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PAPERS

RELATING TO THE

FOREIGN RELATIONS

OF

The United States,

TRANSMITTED TO CONGRESS,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT,

DECEMBER 6, 1875.

PRECEDED BY A

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

VOLUME I.



7

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1875.

715
11
2.33
A5
24
71

tinctly that native goods only are referred to, not foreign goods; that certain mischief-makers have been busily circulating false ideas, and that I will be after such people, and make them repent their folly. I will state too that the merchants must take delivery of their goods, or I will oblige them to do so." (The taotai was under the impression that Chinese merchants had been to complain to Mr. Sheppard.)

Consul. "I would recommend you not to mention that. I should think it better to let them choose for themselves about taking delivery, and not coerce them on that point. I must tell you that no Chinese have come to me to complain. Had they done so, I could not have acted for them in this matter. Complaint was made to me by American merchants, and it is for them that I speak."

Taotai. "Well, then, that point need not be referred to in the proclamation."

Consul. "I will consult with my colleagues on my return. I do not know whether their views differ from my own, but, if it should appear necessary, I will write you on the subject. I hope to receive a copy of your new proclamation."

Taotai. "I will send you a copy without fail."

Interview closed at 4 o'clock.

[Subinclosure 2 in No. 44.—Translation.]

Proclamation of the Taotai.

TIEN-TSIN, March 9, 1875.

Sun, customs taotai, &c., &c., makes the following proclamation:

Chinese merchants who receive consignments of native imports have of late been disregarding the regulation established by H. E. Chung-How, ex-superintendent of trade, which requires that after duty has been paid at the foreign custom-house, the triplicate certificates there given shall be taken to the revenue office, for the payment of the revenue-taxes; and the result of this has been that smuggling has been carried on at pleasure. For this reason the existing regulation was promulgated in a special proclamation, wherein it was distinctly stated that *native* goods belonging to *Chinese* merchants, and not *foreign* goods, were referred to.

It has come to my knowledge that unprincipled native merchants have been circulating canards to the effect that all foreign goods, whether intended for local consumption or transit to the interior, after paying duty at the foreign custom-house, must be reported at the local revenue-office and pay the duties there. These people presume to take it upon themselves to leave all their foreign goods on the bund, and refuse to take delivery; and they designedly instigate foreign merchants to take action, hoping in this way to resist payment of taxes on native goods. Such malignity is utterly detestable.

I have sent police to vigorously but secretly track out and arrest such offenders, and have also communicated with foreign consuls on the subject.

This proclamation is now issued for the information of all merchants concerned. Hereafter, when native goods imported by foreign steamers or sailing-vessels have paid duty, and been cleared at the foreign custom-house, they must, according to the regulation for triplicate certificates, be reported the same day at the head revenue office for payment of revenue-taxes.

Should any one presume to secretly engage in smuggling, he will, on detection, be unrelentingly punished according to law.

Obeys with trembling!

&c.

&c.

&c.

No. 151.

Mr. Avery to Mr. Fish.

No. 45.]

LEGATION OF THE UNITED STATES,

Peking, March 31, 1875. (Received June 9.)

SIR: During the year 1872, the Chinese government, moved by various representations of the maltreatment of its people in Cuba, stopped the further emigration of Chinese to that island, whereupon Señor Otín, the Spanish chargé d'affaires, complained of a violation of Article X of the Spanish treaty concluded in 1864, which provides for emigration.

forth was drawn up and presented to his colleagues by Mr. Wade on the 23d instant. But at the same time he announced his withdrawal from mediation, pending the non-settlement of a grave issue with the Yamen on his own account, arising from the perfidious attack on an English exploring party in Yunnan and the murder of one of its leaders under circumstances of great barbarity, which will be detailed in another dispatch. Considering Mr. Wade's relations to the diplomatic body as its *doyen*, and wishing to support him in his demand for satisfactory reparation as a matter of humanity and common interest, it was decided by his four associates in the cooly business, including the newly-arrived German minister, Mr. Von Brandt, that they would also decline to proceed for the present. Their note to this effect is sent herewith, (inclosure 8.)

At a personal interview, held with the Yamen on the 24th instant, they referred to our note, and hoped our good offices were not to be quite withheld. Expressing their inability to understand why a difference with Mr. Wade should prevent the remaining four ministers from proceeding with the cooly affair, I told them that the sooner they could settle with Mr. Wade the sooner we might hope to reach a happy conclusion of our mediation, assuring them of the common disposition to make it a just one. As they seemed to desire it, I explained familiarly the good features of the convention, and expressed my conviction that it was hopeless to expect the concession of wholesale repatriation, declaring at the same time that I would not counsel the acceptance of the convention if I did not think it promised as large a measure of redress, protection, and prevention as could be obtained.

