiota-gata-kan, small wooden gunboat, screw-steamer of 40 horse-power; carries 1 breech-loader of 5½ inches, and 2 small guns.

Kotetz'en, iron-clad ram, screw-steamer, with two propellers 500 horse-power, length 158 feet, greatest breadth 27, draught, 13 feet; carries 3 very large and 2 smaller guns. This ram is old and completely unseaworthy; in fact last year it was not considered as belonging to the active navy any more. As, however, it may, perhaps, still be fit for defending the entrance of a harbor, we have not felt justified in omitting it.

Latest advices from perfectly reliable sources fully confirm the unseaworthiness of this ram, and further inform us that the other so-called iron-clad, the Rio-jio-kan, is undergoing boiler repairs, which cannot be finished for a considerable time. The gunboats are said to be generally in good order.

The Japanese have, moreover, five or six transports, not at all or insignificantly armed; two of these are sailing-vessels.

As we said at the beginning, these particulars have been taken from a statement drawn up at the end of last year, but they may stand even now, as we hear that no additions of any importance have been made to the Japanese navy since that time.

The actual strength of the active navy of Japan would, therefore, be as follows:

Name.	Description.	Horse-power.	No. of guns.	No. of crew.
Rio-jio-kan.....	Iron-plated corvette, screw-steamer.....	280	12	275
Nishin-kan.....	Wooden corvette, screw-steamer.....	250	7	145
Tsukuba-kan .....	Wooden corvette, screw-steamer.....	200	10	180
Kasuga-kan.....	Wooden corvette, paddle-steamer.....	300	7	125
Ho-shio-kan.....	Compound-system gunboat, screw-steamer.....	75	4	70
Moshium-kan .....	Wooden gunboat, screw-steamer .....	75	4	70
Teibo I .....	Wooden gunboat, screw-steamer .....	60	4	60
Teibo II .....	Wooden gunboat, screw-steamer .....	60	4	60
Un-yo-kan .....	Wooden gunboat, screw-steamer .....	60	4	65
Chiota-gata-kan .....	Wooden gunboat, screw-steamer .....	40	3	35
Kotetz'en .....	Iron-clad ram, double-screw steamer.....	500	5	135
Total (11) .....		1,900	64	1,220

JULY 15.

*Dispatches re Formosa.*

A copy of a reply addressed to Lo Taotai at Foochow, by Mr. Fukushima, His Imperial Japanese Majesty's consul for Amoy.

AMOY, June 17, 1874.

I have the honor to inform you that I returned to Amoy to-day, the 17th of the month, from Formosa, and received your letter of the 21st of the 4th moon, (Chinese calendar,) in which you state that you had been informed by his excellency Li, the viceroy of Fohkien, on the 18th of your 4th moon, touching the subject of his excellency's official letter addressed to his excellency Saigo, commander-in-chief of the Formosan expedition, and requesting me to communicate the matter to Mr. Shinagawa, consul for Shanghai, &c. I fully comprehend the position, and beg to say that I do not consider such a matter can be treated by us, but that it is a subject for the commander alone to decide as he sees fit when he receives the viceroy's dispatch. From my personal experience in the Formosan territories, through which I lately traveled, and partly also from my opinion of the circumstances under which our commander has invested the country of the savages by special instructions from his Japanese majesty, I apprehend that there would be found some difference in the views of our commander from those entertained by the viceroy, as expressed in his excellency's letter.

For instance, as regards the territories which are occupied by aborigines, and which have long been claimed to be under the control of your government, I would remark that I put a few questions to the aborigines as to whether their territory as well as themselves had ever been subject to the sovereignty of China. They said "they had not," and substantiated their denial in an especial manner by showing that their taxes are paid only to their chief. They maintain that they have never been under the control of the Chinese government. It seems to be their custom to quarrel and even fight furiously with each other, taking possession of ground by force and robbing each other, up to the present time, there being no authority to execute impartial justice or to exercise control over them.

I would here mention an instance in which they lately applied to our commander, begging for his adjudication in a question respecting a right of property in ground, which had been contested for forty years. In disposition they seem to be amicable, though they are generally reckless and of a morose temperament, never getting rid of a sense of injury when despoiled of their property by wicked people, from whom they suffer on account of their having no proper court in which to make complaint.

They regarded therefore with extreme satisfaction the approach of our invading party. Placed as they were, it was as if they had met a light on a dark night, and they showed every kindness by helping the army to their utmost and begging protection from us, which seems to show that they were much gratified by the entrance of the invaders within their boundary, and that they preferred them to any others.

I therefore think that our commander confidently believes that those savages as well as their territories have never been under the sovereignty of your government, and under the special instructions he holds from his Japanese majesty is daily exerting his energies toward reducing them to a proper condition. His commission, however, extends only to military affairs, and is limited to the measures necessary in reference to the savages. Consequently, I think, he could do nothing in the matter, nor even discuss with his excellency the viceroy the question as to the jurisdiction of your government over that territory, this being a subject which ought to be left to the decision of our respective governments.

From my private considerations of this affair, I would express the hope that your high commissioner or authorities will negotiate it in an impartial and amicable spirit with our minister, and thus continue our friendly relations on a permanent footing.

I have, &c.

No. 163.

*Mr. Seward to Mr. Davis.*

No. 797.]

UNITED STATES CONSULATE-GENERAL,

Shanghai, August 11, 1874. (Received September 17.)

SIR: I have the honor to inclose to you herewith a series of telegrams that have passed between the consul at Amoy and myself, showing the arrival of General Le Gendre at Amoy, his arrest, &c.

It is notorious that General Le Gendre has a special concern in the

Japanese expedition to Formosa. You are aware that, during the time of his service as our consul at Amoy, he made many visits to the island. At a later moment he appeared in Japan, "having a very full and complete set of maps, charts, photographs, &c., of the coast, mainland, and people of Formosa" (Mr. De Long to Mr. Fish, No. 302, November 6, 1872.) He was then brought into communication with the Japanese government, and there followed negotiations for his employment by that government, "with a distinct reference to the use of his services as an adviser in military operations, should they become necessary." (Mr. Fish to Mr. De Long, No. 164, December 30, 1872.) The military operations here referred to would appear to be those since undertaken in Formosa, ostensibly to punish savage inhabitants of the island for alleged maltreatment of shipwrecked Japanese. This matter is thus spoken of by Mr. Low, in his dispatch No. 264, of June 13, 1873 :

There are, he says, (the Japanese ambassador,) only two questions of importance which he desires to discuss with the Chinese government.

First. Whether China is responsible for the acts of the aborigines on the island of Formosa. If the government answers this question in the affirmative, he will then demand redress and indemnity for the murder of some natives of Loochoo, who were wrecked there a year and more ago. If the answer be given in the negative, notice will be given that Japan proposes to send a military force to Formosa, to chastise the savage and semi-civilized tribes that practically hold undisputed possession of a large part of the island, and, as there are no safe harbors on that part of the island where the aborigines reside, permission will be asked to land troops at one of the ports open to trade, and to march them through Chinese territory that lies between the ports and the points where the troops are intended to operate against the savages.

Second. To ascertain the precise relations between China and Corea, &c.

General Le Gendre was associated with the ambassador on this mission. (See Mr. Low's letter, No. 256, May 13, 1873.)

It has been reported that the Chinese disclaimed responsibility for the acts of the Formosan savages.

It has been reported again that they agreed to take some steps to restrain them for the future. At any rate, in the early part of this year, the Japanese set on foot an expedition to Formosa of an extensive character. My several dispatches in regard to it have laid before you all the general information which I have gathered, and will have demonstrated that it was not intended for a raid against a few scattered miserable savages.

That expedition sailed from Japan in the middle of April. The southern part of Formosa, from sea to sea, was at once occupied. The savages were encountered and beaten in conflict or driven into inaccessible mountains. Long since the ostensible purposes of the expedition were accomplished, but the Japanese still remain. They have put up houses of such description as warrant the belief that they are intended for permanent occupation. They have constructed a few roads where their utility for military purposes is not manifest. It is said that large numbers of troops are massed near Nagasaki, ready to be moved in case of the outbreak of war. Meanwhile the Chinese, who beyond a doubt would be glad to see the Japanese evacuate the island and let the matter drop, have been in negotiation with Japan, and, as if in anticipation of war, have mobilized large forces and are everywhere preparing for war.

Of the view which the United States representative at Peking takes you are doubtless informed. I may, however, quote from his dispatch to me of June 17 last :

I suppose my instructions to Mr. Henderson have reached you in passing, and I have therein given my views of the countenance and aid which our countrymen are affording

to the Japanese. It is our duty to maintain the peace existing between this empire and our own country, and these men are violating that peace, and must be restrained if it can be done. The first article of the treaty gives one of its chief obligations and its infraction by their assisting an armed invasion of Formosa needs no proof, now that the real nature of that expedition has been shown. It seems to me that all right-minded people thus engaged must now see that the Japanese are using them in carrying out hostile designs, and that their presence militates against the honor and obligations of the United States.

The persons more particularly referred to in this extract are Messrs. Cassell and Wasson, citizens of the United States, who are now actually in the Japanese camp in Formosa.

It would seem as if it had been the intention of General Le Gendre to accompany the expedition.

Under date of the 18th of May the United States minister at Tokei wrote to me as follows :

From information recently received I deem it proper to say to you that before any expedition left Japan for Formosa, or any other portion of China, viz, on the 18th and also on the 19th of April, I made written protest to the minister for foreign affairs against the employment by Japan of any ship or citizen of the United States in an armed expedition against Formosa until the written consent of China thereto should have been first obtained by the government of Japan. On the 22d of April, and while the expedition still remained in port at Nagasaki, I received from the minister for foreign affairs a dispatch, in which he said that in compliance with my request the steamer New York and Messrs. Le Gendre, Cassell, and Wasson, citizens of the United States, had been detached from this service.

What better evidence could be adduced to show that the moment for the use of General Le Gendre's services, "as an adviser in military operations," had arrived ?

Messrs. Cassell and Wasson did go to Formosa. The New York did not go. A vessel chartered from British subjects did not go, a similar notice having been sent to the Japanese government by the British minister. General Le Gendre also remained behind. Public report says that he was at Nagasaki on or about the date when the expedition sailed and engaged in promoting its departure. When the New York, a Pacific mail-steamer, was detached, he appeared at the Pacific mail agency and complained violently of her withdrawal, believing apparently that it was the act of the company. From the inception of the scheme for an invasion of Formosa on the part of the Japanese there are, then, numerous proofs to connect him with it and to establish the proposition that he has promoted it.

The first intimation that I had of his departure for the scene of operations came to me by Mr. Henderson's telegram of the 5th instant. Called upon to act promptly, lest the opportunity might be lost, I did not hesitate to advise his arrest. It remains now to determine whether there is a case against General Le Gendre which will justify me in prosecuting him for a breach of the neutrality act.

\* \* \* \* \*

General Le Gendre remains at Amoy, and I am using my best endeavors and judgment to determine whether it is possible or right to hold him longer, having due regard to law and international obligations. I confess that the conclusion is forced upon me that I have no means open to me to prevent his going on to Formosa and there taking up arms against the country upon whose soil he now is.

Writing, as I do, at the last moment before the departure of the mail-and having had but little time to give to the consideration of the subject, I am unwilling to decide hastily what should be done. I should be sorry to think that you might see in my course any lack of regard for the rights of the individual. I should, however, be more sorry to

fail in regard to the rights of the great empire upon whose soil I stand, and which has deputed to our Government certain duties which cannot be too faithfully and impartially discharged.

I have, &c.,

GEORGE F. SEWARD,  
*Consul-General.*

[Inclosure in No. 797.]

*Telegraphic correspondence with consul at Amoy.*

[Telegram No. 78.]

AMOY, 5, 8, 1874, 6 a. m.

SEWARD, *Shanghai*:

Le Gendre arrived here to-day, I presume en route to Formosa. What instructions from Peking?

HENDERSON. [SEAL.]

SHANGHAI, *August 5, 1874.*

HENDERSON, *Amoy*:

Arrest Le Gendre, if possible, without collision with Japanese. Advise and ask aid Stanton and Chinese. Report.

SEWARD. [SEAL.]

[Telegram No. 89.]

AMOY, 6, 8, 1874, 11.30.

SEWARD, *Shanghai*:

Le Gendre is under arrest. What shall I do with him?

HENDERSON. [SEAL.]

SHANGHAI, *August 6, 1874.*

HENDERSON, *Amoy*:

Hold Le Gendre for instructions from Peking. Take every precaution against his escape. Treat him considerately.

SEWARD. [SEAL.]

[Telegram No. 117.]

AMOY, 7, 8, 1874, 11.50 a. m.

SEWARD, *Shanghai*:

Le Gendre wishes me to send him to Shanghai.

HENDERSON.

Answered August 8, 1874:

Le Gendre's request appears reasonable. In case you send him, send all possible evidence and Williams's dispatches.

SEWARD.

[Telegram No. 130.]

AMOY, 7, 8, 1874, 2.35 a. m.

GEO. F. SEWARD,

*United States Consul-General, Shanghai*:

No legal advice here. I consider it unfair to keep me here; would like to go to Shanghai. Mr. Henderson has referred the matter to you. Can you comply with my request?

LE GENDRE.

No. 164.

*Mr. Fish to Mr. Seward.*

No. 409.]

DEPARTMENT OF STATE,  
Washington, August 26, 1874.

SIR: The Department is in receipt of your dispatch, No. 766, of June 23, ultimo, referring to Mr. Henderson's No. 32, and inclosing copies of your correspondence with him concerning the assistance asked of him by the Chinese authorities in reference to the expedition to Formosa. By the same mail Mr. Henderson's No. 32, containing a copy of his notification to the Americans said to be engaged in the expedition, was received.

In your letter to Mr. Henderson you pronounce the final clause of his notification not sufficiently stringent, and refer to the provisions of the act of 1818. A copy of Mr. Henderson's notification is annexed.\*

While this Department agrees that it is the obligation of this Government promptly and effectively to punish offenders against the law who may be American citizens, whether in China, or in Japan, or elsewhere wherever the laws of the United States may be enforced, at the same time there must be some actual violation of law to justify an interference.

The Government does not attempt to impose restrictions upon individual enterprise or commercial ventures of American citizens which involve no violation of law.

An examination of Mr. Henderson's notification shows it to have been issued in his official capacity as consul, on a complaint made to him by the Chinese authorities. It is addressed to all citizens of the United States, who are commanded to at once withdraw, and thereafter abstain from, all enterprises unfriendly to the Chinese government. It declares that any citizen of the United States who shall refuse to comply therewith, or who shall offend against its provisions, shall forfeit the protection of the United States.

This Department is at a loss to discover the power or right of the consul to issue a proclamation or notification of this character.

Under the provisions of the act of 1860, authority is given to the ministers of the United States in China and Japan "to issue all manner of writs to prevent the citizens of the United States from enlisting in the military or naval service of either of the said countries, to make war upon any foreign power with whom the United States are at peace, or in the service of one portion of the people against any other portion of the same people; and he [the minister] may carry out this power by a resort to such force as may at the time be within his reach belonging to the United States."

This is an extraordinary power, conferred upon the minister alone, in a certain emergency, and within fixed limits. It is conferred upon him in consequence of the extraterritorial rights reserved in the countries named in the act to the citizens of the United States. The power is given to the minister alone, and is not shared by the consul.

But the notification of Mr. Henderson is his own act, issued by him as a consul of the United States, upon a general complaint made to him by the Chinese government. As a warning and caution to his countrymen, it was a prudent and commendable notice, and, so far as it was a

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\* See inclosure 3 in Mr. Henderson's dispatch No. 32, ante.

mere notice and caution, it is approved. But it goes much further; it is much more than a warning. In it the consul not only assumes the prerogative of the minister, but proceeds to decide in advance what acts will constitute an offense, and affixes a punishment.

Apart from the question of the power of the consul to issue such a notification in any case, it is apprehended that the notification in question, being addressed to all citizens of the United States, and commanding all to withdraw and abstain from all enterprises unfriendly to the Chinese government, might affect citizens of the United States lawfully employed by the Japanese. This Department is not advised as to the precise facts concerning the employment of each of the American citizens said to be engaged in Japanese service. Many citizens of the United States are understood to be employed in various capacities in the civil service of Japan, and it may be difficult to establish a standard to determine how far, or whether any, or which of the acts, which they may be called upon to perform in the appropriate discharge of their several engagements, may or may not be deemed friendly or unfriendly by another power. Acts and enterprises of a government may be deemed by another power to be unfriendly, and yet fall short, very far short, of acts of war, or of compromitting the neutrality of the state by which they are done. The erection by a state of a fortification, or the construction of a road, may be (in fact each has been) regarded as an unfriendly act, by another power. But this will scarcely justify, certainly it will not require a third power to enjoin its citizens under severe penalties from taking employment, much less from completing engagements into which they have already entered, and lawful at the time when entered into, in such erection or construction.

This Government does not feel called upon to admit that an engagement by one of its citizens to enter into the military service of Japan, or of another foreign power, made in time of peace, when no war or hostile demonstration is in process or in contemplation, is not a valid contract or that it is repugnant to law. Where the engagement is made in time of peace and hostilities are not in contemplation, there seems to be no distinction in the lawfulness of a contract for civil or for military service.

Should a war afterward be declared, or an insurrection break out, there seems to be no good reason why such contract, valid at its inception, should not be performed, even though a new contract of the same nature could not at the time legally be made.

If the contract for service be legal it cannot be that the person so contracting can escape the burdens and dangers incident to the employment, when his services are most needed, by declaring his foreign nationality. Should he desert, or refuse to obey orders, he would doubtless be exposed to the punishment which, by the laws of all countries, attend desertion and insubordination.

Should he form part of an expedition making a hostile attack, or an invasion into the territories of a country with which that in whose service he had become enlisted has become involved in a war subsequent to his enlistment, he joins in such attack or invasion, not as an American citizen, but as a soldier in the army of one of the belligerent nations; and the United States would take no notice, as against the attacked or invaded party, should he be killed in battle in the ordinary course of civilized warfare, and, in case of his being taken prisoner, would not exact more in his behalf than that no unusual or inhuman punishment be inflicted upon him, and would only watch and require

that as a prisoner of war he be treated according to the accepted rules of civilized warfare.

It is apprehended therefore that no citizen of the United States, regularly enlisted in the service of Japan in time of peace, without reference to any intended act of war, and without anticipating any hostilities, could be punished according to the laws of the United States, and that he could not by any law of the United States, upon the commencement of hostilities, be compelled to abandon the service into which he had entered, or be punished for a refusal to do so.

Foreigners enlist in the military service of nearly every power. During the late rebellion in this country very many foreigners of very many different nationalities took service, not only in the Union Army, but in that of the rebellion, and no remonstrance was made to the governments of which they were subjects, nor was their service in the insurgent army deemed a cause of complaint by this Government.

China herself has employed the services of Americans in her army, and whether against a foreign enemy or an insurrection seems to make no distinction in principle or in law, saving that our own act of 1860 alike forbids our citizens enlisting in the military or naval service of either of the powers named in the act, to make war upon any foreign power with whom the United States are at peace, or in the service of one portion of the people against any other portion of the same people.

Ward and Burgevine (both Americans) were in the Chinese military service. China did not regard their service as illegal or improper, or in violation either of public law or of treaty obligations.

It is believed, although of this I have no certain information, that the military service of China, at this time embraces a number of Europeans, and possibly some Americans.

The act of 1860 appears to have been passed to supply certain apprehended defects in the law of 1818, as applicable to Japan and China, and to provide remedies which, on account of remoteness, could not be furnished by the President under the then existing statutes.

While the Department is not prepared to say that the law of 1818 may not be in force in China and Japan, in its application to citizens of the United States within those countries, it is believed that the law of 1860 will, in most cases, supply a sufficient remedy.

Your course in advising Mr. Henderson to avoid accepting the invitation of the viceroy, as explained in Mr. Henderson's telegram, is approved.

No benefit could result from the intervention of the consul; and it is quite apparent that the Chinese government was ready to obtain the countenance and assistance of an officer in the service of the United States in enforcing its general demand that the Japanese should quit Formosa.

Such matters are entirely foreign to consular duties. A copy of this dispatch, as it relates to these general questions, has been forwarded to Mr. Henderson and to the minister of the United States in Japan, and the chargé d'affaires in China, for their information severally.

I also inclose herewith an extract of an instruction sent to Mr. Williams, No 174,\* under the date of the 29th July last.

I am, &c.,

HAMILTON FISH.

(Document No. 811.)

Draft of an identical note to be sent by post, copied to the ministerial representative at Peking.

Sir: The probability of a war between China and Japan having of late increased greatly, and the probability of such a contingency not faring by any means well if it has occurred to any and most of my colleagues to consider what would be the position of the foreign governments of the world in such an unfortunate event, and how far it would be expedient to adopt such precautions as may render the position a comparatively safe one.

We have now had very satisfactory assurance to realize that Shanghai, from its importance as a commercial center, will stand the greatest chance of all the ports which China controls, will suffer a loss of about a third of her trade being disrupted, and in that event the foreign ministers will be called upon to respond in similar fashion, although as they stand their powers under Chinese law apparently leave a latitude where any minister is bound to cover the city from hostile approach by the Chinese and by themselves. We have been yet been made by the Chinese general the existence of any armed force, but there may be and reason we do not know to and should they do so, and however important the consequence to neutral ships and property may be very serious.

The Chinese appear to itself and colleague states, that, if such a condition as the one just mentioned, no effort might be too great to be made to stop it, and the Chinese, as would become to practice in that situation, would be liable of the taking of Peking or a Japanese fleet, immediately to negotiate for the conclusion of the peace desired by the former government, and it appears that such a step should be taken as above to exchange the safety of the neutral ships or of the property in those harbors.

The French of this place, it is believed, will be quite willing to give the consent to this operation, and I long to inform it to your government, in conjunction with such of my colleagues as are more directly interested, and each of whom has addressed an identical note to his mission, in the hope that the same may meet with your favorable consideration.

I may refer here to the twenty-third article of the United States treaty with China which provides for the neutrality of American citizens in case of war, and its suggests that such further negotiations may be necessary with the Japanese as will render this present operation as far as they are concerned, and in this connection it may be noted that the Chinese are likely to demand the following: That in case of war certain ships shall be adopted to prevent them from landing their men.

These and other operations, it would be expected, will be limited to the adoption of the present plan, and in the event of further conflict or joint attack, and these should entirely supersede the former. I prefer to submit the design to you and all your colleagues at once. My suggestion is that it be also referred to the Foreign Office, and to the government concerned as will embrace all the designs and interests in China and Japan, but it may not be easier to print out here clearly descriptive such an extensive would be.

## No. 168.

*Mr. Seward to Mr. Cadwalader.*

No. 811.]

UNITED STATES CONSULATE-GENERAL,  
Shanghai, September 2, 1874. (Received October 12.)

SIR: Referring to the matter of the arrest of General Le Gendre, at Amoy, I have now to submit the following further information:

After the consideration which I gave to the subject, as indicated in my dispatch No. 797, it seemed to me that a prosecution of Le Gendre before me under the neutrality act must fail.

\* \* \* \* \*

At this conjuncture I received a dispatch from Dr. Williams, dated July 31, a copy of which I inclose.

Looking to the tenor of this letter I concluded that my wisest course

would be to release Le Gendre immediately upon his arrival here. I did this, and now inclose to you a copy of my dispatch to Dr. Williams, No. 387, reporting this action.

After Le Gendre's arrival I received two letters from the consul-general for Japan, copies of which, and of my responses and of the order to release Le Gendre, will be found herewith.

I have received no word from Dr. Williams of later date than the dispatch of July 31.

The arrest of Le Gendre gave the liveliest satisfaction to all the Chinese officials. Mr. Henderson's dispatch No. 44 to the Department speaks of the sentiments of the Chinese in this regard. They consider that Le Gendre has been the promoter of the whole business, and seem to feel that the chances of an amicable settlement with Japan would be increased by his removal from the field.

\* \* \* \* \*

It is with extreme satisfaction that I learn at this moment that the leave of Lieutenant Cassel has been revoked. There are difficulties in dealing with our citizens who are civilians, but none can arise when the person is an officer of the Government. And for the one the responsibility of the Government is very different from that which arises in the other case.

\* \* \* \* \*

I have, &c.,

GEORGE F. SEWARD,  
*Consul-General.*

[Inclosure 1 in No. 811.]

[Confidential.]

*Mr. Williams to Mr. Seward.*

LEGATION OF THE UNITED STATES,  
Peking, July 31, 1874.

SIR: I have received your two dispatches, No. 369 of 17th ultimo, and No. 377 of the 8th instant, with one from Consul Henderson of the last date, all relating to the Japanese invasion of Formosa and the connection of American citizens with that expedition, and the proper action of United States consular authorities growing out of it.

In Mr. Henderson's dispatch a report is given of some of the proceedings of Mr. Cassel and Mr. Wasson in aid of the Japanese, and you are of opinion that writs of arrest against them and other Americans in the expedition may now properly be issued.

I have carefully read all these papers and whatever else I can learn bearing upon the subject; and I shall defer for a while to instruct Mr. Henderson in the premises to issue such writs, for the following reasons:

One initial difficulty in this whole affair is that there has been no declaration of war on either side. Both the Chinese and Japanese governments affirm that they are still at peace, although the latter have committed hostile acts against the former, invading their territory, attacking the villages of aborigines, and appropriating property taken by force. We know that neither of these nations acknowledge or understand what is technically called international law, and therefore between each other we can hardly look for their acting according to its requirements.

\* \* \* \* \*

The officers of the Tsungli yamen were much startled to learn that the Japanese were assisted and guided by United States naval and military officers; and it is not strange that they complained that this was in direct violation of Article I of the treaty between China and America, and asked me to order them to withdraw from their connection with the force then going to Formosa. I declined to do so at first, on the plea that the Japanese had assured foreign nations that they had the consent of the government of Peking to chastise the aborigines of Formosa for injuries done their subjects; but learning afterwards that this assurance was quite unauthorized, I told the yamen that the consul had been directed to warn them and all Americans to leave the

expedition. These officials have been fully told that until there has been a declaration of war, it is difficult for foreign nations to take any decided action in respect to this quarrel; and until something has been done by them, or the opposing forces of the two nations come to actual blows, our countrymen may plead that in aiding the Japanese they are not violating the neutrality act, nor any provision in the treaty of 1858, or the act of June 22, 1860. Whatever ideas the Chinese and Japanese may have about international obligations and rights, and however they may conduct their negotiations in relation to this invasion of Formosa, we must have regard to our own usages. The fact of a state of war must be tested by a formal declaration from one side or the other, or by the commencement of fighting between their opposing forces; and until this has been done, it may be urged that the provisions of the twenty-fourth section of the act of June 22, 1860, do not apply, and that the Americans in the service of the Japanese did not enlist "to make war upon any foreign power with whom the United States are at peace." Their enlistment might lead to complications, but as they are at liberty to enter that service, the point where it becomes a violation of neutrality and treaty rights depends on the action and declaration of the two chief actors.

The arrival of the Japanese minister in Peking this week brings the parties into closer relations upon the management of this affair, and they may soon arrange it peaceably, if rumors are at all to be relied on.

I am, &c.,

S. WELLS WILLIAMS.

[Inclosure 3 in No. 811.]

*Mr. Shinagawa to Mr. Seward.*

HIS IMPERIAL JAPANESE MAJESTY'S CONSULATE-GENERAL,  
Shanghai, August 18, 1874.

SIR: You have doubtless been informed that General Charles W. Le Gendre, a citizen of the United States and late United States consul at Amoy, who was engaged by the Japanese government through the United States minister in Japan, in December 1872, in conformity with the terms of Article X of the treaty of 1858 between Japan and the United States, to serve in the department of foreign affairs at Tokio as an officer of the second rank, who lately came to China as His Imperial Japanese Majesty's special commissioner, was on the 6th day of August, 1874, forcibly taken before the United States consular court at Amoy by United States marines landed for that purpose from the United States steamship Yantic, upon unknown charges, and in virtue of a warrant issued by the United States consul at Amoy, while he was in Amoy on his way to Foochow and Shanghai on business connected with his mission; that on the day following the Hon. Charles W. Le Gendre was, against his will, again brought before the United States consular court at Amoy, when for the first time he was verbally made acquainted with the charges made against him; that from that date until the 13th instant he was forcibly detained at Amoy by the United States consul, and was thereby rendered unable to discharge the duties intrusted to him by His Imperial Japanese Majesty; that on both occasions he notified the United States consul that he yielded only to force, which he was unable to resist, in suffering the violence and detention to which he was subjected; that he strongly protested against these proceedings with the United States consul at Amoy; that Mr. Gosheki, His Imperial Japanese Majesty's acting consul at Amoy, found it his duty to himself protest in the most formal and solemn manner against these acts of violence toward His Imperial Japanese Majesty's special commissioner, as being a manifest infraction of the rights of nations, and contrary to the privileges and immunities which commissioners enjoy in civilized countries, although such officers may not always be vested with the character of public ministers; that on the 13th day of August, 1874, the United States consul informed Mr. Gosheki that Mr. Le Gendre was arrested by him in the United States consulate upon a charge of advising, aiding, and abetting an expedition in hostility to the government of China in violation of the laws of the United States and their treaty with China; and that he had informed Mr. Le Gendre that in so doing he was acting under instructions from the United States legation at Peking.

In the afternoon of the 13th instant the Hon. Charles W. Le Gendre was sent to Shanghai in charge of the acting clerk of the United States consular court of Amoy, and upon his arrival at this port, a paper purporting to come from you was read to him by the marshal of the United States consulate-general, from which he was given to understand that he had been released from arrest by order of the minister, and that there would be no occasion to hold him for trial on the charge preferred against him by the consul at Amoy.

The circumstances of the arrest and detention of General Le Gendre being now the

subject of correspondence between the governments interested in the affair, I beg that you will have the goodness to furnish me, for the information of His Imperial Japanese Majesty's government, with a copy of the paper read to him by your order on his arrival at Shanghai, as stated above, if possible before the departure of the mail for Japan.

I take, &c.,

E. SHINAGAWA.

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[Inclosure 5 in No. 811.]

*Mr. Seward to Mr. Phoenix.*

UNITED STATES CONSULATE-GENERAL,  
Shanghai, August 15, 1874.

SIR: Upon the arrival at this port of the British steamer Arratoon Apcar you will proceed to that vessel, if the hour shall be suitable, receipt to the marshal of the Amoy consulate for General Charles W. Le Gendre, and say to General Le Gendre that the instructions from the legation do not require a prosecution in his case, and that he is discharged from arrest.

And this shall be your authority for so doing.

GEORGE F. SEWARD.

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[Inclosure 6 in No. 811.]

*Mr. Seward to Mr. Williams.*

No. 386.]

UNITED STATES CONSULATE-GENERAL,  
Shanghai, August 13, 1874.

SIR: Referring to my dispatches No. 383 and 385, and the additional telegrams given herewith, I now transmit to you a copy of a dispatch which I have addressed to the Department of State in the matter, (No. 797.)

As it would seem difficult and expensive for me to take jurisdiction in the matter, I am disposed to send Le Gendre to Mr. Mangum, at Nagasaki, and in case no objection to taking this course occurs to me I shall do so.

You will understand the difficulties of the situation, and will, I hope, approve my whole course in the case.

I have, &c.,

GEORGE F. SEWARD.

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[Inclosure 7 in No. 811.]

*Mr. Seward to Mr. Williams.*

No. 388.]

SHANGHAI, August 19, 1874.

SIR: Referring to my dispatch No. 387, I have now the honor to report that General Le Gendre arrived at Shanghai on the 16th instant, and was at once released from arrest upon an order given by me.

The consul-general for Japan at this port has written to me two letters, asking for a copy of his order of release. I inclose copies of his letters, and of my responses, and as well a copy of my order.

I presume that the anxiety to possess this document is induced because it indicates that my instructions from you do not require a prosecution of General Le Gendre, while Mr. Henderson appears to have stated that his arrest was in pursuance of your instructions. Mr. Henderson may very well have supposed that my first telegram to him was based on late advices from you, especially on the advice expected in response to his report of the service of the warning to leave the Formosa expedition upon Messrs. Cassel and Wasson.

I inclose herewith a copy of a protest made by General Le Gendre before the consular court at Amoy.

I may revert to this matter at a later date.

I am, &c.,

GEORGE F. SEWARD.

[Inclosure in 7 in No. 811.]

You are hereby instructed and empowered to arrest \_\_\_\_\_, should he be found within your jurisdiction, and to detain him in custody until he shall have given to the United States of America a bond, with sufficient sureties, in the penal sum of \_\_\_\_\_; such bond to be upon the condition that the said \_\_\_\_\_ shall not, within \_\_\_\_\_ from the date hereof, take part, directly or indirectly, in any hostilities between the empire of China and the empire of Japan; and that he shall not, during said period of \_\_\_\_\_, aid or assist in any manner or degree one of the said empires, or any portion of the people thereof, in setting on foot or prosecuting any hostile expedition or operation against the other of said empires, or any portion of the territory or people thereof.

Given \_\_\_\_\_

(Business No. 811.)

Mr. Board to Mr. Blignopp.

No. 1000.]

George Bruce Consul-General,

Washington, August 18, 1874.

Mr.: I have received your letter of yesterday, relative to the case of General Le Gendre. In view of his position in the interest of amicability between our two governments, I will forward a copy of the order upon which he was released to Washington, etc., etc.

RECORDED: P. BREWSTER.

(Business No. 811.)

Mr. Blignopp to Mr. Board.

The Secretary (between Blignopp's signature and mine),  
Washington, August 18, 1874.

Mr.: Your despatch of today has been received. From it I gathered that you are willing to furnish me for the information of the Imperial Japanese Emperor, etc., etc., with a copy of the order on which General Le Gendre was released, so that you will present the same to Washington.

Before I take any action in regard of your despatch, I have to enquire whether you will favor my request to let me have a copy the last one.

I am, etc.,

S. BREWSTER.

(Business No. 811.)

Mr. Board to Mr. Blignopp.

No. 1000.]

George Bruce Consul-General,

Washington, August 18, 1874.

Mr.: I have had the honor to receive your despatch of this date, and as I know from it that you are referring the case of Mr. Le Gendre to your minister at Peking, I have to say that to the extent the order of release referred to will be transmitted to the Chinese government together with that copy.

I am, etc.,

RECORDED: P. BREWSTER.

No. 1000.

Mr. Blignopp to Mr. Board.

No. 811.]

DEPARTMENT OF STATE,

Washington, September 4, 1874.

Mr.: Your No. 48 of the date of July 11 has been received.

Referring to my No. 811, addressed to you under date of 20th of August last, I need not further discuss the questions therein treated.

While the Department appreciates the earnestness and sincerity of your purpose, and approves of the vigilance manifested by the representatives of the Government in enforcing the laws for the maintenance of the neutrality of this Government and of its citizens, in case of war between other powers with which the United States may be at peace, or in case of invasion within the jurisdiction of a friendly power, more should be observed that the representatives of the Government do not themselves transgress the limits of the law, or assume powers not granted to them.

Your notification of the 18th of June, of which a copy transmissive your dispatch, is open to many of the objections stated in my No. 183 to Mr. Howard, accompanying my No. 36 to you, to the authorities therein referred to.

Is China's "arrest and trial for violation of the laws of neutrality?" Neutrality implies the existence of a state of war.

This Government is not advised of the existence of war between China and Japan. If such exists, and a notice or proclamation be made for and published, it should itself be impartial and were against unlawful aid to either party belligerent, and not otherwise possible only against those who may transgress on one side.

The Department is not in possession of the authority by which you have the instruction of June 36, — by instruction from Mr. A. W. Williams, United States chargé d'affaires, Peking."

In the instruction No. 183 the power of the minister in Japan or in China to issue writs in maintenance of the several obligations of this Government was referred to, and the effectiveness of that power in the minister was noticed.

I am, sir, etc.,

HAMILTON FISH.

No. 170.

*Mr. Fish to Mr. Williams.*

No. 184.]

DEPARTMENT OF STATE,

*Washington, September 8, 1874.*

SIR: Referring to my No. 179, I transmit herewith for your information and guidance a copy of a dispatch\* of July 11, 1874, from J. J. Henderson, esq., our consul at Amoy, transmitting a copy of a proclamation issued by him on the 16th of June, 1874, and correspondence relative to the participation of citizens of the United States in the Japanese expedition to Formosa, and a copy of my reply of the 4th instant, No. 21.

I am, &c.,

HAMILTON FISH.

Mr. Fish.

*Mr. Fish to Mr. Williams.*

No. 184.]

DEPARTMENT OF STATE,

*Washington, September 12, 1874.*

SIR: Referring to your dispatch of July 1, No. 44, relating to the joint trial at Chinkow of persons who attacked Mr. Garbett, an American citizen,

\* See correspondence with Mr. Henderson, *ante*.

curacy at Chiao, I take pleasure in stating that your course in relation to the matter is regarded by the Department as prudent and fair, and that Mr. Maynard has the cordial approval of the Department for the thorough and discretion displayed by him in conducting the case.

I am, &c.,

HAMILTON FISH.

No. 172.

*Mr. Cadwalader to Mr. Seward.*

No. 416.]

DEPARTMENT OF STATE,  
Washington, October 9, 1874.

SIR : The Department has received your dispatch No. 797, dated August 11, 1874, in reference to the arrest of Colonel Le Gendre, late consul at Amoy, and to which is annexed the telegraphic correspondence between Mr. Henderson, consul at Amoy, and yourself upon the question.

The Department is not advised of the termination of the proceedings, nor whether General Le Gendre has been held for trial, or what course has been finally adopted.

It does not clearly appear to the Department that a state of hostilities exists between China and Japan, nor is the Department precisely informed that General Le Gendre had actually accompanied the expedition to Formosa, nor whether he had committed any act within the jurisdiction of the consul at Amoy, or of any other consulate, for which he could be arrested and brought to trial, nor is the Department advised of the precise offense charged against him, and for which the arrest was made. In the absence of information on these points, and particularly in the absence of information concerning the precise charge made against General Le Gendre, and the proof supporting it, and of the authority to make the arrest, the Department withholds its approval and any expression of opinion. It is therefore desired that a full statement upon all these particular points be furnished, with details of the various steps and present position of the case.

The Department has had occasion to refer to these general questions growing out of the Formosa expedition in a late dispatch.

I am, &c.,

J. L. CADWALADER,  
*Acting Secretary.*

No. 173.

*Mr. Cadwalader to Mr. Seward.*

No. 419.]

DEPARTMENT OF STATE,  
Washington, October 26, 1874.

SIR : The Department has received and read with interest your No. 798, in reference to telegraphs in China, and your efforts in that direction, and to which you attach a memorandum between yourself and several consuls, with a draft of a proposed agreement between the provincial authorities at Foochow and the Northern Telegraph Company.

The Department approves your general efforts and the general efforts of the consuls of the United States in China to promote the establishment of telegraph lines, and the general policy of inducing the authori-

In this view, therefore, all discussion with the colonial authorities at Hong Kong leading to the rendition of fugitives from British justice who have taken refuge within your ministerial jurisdiction is unnecessary. The authorities of Hong Kong seem to concur entirely in this opinion, as shown in their action, declining to make any demand for Jackson, although invited to do so.

Hong Kong being British territory, the Department does not wish to be embarrassed by holding the converse of the proposition, or by asserting that, in a proper case, the authorities of the United States could not demand the extradition of a fugitive from the justice of the United States who had there sought and found no refuge.

Apart from all question of extradition, if Jackson was, as represented, a citizen of the United States, and had been arrested and claimed your protection, it was obviously your duty to intercede in his behalf and to investigate his case. If he had been illegally arrested, it was proper that through your efforts he should be set at liberty. Such action would be proper in any case.

The objection to your proceedings in this case is not that you interceded in his behalf, but that you proposed to deliver him to the Hong-Kong authorities under the extradition treaty, or by means of such proceedings, to be tried for an offence committed against Great Britain.

Such part of your correspondence with Mr. Williams as refers to jurisdiction over persons on board ships in the waters of China is not referred to, as bearing no necessary bearing on the questions here discussed.

I am, Sir,

J. L. CADWALADER.

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No. 175.

*Mr. Cadwalader to Mr. Seward.*

DEPARTMENT OF STATE,

No. 425.]

Washington, Nov. 2, 1874.

SIR: Your dispatch, No. 811, with its inclosures in reference to the arrest of General Le Gendre, late consul at Amoy, informing the Department of the proceedings taken, and of his final discharge from custody, has been received, and read, in connection with your 797 and Mr. Henderson's Nos. 42 and 44, with careful attention.

As the Department has had occasion in late dispatches, addressed to yourself and to the ministers of the United States in China and Japan, to refer to the questions arising out of the participation of citizens of the United States in the late expedition against the natives of Formosa, reference is had thereto for the general views therein expressed, confining the present dispatch to the particular case now presented.

The dispatches which have been received leave the Department without information upon several points; but from the facts now in its possession, the position of the case appears to be as follows: About December, 1872, General Le Gendre entered the Japanese service, but the precise nature of his employment does not clearly appear. He was reported to have entered in some capacity connected with the foreign office, although it is stated by you that he has acted as a "military adviser." Having taken part in the organization of the expedition about to proceed to Formosa, he was detached through the efforts of Mr. Bingham, and the expedition departed without him. That he has taken any further part in it, directly or indirectly, does not appear, and he is reported as arriving in China, having gone from Yokohama to Hong-Kong, thence to Swatow and Amoy. On his arrival at the latter place

instructions were asked by Mr. Henderson, who stated that he was presumed to be on his way to Formosa.

In answer to his request instructions were given by you to Mr. Henderson to arrest him, and he was arrested at Amoy upon the 6th of August. He thereupon filed a protest in the consular court, alleging, among other things, that the warrant on which he was held contained no mention of any offense, and insisting that his entry into the Japanese service was lawful and permitted by the treaty, and that his continuance therein was not in violation of any law of the United States. At his request he was forwarded to Shanghai, and on his arrival, pursuant to the suggestion of Mr. Williams, and by your direction, was discharged from custody. These appear to be the facts as they have been communicated to the Department concerning the arrest.

Many considerations have been advanced by you, tending to show the animus of General Le Gendre toward the Chinese, and the object of his original employment and his visit to China, but all such are, at the most, argument or conjecture.

General Le Gendre was a citizen of the United States who had rendered patriotic and valuable services to his Government, who had lately held the very consulate in which he was arrested, and was represented to be attached to an important mission from the Mikado to the Emperor of China.

On all these grounds a criminal proceeding should not have been commenced against him without grave cause, and only for an offense to substantiate which ample evidence existed. In judging of the legality of this arrest, and of the propriety of his discharge from custody, it is necessary to know precisely the charges and the evidence at hand to support them. Upon these vital points the dispatches in possession of the Department give almost no information.

Exhibit No. 8, attached to your No. 811, being a form of warrant not filled out, and unsigned, is probably intended as a copy of the general form of the warrant on which the arrest was made.

It contains no charge of the commission of any particular offense, no statement of any facts based on which the warrant had been issued, and no mention of any complaint or information having been made. It is true that Mr. Henderson, in his letter of the 10th of August to the acting Japanese consul, states that "General Le Gendre was arrested by me in the United States consulate, upon a charge of advising, aiding, and abetting an expedition in hostility to the government of China, in violation of the laws of the United States and their treaty with China," and in his No. 10, to Mr. Williams, a copy of which was forwarded with his No. 42, to the Department, he states that he has arrested him for aiding the Japanese armed forces in the invasion of the island of Formosa, and these are the only approaches to any distinct statement of a charge.

The offense in each case here referred to is indefinite; no designation is made of the time or place when or where it is alleged to have been committed, and no allegation of the citizenship of the offender, or statement of the particular facts or legal provisions making the act an offense.

By the provisions of the act of 1860, as appears by sections 2 and 7, power is given to the consuls of the United States in China to arraign and try citizens of the United States charged with offenses against law which shall be committed in China, and such provisions are substantially the same in the Revision. (See §§ 4084, 4087.)

It is recognized in general as a part of the jurisprudence of this country, that offenses shall be tried where committed.

In conformity also with the established course of judicial proceedings in the United States, and, as is believed, with the regulations governing similar cases in China, to authorize the issue of a warrant it is necessary that the person against whom the warrant is issued should be charged with an act, or series of acts, making an offense known to the law. The accused also has a right to know, and should be informed of, this particular offense charged against him.

So far as the Department can therefore learn, none of these requisites were complied with in this case.

The consular officers of the United States appear to have acted, as perhaps is necessary, as both prosecutors and judges, but it does not appear that any clearly-defined offense known to the law has been charged against General Le Gendre, or communicated to him or to the Department.

But, apart from the question that no particular offense seems to have been charged, it does not appear that any offense was charged as having been committed within the consular jurisdictions of Shanghai or Amoy, or of the empire of China, but precisely the opposite appears.

The expedition in question was organized in Japan, sailed from Japan without General Le Gendre, and no further connection with it is shown on his part.

The offense in advising, aiding, or abetting the expedition or the invasion, therefore, if offense there was, was committed in a foreign country, outside of the jurisdiction of the consular courts of China.

Further reference to the merits of the case seems not to be required, and the Department refrains from discussing the question whether, in view of all the facts presented to the Department, General Le Gendre had committed any offense either in China or Japan, or whether he had violated the provisions of the act of 1860, or the neutrality act of the United States.

It may, however, safely be said that, in the light of the information forwarded to the Department, serious doubt exists on these questions.

It seems proper further to say, that to have sent General Le Gendre to Japan for trial, as appears to have been proposed, because it was doubted whether a case could be made against him in China, would have been an act beyond the power of a consul of the United States.

A prisoner illegally arrested, or where no offense can be brought home to him, is entitled to his discharge.

He can be sent to another country to be tried only in compliance with treaty provisions for extradition. No such delivery could be made to any authority in Japan.

For all these reasons, and upon the facts as reported, the Department is forced to the conclusion that the arrest of General Le Gendre was without warrant of law, and cannot receive its approval. Had the arrest been the act of a foreign power, it is apprehended that it would have been the ground for energetic action on the part of the United States.

Referring to such parts of your dispatch as relate to the action of the Japanese, the nature of the expedition, and the connection of General Le Gendre with it, and which contain arguments to show his desire and intention to aid the Japanese in hostility to China, it is not perceived that they present evidence of any criminal act on which to sustain an arrest and committal.

I am, &c.,

JOHN L. CADWALADER,  
Acting Secretary.

No. 273.

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

No. 703.]

DEPARTMENT OF STATE,  
*Washington, September 2, 1874.*

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

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

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

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

\* \* \* \* \*

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

I am, &c.,

HAMILTON FISH.

No. 274.

*Mr. Davis to Mr. Fish.*

No. 38.]

DEPARTMENT OF THE UNITED STATES,  
*Berlin, October 26, 1874. (Received November 3.)*

Now: I asked Mr. von Bismarck at the foreign office to-day when an answer might be expected to the representation respecting the right of neutrals to take testimony, which I had made under your instructions on the 11th of last month. I told him that neutrals from the courts of the United States in some important cases were now in the hands of neutrals awaiting the decision of this government.

He answered that Mr. von Bismarck had been instructed a fortnight ago to communicate therewith of this government; that when the neutrality of Germany should be required the neutrals would not be permitted to act as judges, but that the courts of Germany would decide the question of the neutrals in the process of the neutrals. And he

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

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

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

States from the new levies of the Mikimachi indemnity, as apportioned, according to the arrangement made between the two powers; and, when paid, you may remit it by bill to Messrs. Morton, Bow & Co., in London, to be placed to the credit of the United States.

The subject of releasing the Japanese government from the payment of the residue of the indemnity has been before Congress without action. Had the other powers interested refrained from collecting their portions, this Government would not have been disposed to give the 10 per cent, notwithstanding the refusal of Congress to act on the subject. But as the other governments interested have been paid, you will make known to the Japanese government our expectation of being treated in the same manner, and your resolution to receive an instalment equivalent to the sum paid to each of the other powers. When this shall be paid to you, you will, in like manner, remit it to Messrs. Morton, Bow & Co., to be placed to the credit of the United States, and will in each case notify the Department of your action.

\* \* \* \* \*

It has been the policy of the United States to act in concert with European powers in Oriental matters. The President has considered your suggestions respecting possible political or commercial objects of other powers conflicting with the interests of the United States, and he has come to the conclusion that it is for the interest of this country to continue the harmonious co-operative action which has been maintained by your predecessors. Treaty advantages gained by any other power must have equally to the benefit of the United States under the provisions of article 9 of the treaty of 1854. If by means of want of information of capital caused by a vicious system of taxation, American citizens cannot take advantage of them for the moment, the discipline cannot last long, and the time must necessarily come when Americans will enter and enjoy the rich field which may be explored and opened by others for their use.

The Department, therefore, desire that you will act in harmony with your European colleagues as your predecessors have acted. If at any time you differ with them, there will probably be time enough allowed you to take the opinion of your government. Should there not be, you will act on your own judgment, assured that your action will be approvingly judged by the Department.

Disregarding the particular proposal of your colleague for liberty to visit the interior, you will accede to it, with the modification so to do, however, respecting the proposed payment to us, which was suggested by my No. 34 of the 5th November.

I am, Sir,

HAMILTON FISH.

No. 429.

*Mr. Bingham to Mr. Fish.*

No. 76.]

UNITED STATES LEGATION, JAPAN,  
Tokei, April 22, 1874. (Received May 25.)

SIR: I have the honor to inform you that for some days during the past week there were rumors that the government of Japan was about to send a military and naval expedition to Formosa for hostile purposes against the island, and that an American ship, the New York, belonging to the Pacific Mail Steam-Ship Company, and three citizens of the

United States, viz, General C. W. Le Gendre, Lieut. Commander Cassell, and Mr. Wasson, together with an English ship, the Yorkshire, had been engaged by the Japanese government to accompany the expedition.

On the 18th instant I addressed to the minister of foreign affairs a note, (inclosure 1,) and also called upon him personally, and made inquiry about the truth of the rumors as to the employment of American ships and citizens in such expedition. In this interview the minister said that it was not the intent of Japan to commit a hostile act against China, or any portion of the people of China in Formosa, but simply to demand of the aborigines of Formosa satisfaction for cruelties inflicted by them upon Japanese mariners wrecked upon the coast of Formosa; and that to effect this purpose the government was sending, with the knowledge and consent of China, a high commission to Formosa, under the protection of an armed force, to obtain amicably from the aboriginal chiefs a convention, which in future would prevent cruelty to the ship-wrecked Japanese seamen. Having insisted upon a definite and immediate reply to my note of the 18th instant, on the 19th I received a note from the minister of foreign affairs, (inclosure No. 2,) with accompanying memorandum, (inclosure to inclosure No. 2,) in which you will note that the minister reiterates his verbal statement to me, that his government is on the point of sending a high commission to the aborigines of Formosa, and that troops accompany the mission for protection; and that his government is far from entertaining even the slightest intention of performing any hostile act against China. This paper clearly disclosed the fact that the expedition was about to proceed to Formosa and take such measures, "upon inflicting fitting retribution on the Formosans," as would enable the people of Japan to hereafter navigate their waters with safety, &c., and omitted any statement that this was to be done with the consent of China, whose jurisdiction over the island is admitted in the memorandum, and is therein attempted to be excluded from that portion of the island occupied by "these savages," upon the verbal reply of Tsung-li-yamun a year ago to the Japanese ambassador that the country of the aborigines of Formosa did not belong to China.

It seemed to me that this declaration of the purpose of the expedition, to commit hostilities against the Formosans without any satisfactory evidence of the assent thereto of China, whose territory and jurisdiction were to be invaded by the expedition, called for renewed protest on my part against employing American ships or citizens in such service. I immediately addressed to the minister for foreign affairs a reply to his dispatch of the 19th instant, (inclosure 4,) in which you will observe that I declare to him that I again protest against the employment of any ship or citizen of the United States in a military or naval expedition against Formosa until the written consent of China be first obtained in approval of the proposed expedition to that island.

It is proper to say that I consider my power in this behalf thus to interfere in any proposed action of the government of Japan against the territory of China in Formosa to be defined and limited by the act of June 22, 1860, (Statutes at Large, vol. 12, p. 72,) entitled "An act to carry into effect the provisions of the treaties between the United States, China, &c." The twenty-fourth section of this act gives jurisdiction to the minister on certain conditions, and declares that it shall be competent for the minister in Japan to issue all manner of writs to prevent the citizens of the United States from enlisting in the military or naval service of either of said countries to make war upon any foreign power with whom the United States are at peace.

I have the honor to call your attention especially to the demand, in my dispatch of the 19th instant to the minister for foreign affairs, that the American citizens and ship employed by the Japanese government in this expedition be detained from proceeding to Formosa with the expedition until the written consent of China thereto shall have been obtained. This demand is made upon the twenty-fourth section of the act cited, and, in my opinion, the written consent of China to the expedition and its purposes being first had, I would have no authority under the law to press my demand upon the Japanese government, for the prohibition of the statute only restricts employment in the military or naval service of Japan, &c., to make war upon a foreign power with which the United States are at peace. The consent of China being had to invade her territory in Formosa, excludes the conclusion that such invasion could be an act of war upon any foreign power, China being the only power in possession or claiming that island. Although no reply to my dispatch of the 19th has been given, I have received verbal communications from the minister for foreign affairs to the effect that the expedition will not proceed to Formosa, nor to any other part of the Chinese Empire without the written and authenticated consent and approval of the Chinese government thereto. I am also verbally informed by the minister that the proclamation (inclosure 5) of Sanjo, prime minister, has been recalled.

I also deemed it my duty to place in the hands of the minister for foreign affairs, with my dispatch of the 19th instant, notices in writing to Messrs. Le Gendre, Cassel, and Wasson, American citizens employed in this expedition, to the effect that they should not proceed in this military and naval expedition to Formosa until they have received further official orders and authority for so doing. I was assured yesterday by the minister, that the notices to Messrs. Cassell and Wasson were delivered on the 19th instant, and that the notice to General Le Gendre was forwarded to that gentleman at Nagasaki, where it would reach him before he went further.

Although the vessels of this expedition have sailed from this port to Nagasaki, I feel justified from the assurances given me by the minister for foreign affairs in asserting that no hostile act will be committed or attempted upon any foreign power with which the United States are at peace.

It has been my desire faithfully to discharge my duty and to maintain the rights of the United States in the premises, and, in doing so, to avoid the appearance of any unwarranted interference with the rights which pertain to Japan as a sovereignty. I submit the matter to your consideration, hoping that my action thus far will meet your approval, and especially desiring, should any new exigency arise of which you may be apprised by telegram, that you will, if you deem it important, instruct me by telegram.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 78.]

*Mr. Bingham to Mr. Terashima.*

UNITED STATES LEGATION, JAPAN,  
Tokei, April 18, 1874.

YOUR EXCELLENCY: For the first time I learn, by an article in the Japan Daily Herald of the 17th instant, that the Japanese expedition, now being fitted out, "com-

prehends within its scope effecting a settlement on and subsequently, if permitted, a permanent occupation of the eastern side of the island of Formosa."

It is also asserted in the same article that "American ships have been employed to sail under the American flag on what must be regarded, in the absence of the necessary authoritative declarations, as a semi-filibustering expedition, and that Mr. Bingham, the American minister, has tacitly, if not expressly, sanctioned such employment," and that "the American government has so far sanctioned the expedition as to grant leave to officers in its service to identify themselves with it," &c.

Inasmuch as these charges gravely imply that your excellency's government is about to commit an act of war against China, or a portion of her people, I beg leave to know whether any ships of the United States have been chartered under the authority of the government of Japan to engage in a military expedition against and hostile to Formosa, and whether any officers or citizens of the United States have been employed by the government of Japan in such expedition.

It is due to myself to say that I have at no time been consulted about employing American ships or officers for any such hostile purposes. I was assured by two American citizens, who were invited to take employment in your excellency's government, that they were not to engage in hostilities against any power whatever, and that no act hostile to China or any portion of the people thereof, or any other power with which the United States is at peace, was contemplated by your excellency's government. It is due to my government that I should know at once whether any such hostile purposes are entertained by your excellency's government toward China, or any portion of her people, or any other power, as are attributed to it by the article I have cited, and I have the honor to request that your excellency will advise me without delay and definitely on that subject.

Without assuming that any such purposes are entertained by the Japanese government, I beg leave to say that it is my duty in the name of my Government to protest, as I do hereby protest, against the employment by your excellency's government of any ship or any citizen of the United States in any military or naval expedition hostile to the government or authority of China, or to any portion of her people, inasmuch as such employment is expressly forbidden and prohibited by the laws of the United States.

I am, with great respect, your excellency's obedient servant,

JNO. A. BINGHAM.

His Excellency TERASHIMA MUNENORI,  
f.c., f.c., f.c.

[Inclosure 2 in No. 76.—Translation.]

*Mr. Terashima to Mr. Bingham.*

TOKEI, the 19th, 4th month, 7th year Meiji.

YOUR EXCELLENCE: I have the honor to acknowledge the receipt of your excellency's dispatch dated the 18th April, 1874, in which you state that you have learned, by an article in the Japan Daily Herald of the 17th instant, published at Yokohama, that a Japanese expedition to Formosa being now fitted out "comprehends within its scope a permanent occupation of the eastern side of the island of Formosa," and that it is also asserted in the same article that American ships have been employed to sail, and also that you have tacitly sanctioned such employment, and that your Government has sanctioned to engage your officers, &c.

The foregoing article implies that my government is about to commit an act of war against China or a portion of her people. In the same dispatch you express your anxious desire to know at once whether any ships of your country have been chartered under the authority of my government to engage in such expeditions against and hostile to Formosa, and whether any such hostile purpose is entertained by my government toward China and any portion of the people thereof. I beg leave, in reply, to say that, as I have detailed to you in our last interview, my government is on the point of sending a high commission to the aborigines of Formosa, to take such proper measures as will enable our people—upon our inflicting fitting retribution on the Formosans, who have recently pillaged and maltreated countrymen of ours cast away upon their coasts—to hereafter navigate their waters with safety. As a precautionary measure, however, and in case they should threaten to oppose our mission, troops accompany the expedition to guard against any emergency or opposition. My government is far from entertaining even the slightest intention of performing any hostile act against China.

Your excellency will perceive from what precedes that the officers and ships of your nationality engaged in this service are employed in a quiet and amicable undertaking, and without any hostile intent.

For your excellency's further information I have the honor to inclose memorandum concerning the present expedition to Formosa.

I am, with respect and consideration, your excellency's humble servant,

TERASHIMA MUNENORI,

*His Imperial Japanese Majesty's Minister for Foreign Affairs.*

His Excellency JOHN A. BINGHAM.

*Envoy Extraordinary and Minister Plenipotentiary*

*of United States of America in Japan.*

[Inclosure 3 in No. 76.—Translation.]

#### MEMORANDUM.

Memorandum concerning a high commission about to leave Japan for aboriginal Formosa, accompanied by a force sufficient for its protection, to inquire into the circumstances of the murder of fifty-four Japanese subjects there in December, 1871, and to take such steps as may be required to prevent the recurrence of such atrocities.

The cruel treatment of castaways by the inhabitants of aboriginal Formosa has long been a subject of much solicitude to mariners and to the government whose duty it is to afford them protection in their perilous avocations, and in more than one case western powers have had to resort to act of war against these tribes to punish them for their crimes. (\*) At least eighteen of the southern tribes, under the chief Tanketok, being convinced they could not resist the power which experience had taught them could be brought to bear against them by England and America, made an agreement with the United States consul for Amoy and Formosa in 1867 to protect castaways. (†) To this agreement they have ever since remained remarkably faithful. (‡)

The eastern coast of aboriginal Formosa being very little known, it was indispensable, in order to prosecute the work of pacification of the tribes north of Tanketok's dominions, to first thoroughly explore it; and as this would have entailed considerable expense and labor, it was not followed up by any one until a circumstance occurred which has rendered it imperative for Japan to take an active part in this humane task. On the 11th of December, 1871, sixty-six Japanese subjects were wrecked on the eastern coast of aboriginal Formosa, in about latitude  $22^{\circ} 18'$  north, and all except twelve, who made their escape, were murdered by the Bontans, one of the tribes of that region.

On the 8th of March, 1873, four Japanese subjects were wrecked on the coast, (Mafoke,) and all the cargo on board their junk and everything in their possession was robbed.

When our ambassador went to Peking last year, and asked that an adequate punishment should be inflicted on these savages, the Tsung-le-yamen replied that their country did not belong to China. A reference to Chinese maps, whereon, of all that was known of the island of Formosa by the Dutch in 1635, only the Chinese possessions therein—that is to say, the northern and a portion of the western coast—were marked, convinced our ambassador that not only was His Imperial Chinese Majesty's government sincere in making this affirmation, but that it really had no desire to extend its sway over the island farther than the natural boundary formed by the chain of mountains that separates Chinese from aboriginal Formosa and stretches from Pong-lee to San-o Bay.

On the return of the embassy to Tokei orders were issued to make preparations for a high commission to be sent to aboriginal Formosa to investigate the circumstances of the murder of our countrymen, and to take such other steps as may be found necessary to insure the non-recurrence of such tragedies there. These preparations being com-

(\*) The Dutch sent an expedition against the Bontans, 1654. (See relation de la prise de l'isle Formosa, par les Chinois, le cinquiesme Juillet, 1661, traduite de l'Hollandois; Paris, MDCLXIII pages 36 and 37.) Her Britannic Majesty's steamer Cormorant, Captain Broad, bombarded the Koaluts on the 26th of March, 1867; Admiral Bell landed a force of marines at Kewaliang Bay, in June, 1867. (See Report of United States Secretary of Navy, 1867, pages 54 to 57.)

(†) An effort was made at this time by the consul to induce the Chinese to annex that portion of aboriginal Formosa that lies south of Pong-lee, (see United States Diplomatic Correspondence for 1868-'69, pages 503 to 510,) but the central government declined doing so. (See United States Commercial Relations for 1869, page 69.)

(‡) Wreck of Bashee plunders (?) September, 1869. (See Customs Gazette, published by order of inspector-general of customs, Shanghai, December 9, 1869, page 64.) Wreck of Mr. Horn, in November, 1869. (See Customs Gazette, quoted above, 17th February, 1870.) Wreck of London Castle, in July, 1871. (See official manuscript narrative of the occurrence, by Mr. Pelham Warren, of Her Britannic Majesty's consulate, Tokio.)

pleted, the commission is now about to leave Japan. It will be accompanied by a force, which, it is hoped, will give such emphasis to the words of persuasion which the high commissioner is instructed to use toward the Bontans, as will compel them, without effusion of blood, to give satisfaction, and such assurances for the future as Japan has a right to demand.

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[Inclosure 4 in No. 76.]

*Mr. Bingham to Mr. Terashima.*

UNITED STATES LEGATION, JAPAN,  
Tokei, April 19, 1874.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's dispatch of this date, in reply to mine of the 18th instant, relative to the employment by your excellency's government of American ships and American citizens in an expedition to Formosa.

Your excellency reiterates in this dispatch the assurance given to me verbally in our interview of yesterday, that the government of Japan is "far from entertaining even the slightest intention of performing any hostile act against China," and that the officers and ships of the United States engaged by Japan in the proposed expedition are "employed in a quiet and amicable undertaking, and without any hostile intent."

Upon careful consideration of your excellency's dispatch and its inclosure, I am constrained to say that I deem it my duty to again protest against any ship or citizen of the United States of America being sent to Formosa by your excellency's government in connection with a military and naval force, as proposed, until the written consent of China be first obtained in approval of the proposed expedition to that island. Although your excellency's government may intend no hostile act by sending out a high commissioner to the aborigines of Formosa, under the protection of an armed force, China may decide that such act is hostile to her government within the territory of Formosa, and may accordingly meet and resist it with force of arms. To avoid such a result, which would be most unfortunate for Japan, I cannot but say that Japan, before approaching Formosa, should obtain the written and authenticated consent of the Chinese government to the expedition proposed and its objects. This is surely in accordance with the custom and usage of nations. I have heretofore understood that the consent of China had been obtained, but am pained to say that I find no evidence of the fact in the dispatch received by me.

I have further to request that the United States ship New York and the three citizens of the United States, to wit: General Le Gendre, Lieutenant-Commander Cassel, and Mr. Wasson, employed, as I am verbally informed, by your excellency's government, be detained by your excellency's government from proceeding to Formosa with this expedition until the written consent of China thereto shall have been obtained by the government of Japan.

I am, with great respect, your excellency's obedient servant,

JNO. A. BINGHAM.

His Excellency TERASHIMA MUNENORI,  
*His Imperial Japanese Majesty's Minister for Foreign Affairs.*

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[Inclosure 5 in No. 76.—Translation.]

*Proclamation of prime minister of Japan.*

It is hereby notified that, during the 4th year of Meiji, in the 11th month, (November, 1871,) some of the people of the Loochoo province were wrecked on the Formosa coast, and 54 of their number killed by the barbarians of Formosa.

Again, during the 3d month of the 6th year, (March, 1873,) four people of the Oda district were wrecked there, and were there maltreated.

During the visit of Tane-omi Soyeshima, as ambassador to the court of China to ratify the treaty during last year, he made reference to these matters, and was told that the barbarians referred to were in a part of that island which was not under the Chinese jurisdiction.

As this island of Formosa is near to Japan, and such wrecks as described may occur again, it seems necessary for the protection of our commerce that the people inhabiting these parts of Formosa should be restrained from committing such acts in the future. And in pursuance of this determination Saigo, as chief, with a number of

subordinates, has been dispatched thither, with instructions to investigate the preceding matters and to institute such proceedings as shall guarantee safe conduct for our people in the future.

As it may be possible that these people may not pay proper regard to his mission, and create a disturbance, (warlike,) a sufficient guard has been dispatched with him.

April 17, 1874.

SANJO SANEYOSHI.  
DAIJO DAIJIN.

No. 430.

*Mr. Bingham to Mr. Fish.*

No. 78.]

UNITED STATES LEGATION, JAPAN,  
Tokei, April 24, 1874. (Received May 26.)

SIR: Since writing my dispatch No. 76, of date the 22d instant, in relation to the expedition to Formosa, I have received the reply of the minister for foreign affairs to my communication to him on the same subject, dated the 19th instant, which reply, and my answer thereto, are herewith inclosed, (inclosures 1 and 2.) It is a pleasure to make mention of the prompt compliance of the Japanese government with my demand, that neither the American ship New York nor the American citizens in the employment of the Japanese government should be permitted to proceed with the proposed armed expedition to Formosa without the written consent of China to the expedition. You will notice that this government has sent orders forward to detach the New York and the citizens of the United States from the expedition, which orders, I am assured, will reach Nagasaki before the expedition proceeds farther. I am of the opinion that the expedition will be abandoned, but in case China should expressly consent in writing that the high commissioner of Japan, under the protection of an armed force, may proceed to Formosa to obtain from the aborigines some security against any future outrages upon Japanese seamen wrecked upon that coast, I do not see that I have any authority to forbid the employment, for such purposes, of American citizens, inasmuch as such service would not be a making of war upon a power with which the United States are at peace, nor indeed upon any power.

I respectfully desire full instructions upon the subject, and beg leave to again express the hope that my action thus far may meet your approval.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 1 in No. 78.—Translation.]

*Mr. Terashima to Mr. Bingham.*

No. 26.]

The 22d of 4th month of 7th year of Meiji.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's dispatch, No. 33, of the 19th April, 1874, informing me of your non-approval of the proceeding to Formosa of three American citizens, to wit, General Le Gendre, Lieutenant-Commander Cassell, and Mr. Wasson, for the present affair, who were engaged in the service of the Japanese government, and of the employment of the United States vessel New York as transport in the same service.

In reply, I beg leave to say that, in compliance with your request, instructions for the detachment of the above-named citizens and vessel have already been forwarded to the proper authorities, and that the necessary steps have also been taken to transmit with dispatch your letters addressed to those gentlemen.

With respect, &c.,

TERASHIMA MUNENORI,  
His Imperial Japanese Majesty's Minister for Foreign Affairs.

[Inclosure 2 in No. 78.]

*Mr. Bingham to Mr. Terashima.*

No. 26.]

UNITED STATES LEGATION, JAPAN,  
Tokei, April 23, 1874.

YOUR EXCELLENCY: It gives me pleasure to acknowledge the receipt of your excellency's dispatch, No. 26, dated 22d instant, in reply to my dispatch of the 19th instant, in relation to the proposed expedition by the government of Japan to Formosa.

Your excellency's government has my thanks for so promptly recognizing the rights of the United States, and ordering that neither the American ship New York nor the American citizens named in my dispatch shall proceed with the armed expedition to Formosa, but shall be detached from that service.

I beg leave to add that, while it is not the desire of my government to interfere in the relations of Japan with other powers, the law of the United States declares that the citizens thereof shall not enlist in the military or naval service of any foreign power to make war upon any power with which the United States is at peace.

I have every assurance that your excellency's government will take care that this provision of American law shall be respected by all persons in the service of your excellency's government.

I am, &c.,

JNO. A. BINGHAM.

No. 631.

*Mr. Bingham to Mr. Fish.*

No. 631.]

UNITED STATES LEGATION, JAPAN,  
Tokio, May 18, 1874. (Received June 25.)

SIR: At the request of Commander George H. Bullock, commanding the United States steamer Tumwater, now in port at Yokohama, I addressed to his secretary, the minister for foreign affairs, on the 1st instant, a note, informing him that Commander Bullock was instructed by the Secretary of the Navy to examine and ascertain a place on the coast of Japan suitable for landing a submarine cable, and to that end to obtain permission of this government.

The minister kindly and promptly granted this request, and so informed me. This day he sent to me a full permit, authorizing Commander Bullock to enter any port in Japan, obtain supplies, make the examination, &c., and also assigned to him from the foreign office an interpreter. I am also informed by the minister that he has issued orders to the local authorities to extend to Commander Bullock due courtesy, and to afford him every facility for his work.

I am, &c.,

JNO. A. BINGHAM.

No. 631.

*Mr. Bingham to Mr. Fish.*

No. 631.]

UNITED STATES LEGATION, JAPAN,  
Tokio, May 20, 1874. (Received June 25.)

SIR: On the 10th instant I received from Sir Harry S. Parkes a dispatch in which, referring to his dispatch of the 2d February last of which I acquainted you, he informs me of the receipt by him of another instrument of the (Siamak) Indentity, of which, as he states by the agreement of Paris, he "holds on your [my] account a second sum of"

issued in the Tokyo Gazette, calling for war against the Japanese. I have seen the original of this paper, and it is copied in their edition as cited above. The paper was printed in English, and I have no copy of the original Japanese. As Mr. French's name is mentioned, I called on him to copy the original Japanese paper, which he did, and I have a copy of it. He said that the Japanese government had issued a proclamation to prohibit the Japanese from landing on Formosa, and that they would be held responsible for any damage done by them, and that the Chinese government had issued a similar proclamation, but that they were not so strict in its execution. I asked him if he could advise me what the Chinese government had done, and he said that he had no information on that point. I then asked him if he could advise me as to the Chinese government's position in regard to the Japanese expedition, and he said that he had no information on that point. I then asked him if he could advise me as to the Chinese government's position in regard to the Japanese expedition, and he said that he had no information on that point.

The answer to my second question, which answer was never served upon me, charges the Chinese government with being a accomplice in the Japanese expedition, and with discrediting its policies. The evidence to sustain this charge is not given in my answer, but the evidence of both the charge of complicity and that of discrediting is given.

Please do not let you say anything about my answer to your second question, as your answer may cause difficulties between ourselves and our government.

I am, etc.,

FREDERIC BINGHAM,  
Counsel for Mr. French.

#### No. 434.

*Mr. Bingham to Mr. Fish.*

No. 89.]

UNITED STATES LEGATION, JAPAN,  
Tokei, June 3, 1874. (Received July 6.)

SIR: It seems to me important to communicate to you the fact that the prime minister, Sanjo, who in April made and withdrew a proclamation of hostilities against Formosa, on the 22d of May issued a new notification, as it is termed, a copy of which I herewith inclose.

It is clear to my mind that the landing of an armed expedition in Formosa under this proclamation, for the purposes therein declared, imposes upon China the necessity of deciding whether it shall be considered an act of war. On this point I had some conversation with the minister for foreign affairs on yesterday. He said to me that the government had information of the landing of the Japanese troops on the southeast of Formosa, where they had been attacked by the Bontons, who were repulsed after some loss of life on both sides. He also said that he had received the further information that the Chinese government had despatched a gunboat to Formosa, carrying a high commissioner, with instructions to treat with Saigo, who is in command of the expedition.

I could not gather from the conversation that the minister had any assurance that China would acquiesce in the armed occupation of any portion of the island for any considerable time by the Japanese forces. He intimated, however, that the government awaited communications directly from the Japanese envoy, who is reported to have arrived in Peking.

In my No. 78, of April 24, I informed you of the fact that the minister for foreign affairs, upon my protest against the employment of American citizens and vessels in hostile operations against Chiua, had detached the steamer New York from service in this expedition. I omitted to state the fact that the agent of the Pacific Mail-Steampship Company, Mr. Center, called upon me and signified his desire that the steamer

should be so detached, and his entire approval of the order of the Japanese government detaching it from the service. After the order had been sent forward by the minister for foreign affairs, Mr. Center again called upon me and expressed apprehensions that the soldiers of the expedition and the officers in command then at Nagasaki would, in disregard of the order, force the ship to sail with the expedition to Formosa. He requested me to notify our consnl at Nagasaki, Mr. Mangum, and request his aid in enforcing the order of the foreign office. In compliance with this request, I delivered to Mr. Center, to be forwarded at his expense, a telegram to Mr. Mangum, informing the latter gentleman that the steamer New York had been detached by order of the Japanese government from the Formosa expedition, and that he should accordingly detain her in port. I am not advised that he had occasion to intervene; but, as I before informed you, the steamer was, in obedience to the orders of the Japanese government, discharged from that service.

In this connection I beg leave to inform you that some days since Mr. Lung Wing, appointed by the government of China commissioner of education for the instruction of Chinese youths in the United States, called upon me and stated that he was instructed by the governor of Shanghai to thank me for intervening to prevent the employment of the American vessel, New York, in the Formosan expedition. I also learned from him that the Chinese government had a considerable number of troops in Formosa, and also a number of gunboats in the adjacent waters, and he seemed to be of opinion that, unless the Japanese speedily left the island, or gave assurance to the Chinese government of their intention to remain but temporarily, there would result a conflict of arms between the Japanese and Chinese forces.

I await with interest your instructions upon these important matters, involving, as they do, our treaty obligations both to Japan and China.

I am, sir, &c.,

JNO. A. BINGHAM.

[Inclosure.—Translation.]

*Proclamation of the Prime Minister.*

NOTIFICATION NO. 65.

MAY 19, 1874.

To In, Sho, Shi, Fu, and Ken:

In the 11th month of the 4th year of Meiji (November, 1871) fifty Loochooans, who were cast ashore in the savage part of Formosa, were murdered by the natives. In the 3d month of the 6th year of Meiji (March, 1873) four men of the Oda Ken were cast ashore there and treated in a brutal manner. These affairs were the subject of representation to the government of China by our ambassador plenipotentiary.

Now, Formosa not being far from Japan, it is probable that there will be other cases, from time to time, of Japanese being cast ashore there, and considering the progress which is gradually being made in navigation, it may be expected that our people will in future visit that country.

Under such circumstances the repetition of similar outrages is gravely to be apprehended, and His Majesty has therefore at this time appointed Saigo Tori Meihi general of the second rank, commander of an expedition to that island. It will be his duty, first, to call to an account and deal with the persons guilty of outrages on our subjects; and, secondly, to take such steps as will insure the safety of our people's navigation in the future.

The above is hereby notified.

SANJO SANEYOSHI.  
DAIJO DAIJIN.

No. 435.

*Mr. Fish to Mr. Bingham.*

No. 43.]

DEPARTMENT OF STATE,  
Washington, June 6, 1874.

SIR: Referring to your Nos. 76 and 78, dated respectively the 22d and 24th of April last, relating to an expedition which the Japanese government propose to send to Formosa, I have to state that the twenty-fourth section of the act of 1860, referred to in your No. 76, is probably intended to authorize a minister in countries where rights of extraterritoriality are granted to the United States, to exercise the powers conferred upon the President by the 8th section of the neutrality-act of 1818, as well as the power or some of the powers possessed by the courts under that act.

To constitute an offense under either of the acts, there must be a purpose of carrying on war with a power with which the United States are at peace, and the offender must contemplate taking part as a belligerent. The engaging in the transportation of troops, or the dealing in arms and munitions of war, do not come within the classes of acts which are made penal by the statute of 1818.

While it is to be desired that the international duties of the United States towards belligerent nations should be enforced in the East as strictly as they would be enforced in the West, on the other hand it is not desirable to put any unnecessary restriction on the freedom of American commerce or the liberty of American citizens to use their talents in the service of oriental nations. Unless there were either an existing war between China and Japan at the time of the enlistment of the Americans referred to, or an immediate purpose of war with reference to which the enlistments were made, the enlistments were no violation of the international duties of the United States nor of the laws of the United States.

The Department fully confides in your discretion and does not deem it necessary to give you any further instructions on the subject.

I am, &c.,

HAMILTON FISH.

No. 436.

*Mr. Bingham to Mr. Fish.*

No. 94.]

UNITED STATES LEGATION, JAPAN,  
Tokio, June 17, 1874. (Received July 21.)

SIR: In my No. 84, of date the 20th ultmo, I informed you that on the 6th ultmo I received from Sir Harry Parkes a bill for the effect that he held a further installment of \$10,000.00 of the special compensation due the United States from the Shimoseki indemnity. Since that time I have received your instruction No. 85, directing me to receive from Sir Harry Parkes a like sum reported in my No. 87, of date February 25, and to remit the same by bill to Messrs. Morton, Son & Co., in London, to be passed to the credit of the United States.

Inasmuch as your instruction authorizes me to receive all the unpaid balance of the Shimoseki indemnity and remit the same in like manner, I have obtained a bill for the two several amounts paid to me by Sir Harry Parkes of \$10,000.00 each, for the gross sum of \$20,000.00, drawn by the Oriental Banking Corporation at Yokohama, on the Bank of England to my order, which I have this day remitted,

Informed to the order of Messrs Martin, Rose & Co., London, with request to pass the same to the credit of the United States, I enclose herewith the exchange voucher of the manager of the Universal Banking Corporation.

I have the honor to inform you that by further peremptory of your instruction No. 38, on the 20th instant I addressed to the minister for foreign affairs a communication, (document No. 3.) acquainting him that the United States expects to receive from Japan the usual remittance of the Remonstrant University, inasmuch as the other powers interested are remitting the balances due them.

With reference to your instructions concerning the joint note of the ministers of the other powers respecting an arrangement to travel and trade in the interior, I have the honor to say that I have given the same full consideration and will act in accordance therewith.

I am, Sir,

JOHN A. BINGHAM.

(Document No. 40.)

Enclosed remittance.

UNIVERSAL BANK CORPORATION,  
London, June 18, 1874.

I hereby certify that the eight notes on London, owing to Takemoto (the date is to be put down on or before the exchange) the sum of \$1,000.00 --- \$1,000.00 No. 40  
for the Remonstrant University.

J. BINGHAM,

S. W. Tamm,  
Joint Secretary.

(Document No. 41.)

Mr. Stephen to minister for foreign affairs.

No. 41.]

UNION STATES LEGATION,  
London, June 18, 1874.

Dear Sir: As instructed by my Government, under date 20th April, to inform your ministry's government that had the other Powers concerned remitted the usual remittance of the annual portion of the Remonstrant University, the remittance of the United States would not have been required to pay for the yearly amount, had their remittance on the other powers included and included all their debts, in payment of the remaining portion of the university, the general agent of the United States expects to be relieved in the same manner.

In addition to these remittances, I have the honor to inform your ministry that I am authorized and ready to remit, on behalf of the United States, an amount of one hundred dollars equivalent to the same paid to either of the other powers.

I am, Sir,

JOHN A. BINGHAM.

No. 437.

*Mr. Bingham to Mr. Fish.*

No. 95.]

UNITED STATES LEGATION, JAPAN,  
Tokei, June 18, 1874. (Received July 21.)

SIR: Since writing my dispatch No. 89, dated the 3d instant, I have become possessed of further information in regard to the expedition against Formosa, which it seems to me important to communicate.

\* \* \* \* \*

I am to-day in receipt of a communication from Mr. Williams, at Peking, (inclosure 2,) under date the 26th ultimo, in which he incloses to me a copy of a communication addressed to him by Prince Kung, (inclosure in 2,) chief secretary of state for foreign affairs, dated the 17th ultimo. You will notice in this communication that the prince expressly avers that the region occupied by the aborigines of Formosa "is a portion of the domain of China." It is also to be observed that he states that the foreign ministers have informed him in respect to the Japanese expedition, that by the law of nations the treaty powers at peace with China are not permitted to assist the Japanese, and that they will at once notify their officials, &c., against aiding the Japanese with arms and ammunition. Without further quoting Prince Kung's letter to Mr. Williams with reference to our treaty obligations, &c., it is proper to state that, on the 18th ultimo, I communicated to Mr. Williams (in reply to his letter dated April 24, and inclosed with my No. 82) the action I had taken to prevent the employment by this government of American citizens, or vessels, in hostilities against Formosa; a copy of which letter is herewith inclosed, (inclosure 3.) On the same day I also addressed to Mr. Seward, at Shanghai, a communication in relation to my action in the premises, (inclosure 4,) to which I received a reply under date 30th ultimo, (inclosure 5.)

I have the honor to report further that I have received from Rear-Admiral Pennock, commanding the Asiatic squadron, a copy of a telegram from Commander Kautz, United States steamer Monocacy, at Amoy, and a copy of his (the admiral's) reply thereto, copies of which telegrams are herewith forwarded, (inclosure 6.) You will notice from the telegram of Commander Kautz that the Chinese viceroy has ordered the Japanese to leave Formosa, and has requested the American consul at Amoy to prevent American citizens from assisting the Japanese, and that the consul has invoked the aid of the commander. To this the admiral has replied that the commander shall order all American citizens to withdraw from all enterprises unfriendly to the Chinese government, &c.

From what I have herein stated, it seems not improbable that the Chinese government, having declared against the hostile invasion of its territory by Japan, and having notified the Japanese to vacate the same, may follow this action by a direct appeal to arms. In view of all the facts, the action taken by Japan on the 18th and 19th April last, seems to have made necessary the protests made by me (heretofore communicated to you) in obedience to the requirements of the law of 1860, of the law international, and of the treaty obligations of the United States. I trust that my dispatches herein stated to our officials in China, informing them of my official action here and of the result thereof, may meet your approval.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 2 in No. 95.]

*Mr. Williams to Mr. Bingham.*

LEGATION OF THE UNITED STATES,  
Peking, May 26, 1874.

SIR: Since I wrote you last month, giving the principal items in the reply made by this government to the announcement that the Japanese were about invading Formosa to punish the aborigines there, we have heard that the expedition has been re-

called, and also that a landing had been effected in the southwestern corner of the island. These statements are probably both true in a measure, and we wait with interest to learn the course of events in relation to this curious episode of Japanese history.

The Chinese authorities had heard of the engagement of General Le Gendre in the service of the Japanese, and other things connected with the expedition, and paid me a visit very soon after to see whether I would not issue a proclamation of neutrality. They have been, I think, much perplexed and alarmed about this whole affair; and I gave them my opinion as to the desirableness of a resident minister in Yedo, for if they had had one they could have learned the facts of the enterprise, and not have been obliged to trust to newspapers and rumors in a case of so much importance to them. Seeing, too, that they had good serviceable ships of their own building, I said it was desirable to station them about Formosa, where they could at least observe the proceedings of the Japanese vessels.

They sent me a dispatch a few days after on the subject, and I have deemed that it might be of some interest to you, and now inclose a translation, with a copy of my reply.

We have not heard of the arrival at Shanghai of the newly-appointed Japanese, and when he reaches Peking he will probably learn something, and tell them more about this matter.

With great respect, &c.,

S. WELLS WILLIAMS.

P. S.—Referring to my last note, I wish to add that, since writing it, I have read the dispatch, No. 302, of Mr. De Long, addressed to Mr. Fish, November 6, 1872, in which the relations of the Lewchewans to Japan are fully set forth. Those islands are more entirely incorporated into the Japanese Empire than I had supposed.

[Inclosure in 2 in No. 95.]

TUNG-CHI, 13th year, 4th moon, 2d day. (May 17, 1874.)

Prince Kung, chief secretary of state of foreign affairs, herewith makes a communication.

I learn by official reports and recent newspapers that the Japanese government is about sending troops and ships to Formosa, to the territory occupied by the aborigines, and I suppose your excellency has also heard the same things. The region occupied by these aborigines is a portion of the domain of China, but the government of Japan has not yet plainly declared its intentions in sending troops there. The foreign ministers have informed me, however, (in respect to this movement,) that, according to international law, those countries which are at peace with China are not permitted to assist the Japanese, and that they will at once notify their officials and merchants that they are forbidden to aid them with arms and ammunition. This is a clear proof of their friendly sentiments.

The United States and China have long been on terms of cordial amity, as the first article of their treaty provides as follows:

"There shall be, as there has always been, peace and friendship between the United States and China, and between their people, respectively. They shall not insult or oppress each other for any trifling cause so as to produce an estrangement between them; and if any other nation should act unjustly or oppressively, the United States will exert their good offices, on being informed of the case, to bring about an amicable arrangement of the question, thus showing their friendly feelings."

This article is very explicit as to the mutual aid which our two countries shall render each other, and is what is universally understood. Since this treaty went into effect all the American ministers who have come here, and your excellency, too, have upheld its stipulations. But I have now heard that the United States has loaned one of its men-of-war to the Japanese to convey troops to Amoy; also, that two of the commanders of the Japanese vessels are American officers, and that General Le Gendre, a former United States consul, is with them, and that the [Pacific Mail] steamer New York has been chartered to convey troops, stores, &c., to Formosa.

I desire, therefore, that your excellency will speedily inquire into this matter, to the end that treaty stipulations may be carried out and these proceedings stopped, and, if they prove to be as reported, that General Le Gendre, with the officers and all the ships, may be at once recalled.

This will be fulfilling the provisions of the treaty and will strengthen our amicable relations.

It is also what I confidently expect, and is the object for which I make this communication.

His Excellency S. WELLS WILLIAMS,  
United States Chargé d'Affaires.

[Inclosure 3 in No. 95.]

*Mr. Bingham to Mr. Williams.*

UNITED STATES LEGATION,  
Tokei, May 18, 1874.

SIR: I tender you my thanks for your communication of the 24th ultimo in relation to the Formosan expedition and the telegram of General Le Gendre.

General Le Gendre holds, as I am informed, a military commission under the government of Japan. I do not know to whom he refers in his telegram as "interested parties," but it is not unreasonable to suppose that he looks upon the United States as an interested party.

I deem it due to the Government of the United States to acquaint you somewhat with my action in relation to the Formosan expedition. Before any part of the expedition had left Japan, viz, on the 18th and 19th days of April last, I placed in the hands of the Japanese minister for foreign affairs my written protests against the employment by the Japanese government of any ship or citizen of the United States in an armed expedition against Formosa, until the written consent thereto of the government of China should have been first obtained by the government of Japan. On the 22d ultimo, and while the expedition still remained in port at Nagasaki, I received from the minister for foreign affairs a dispatch in which he said that in compliance with my request the steamer New York, and General Le Gendre, Lieutenant-Commander Cassell, and Mr. Wasson, citizens of the United States, had been detached from the expedition, and that orders had been forwarded by the government to Nagasaki to that effect. I have since been assured verbally by the minister for foreign affairs that the orders so issued were duly delivered at Nagasaki, before any portion of the expedition sailed, together with written notices addressed by me to the persons above named, to the effect that they should not proceed with the expedition without further authority and instructions. General Le Gendre did not accompany the expedition from Nagasaki, but has returned, as I am informed, to Yedo.

You will please make known to the government of China the action that I have taken, as herein stated, in behalf of the United States.

I cannot say that I am fully advised of all the purposes of Japan in this matter, but I have been assured, verbally, by the minister for foreign affairs that it is not the purpose of his government to make any descent upon Formosa, with force, without the consent of China. Having been informed of some verbal consent given to Soyeshima last year, I deemed it proper to say to the minister for foreign affairs, that, to prevent any misunderstanding, he should, before action, obtain from the government of China consent in writing to the expedition and its declared objects.

Be assured, my dear sir, that I have every desire to maintain in good faith the treaty obligations of the United States with China.

I am, &c.,

JNO. A. BINGHAM.

[Inclosure 4 in No. 95.]

*Mr. Bingham to Mr. Seward.*

UNITED STATES LEGATION,  
Tokei, May 18, 1874.

SIR: From information recently received I deem it proper to say to you that before any expedition left Japan for Formosa, or any other portion of China, viz, on the 18th and 19th ultimo, I made written protest to the minister for foreign affairs against the employment, by Japan, of any ship or citizen of the United States in an armed expedition against Formosa, until the written consent of China thereto should have been first obtained by the government of Japan.

On the 22d of April, and while the expedition still remained in port at Nagasaki, I received from the Japanese minister for foreign affairs a dispatch, in which he said that in compliance with my request the ship New York, and Le Gendre, Cassell, and Wasson, citizens of the United States, had been detached from this service.

It may be proper that you acquaint the Chinese authorities of this, and say to Mr. Williams at Peking that I will fully advise him.

You will, I doubt not, see that the provisions of the act of 1860, 12, Statutes at Large, page 72, (to carry into effect the treaties with China and Japan,) be respected by citizens of the United States in China.

I am, &c.,

JOHN A. BINGHAM.

[Inclosure 5 in No. 95.]

*Mr. Seward to Mr. Bingham.*

No. 22.]

UNITED STATES CONSULATE GENERAL,  
Shanghai, May 30, 1874.

SIR: I have had the honor to receive your dispatch of the 18th instant in regard to the expedition to Formosa. I have sent letters to the appropriate consuls in China embodying the information contained in your dispatch and saying that I think that any steps which they may take to discourage, or, within the provisions of law, to prevent our people from taking part in such expedition will meet the warm approval of our Government.

I have sent a copy of your letter to Dr. Williams.

I am, &c.,

GEORGE F. SEWARD,  
*Consul-General.*

[Inclosure 6 in No. 95.]

*Telegram from Commander Kautz, and Admiral Pennock's reply.*

A.

JUNE 4, 1874.

Captain COLHOUN, *Hartford, Yokohama:*

Viceroy (Chinese) has ordered Japanese to leave Formosa. Requests consul to prevent American citizens from assisting Japanese. Consul asks me to assist him in compelling Americans to leave the Japanese forces in Formosa.

I await your orders.

KAUTZ.  
*Monocacy, Amoy.*

B.

JUNE 4, 1874.

Commander ALBERT KAUTZ,

*United States Steamer Monocacy, care American consul, Amoy, China:*

Notify and command all American citizens to abstain and withdraw from all enterprises unfriendly to the Chinese government, and to avoid all acts which are inconsistent with treaty obligations, on pain of forfeiting all claim to American protection.

PENNOCK.  
*Rear-Admiral.*

No. 438.

*Mr. Fish to Mr. Bigelow.*

No. 438.]

DEPARTMENT OF STATE,  
Washington, July 20, 1874.

SIR: I am by receipt of your despatch of June 8, 1874, No. 438, in reference to the refusal of the Japanese court to issue process to compel the attendance of witnesses in a civil proceeding commenced by A. C. Dens, an American citizen, in the Japanese court, and of the written statement of Mr. Shokine, the counsel of Mr. Dens, as to the date of the trial.

From such statement it appears that the court refused to examine the witness as requested, --saying that by the rule of the court each party had to bring his own witness, and that the court only examined those whom for its own satisfaction it wished to examine; --but that no such rule appeared to exist in a printed form.

You state in your despatch that --it would seem that this refusal is in flagrant disregard of article 6 of the treaty of 1858, which provides that the Japanese courts shall be open to American citizens for the re-

covery of their just claims against the Japanese," and that it might be called "a denial of justice."

In the opinion of this Department the Treaty of 1858 opens the Japanese courts to American citizens to the same extent and with like facilities as such courts are open to the Japanese. American citizens are entitled to all the advantages and facilities which are accorded to their own nation.

Your dispatch fails, however, to inform this Department upon the vital point to be considered in determining whether there has been a denial of justice, or the withholding of any of the means of compelling the attendance of witnesses. An expression of opinion by the Department on this point will be withheld until you ascertain and report whether the position of the Japanese courts was correctly stated, in the decision of the court, to witness the witness, as quoted in your dispatch and as cited above; also whether any unjust discrimination was made against Mr. Dens.

III, as matter of fact, the system of justice as administered in Japan does not provide for the compulsory attendance of unwilling witnesses, this Department would suggest in demanding in behalf of American citizens an intervention of the court not exercised or allowed in behalf of Japanese.

IV, however, it should appear, after a careful examination of the facts, that in this case Mr. A. C. Dens was not accorded the same facilities and opportunities to obtain testimony as are allowed Japanese citizens, you will make such representation as may now proper under the circumstances.

I am, Sir,

HAMILTON FISH.

No. 439.

*Mr. Fish to Mr. Bingham.*

No. 60.]

DEPARTMENT OF STATE,  
Washington, July 29, 1874.

SIR: Referring to your dispatch No. 78, in which you seek instructions upon the various questions arising out of the participation of citizens of the United States in the late expedition against Formosa, and of the employment of an American vessel, I have to inform you that your proceedings to detach the citizens of the United States and the steamer New York from the expedition are approved. You are referred to the instructions already given by this Department on this question. The act of June 22, 1860, affords ample authority to the ministers of the United States to issue writs and proclamations to prevent the citizens of the United States from enlisting in the military or naval service of China or Japan to make war upon any foreign power with whom the United States are at peace, or in insurrectionary movements; and, should a warning or proclamation prove ineffectual, the minister is authorized to resort to such force as may be within his reach belonging to the United States, to accomplish the purpose.

It is believed by the Department that the powers conferred upon the minister of the United States by this act will prove sufficient in these cases.

The representatives of the Government will take every means to pre-

vent any violation of these provisions of law, and it is believed that in most instances no actual resort to force will be required.

Your response to the representation of General Le Gendre, that the act of 1860 was unconstitutional, is approved. No officer of the Government is made a judge of the constitutionality of an act of Congress; and all acts are to be deemed constitutional until the question be legally decided otherwise.

This Department has been officially informed by the Secretary of War that Mr. Wasson, who was attached to the expedition against Formosa, above referred to, has not been in the service of the United States since July 1, 1872.

I am, &c.,

HAMILTON FISH.

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No. 440.

*Mr. Bingham to Mr. Fish.*

No. 105.]

UNITED STATES LEGATION, JAPAN,  
*Tokei, July 29, 1874. (Received September 1.)*

SIR: I have the honor to acknowledge the receipt of your telegram of date the 21st instant, in which you instruct me to caution American citizens against hostile proceedings against China. This telegram reached me on the 26th instant, at 4 p. m.

I have, in pursuance of your instructions, notified our consuls to warn American citizens not to engage in hostile proceeding against China. On the 28th instant, notices were given by the consuls at Hiogo and Yokohama, and I presume that notice has also been given by the consul at Nagasaki in accordance with my instructions sent to him by telegram.

I have carefully considered the twenty-sixth article of the treaty with China, made at Tien-tsin, and consider it highly important to the interests of American commerce that American citizens should not be allowed to violate that provision.

On the 28th instant I had an interview with the minister for foreign affairs, in which I told him that while I had respect for the rights of Japan, and had no purpose to question her full right to judge for herself touching her relations with China, it was my duty to acquaint myself as far as possible of the actual state of affairs between Japan and China, to the end that the treaty relations of the United States with the two countries might be fully maintained. In this conversation Mr. Terashima informed me that China had made two communications to Japan since the invasion of Formosa by the Japanese forces in relation thereto; first, that the Japanese forces should withdraw from the island; and second, that the Japanese having inflicted punishment upon the Bootang savages, should at once recall their forces, and Chiua would pledge herself to build a light-house upon the northeast coast of Formosa, and to furnish protection hereafter to foreign commerce upon that coast by a land and naval force. To my astonishment I was informed that Japan had not accepted either of these conditions, and I was left to infer, therefore, that the conditions were rejected, because Japan purposes to retain possession of that portion of the island of Formosa. Mr. Terashima also informed me that China has withdrawn her second proposition, and is actively engaged in preparing for war. He con-

cluded by saying that the Japanese ambassador has reached Peking and is now engaged in negotiation, with the Chinese government, but that he, Mr. Terashima, is not yet advised of the result.

Referring to your instruction No. 43, of date the 6th ultimo, I beg leave to thank you for the expression therein of confidence entertained by the Department in my discretion, and also for the views therein expressed with relation to the scope and effect of the act of 1860.

I am, &c.,

JNO. A. BINGHAM.

No. 643.

Mr. Bingham to Mr. Fox.

[No. 108.]

UNited STATES LEGATION, JAPAN,  
Tokio, August 13, 1874. (Received September 13.)

Sir: I received a communication of date the 27th ultmo, from the minister for foreign affairs, (Inclosure No. 1,) inquiring whether it was my wish to receive the remaining instalment of the Remond's indemnity, due the last of July, amounting to \$100,000, and asking from me, on the receipt thereof, an acknowledgment that the indemnity to the United States had been received in full. To this I made reply, (Inclosure No. 2,) on the 29th ultmo, to the effect that I would receive the remaining instalment, and would accept thereof, for all the money paid to me as having been paid as the balance to full of the Remond's indemnity, subject, however, to the approval of my Government.

On the 4th instant I received a communication from Sir Harry Parkes informing me that he had deposited another amount of \$15,000.00 on account of the Remond's indemnity, to my credit, in the Oriental Bank at Yokohama, (Inclosure No. 3.) I also received a letter (Inclosure No. 4) from J. Robertson, esq., the agent of that bank, notifying me of his receipt from the Japanese minister for foreign affairs of the sum of \$100,000, which was there set to my account as minister of the United States. On the 9th instant, in pursuance of your instructions, I negotiated with the Oriental Bank in exchange on London for an amount equivalent to \$135,000.00, and received on that day a bill of exchange on the Bank of England, dated August 8, 1874, payable on demand to my order, for £20,000. To wit. A copy of Mr. Robertson's certificate of exchange, together with copies of two letters from bankers, are herewith (Inclosures 6, 8, and 9) inclosed. In accordance with your instructions I have forwarded this bill (in letter of this date, Inclosure No. 6,) to Messrs. Morton, Morton & Co., induced by me to them, with request that they will place the same to the credit of the United States.

I beg leave to call your attention to my No. 94, of date June 17, notifying you of the two several amounts received by me up to that date from Sir Harry Parkes on account of the indemnity, amounting, in gross, to \$13,000.00, for which amount I obtained exchange on London for £1,479.16.4d sterling, and remitted the same to Messrs. Morton, Morton & Co. at that date for the use of the United States. I have the honor to call your attention also to my No. 97, dated the 11th ultmo, in which I informed you that I had received from the minister for foreign affairs \$100,000, and that for that sum I had obtained exchange on London to the amount of £15,000.16.4d. sterling, which bill I forwarded, duly indorsed to Messrs. Morton, Morton & Co., to be placed to the credit of the United States. You will observe, therefore, that the gross amount of exchange, includ-

and results from his conduct, and at a place with respect to which the Japanese government had expressly informed the secretary that the rights of a legation do not exist, and for a crime committed before that minister had entered the service of the secretary. I observe that Mr. Harry Parker states that the decision of the Foreign Representatives was reached at a meeting at which all of them were present, "with the exception of the United States minister."<sup>2</sup>

It is by no means improbable that your views on the question would have differed from those of the other representatives, and might have modified in some degree what appears to be the extreme position to which the doctrine of immunity seems to have been carried in the negotiations.

On the general question of united action by the Foreign Representatives in Japan, in matters of concern referred to the treaty power, the views of the President were communicated to you in my No. 30, under date of the 20th April last, and it is not supposed that you have deviated from the instruction then given.

In the present condition of the country, and in view of the evident continuance of Japan under the doctrine of extraterritoriality applied to her, and of her apparent desire to separate the treaty powers from each other, possibly in view of the revision of the treaties, it is not deemed wise at present to depart from a policy which has, thus far, in the main, proved successful.

The President therefore relies upon your present ability to carry out the policy which has been indicated to you, and which has been submitted to other powers as that which is to govern our intercourse with Japan, unless to cause where you may see the interests of this Government to be so clearly in a different direction that you may feel it your duty to withhold consent of action until you shall have had opportunity to lay the case before your Government.

It is deemed especially important that, in all cases of infringement, or of any restriction, or limitation, or denial of the rights guaranteed to them by treaty, or of any infringement of treaty rights, whether personal or of property, the united action of the Foreign Representatives in Japan should assert the inviolability of the treaty, and the full protection of all citizens or subjects of the treaty power.

I am, Sir,

HAMILTON FISH.

#### No. 443.

*Mr. Fish to Mr. Bingham.*

No. 67.]

DEPARTMENT OF STATE,  
Washington, September 1, 1874.

SIR: Your No. 105, of the date of 29th July last, is this day received, and your account of your interview with Tereshima, and of the rejection of the demands made by China, seem to give countenance to the current rumor that Japan is determined to maintain the foothold she has obtained in Formosa, even at the expense of a war with China. I shall await, with interest, your further dispatches, which it is hoped will be full in their detail of all matters in connection with the delicate relations between these two nations.

The Department is pleased that your attention has been directed to

the treaty with China, and to its requirements in case China becomes involved in war. These obligations were in the mind of the Department when the instruction No. 43, of the 6th of June, was written. The President expects that you will be vigilant in the exercise of all the powers of your official position for the protection of the rights of American citizens, and for the strict maintenance of the neutrality of the United States and of its citizens, and the observance of all treaty and international duties, in the event of war between Japan and China. It is believed that the instructions of the Department, heretofore sent to you, will have indicated the large power which the laws have committed to you for this purpose.

I am, &c.,

HAMILTON FISH.

No. 444.

Mr. Fish to Mr. Bigelow.

No. 13.]

DEPARTMENT OF STATE,

Washington, September 3, 1874.

MR.: Referring to your dispatch of the 13th ult., No. 109, I have to state that the last payment, by the Japanese government, on the Shimoseki indemnity, amounted to \$111,000, making the total installment, and appears to be in full of the proportion of the United States of the indemnity. Your conditional receipt, in full, is therefore approved.

I am, Sir,

HAMILTON FISH.

L I B E R I A .

No. 445.

Mr. Fisher to Mr. Fish.

No. 106.]

UNITED STATES LEGATION,

Moserville, January 3, 1874. (Received March 8.)

MR.: I have the honor to inform the Department that I have this day had the honor to be a guest at a "dinner of state" given by the prime-minister-general of Liberia, in honor of the legislative and executive branches of said government. The dinner was well attended. The President and vice-president, together with very few exceptions, with the members of the legislature, were present. Among other sentiments the following was pronounced: "The United States is a nation to which we feel slightly related, and we therefore propose the health of Ulysses S. Grant, chief magistrate of that nation." In this expression I indulged myself by saying that, although the President of the United States occupies the first place in the great American heart, one attempting to speak for him must, owing that the President is known as nothing connecting him with opposition for himself, find the task, however pleasant, a somewhat difficult duty. But while it may be difficult to speak for