I am afraid there is more of pride than humanity in their present attitude, but am still not without hope that they may ultimately listen to reason, and do what they can, if they cannot do what they would. Mr. Otin has probably conceded all that he feels any confidence his government will be willing to ratify. He has certainly conceded much more than will be satisfactory to the Cuban planters and the emigration-agents who have heretofore profited by injustice and cruelty.

Under his convention emigration would indeed be free. As Macao is closed to the cooly traffic, Chinese laborers could be procured only from Chinese ports, where, as I have said, the imperial customs-officers and foreign consuls—certainly those of the United States—would be alert to prevent an illicit traffic.

I have, &c.,

BENJ. P. AVERY.

[Inclosure 1 in No. 45.—Translation.]

Note from the Tsung li Yamen, submitting report of commission to Cuba.

TUNGCHI, 13th year, 12th moon, 29th day, (February 5, 1875.)

A special note.

In the year 1865 a treaty was negotiated between China and Spain, one of whose articles reads as follows: "The imperial authorities will permit those China subjects, who may desire to go abroad as laborers in Spanish possessions, to enter into contracts with Spanish subjects, and to embark alone or with their families at the open ports of China; the local authorities, acting with the representative of Her Catholic Majesty, in each port, shall make the necessary rules for the protection of the said laborers. It is forbidden to take deserters and persons who have been taken against their will." By this article it will be seen that this emigration was permitted, if the laborers should be willing to go; their complete protection was guaranteed, and all kidnapping was strictly forbidden.

Since the ratification of this treaty a report has been received from Suilin, the governor-general at Canton, written in 1871, stating that Mr. Villaneuva, the Spanish consul, had requested, on behalf of a merchant named José Tuton, to open an office at Canton to engage laborers; 510 coolies were obtained, after which he asked that it might be closed. This was the only instance at that city of opening an office, but in the year 1869 Mr. Faraldo, the Spanish consul-general at Amoy, made application on behalf of the merchant Priego* to open an emigration-office to engage laborers to go to Cuba. A correspondence ensued between him and the local authorities at Fuhchau for their approval. The number engaged there was 690, making in all, in these two instances, 1,200 laborers taken away. Besides this last agency some non-treaty powers obtained coolies for the Spaniards, but the only *bona-fide* emigration agency opened was that at Canton, when 510 men were engaged.

This case of Mr. Priego has been reported in full by Ting Kiver, the governor-general at Fuhchau. Some of the laborers engaged by this agent jumped overboard on the passage. Mr. Pedder, the British consul at Amoy, learning that the Spanish, Portuguese, and other nations, under the pretense of hiring workmen at Macao, had been kidnaping and carrying off Chinese beyond sea to sell them for slaves, but that this business, having recently been stopped at that settlement, he had heard that certain people intended to come to Amoy and make application to revive it, therefore informed the intendant at that port that he might know what was going on and provide against it. Mr. Jones, the commissioner of customs, finding that the contracts drawn up for the coolies differed widely from the twenty-two articles in the emigration-regulations in force, requested that the ship's papers should not be issued until a most careful examination had been made, and the United States consul-general, Le Gendre, stopped them entirely from going.

The foreign office, fearing that wrongs and irregularities might exist, directed the inspector-general of customs to send to Fuhkien province to ascertain the facts, and, in due course, copies of all the papers were received. The commissioner of customs, Mr. Jones, said that the contracts had omitted altogether the most important parts of the twenty-two articles in the emigration-regulations. It appeared, too, from his account, that a relative of one of the coolies, a man from Tungau district, went to the emigration-office at Amoy to make some inquiries of him, but was unable to get a sight of him or talk with him; he could only see people behind the iron bars of the windows, and learn from those who knew the circumstances that his friend had been kidnaped or inveigled away to be sold. The captain of an American man-of-war had reported, too, that on the 8th of April, 1863, a number of men, he knew not how many, had been seen leaping into the sea from a Macao trading-vessel, and he requested that in consequence of this all the coolies might be brought on shore, to investigate the facts. The master of this vessel, however, obstinately persisted in refusing the tide-waiters any opportunity to search it; and hence the inference is plain that the coolies had been deceived and were not willing to go abroad. General Le Gendre then assured him (the commissioner of customs) that as this vessel belonged to a non-treaty power, he would advise that she be detained, and the matter attended to immediately, which would prevent her captain treating Chinese like beasts of burden.

Again, a widow woman from near Changchau city, named Chin-ho, had testified that her only son, Chin Kilin, whose life was bound up in her own, was beguiled by a man, named Hi Shing, to go to Amoy; on reaching the place he was surreptitiously sold to a Spaniard, and put into the barracoon.

Another woman, from Tungau district, named Shao Chin, had further reported that her father's kindred had become so poor and scattered, that of four generations there only remained her own brother, Chin-Ching. A Spanish agent came to Amoy to hire laborers, and her brother was inveigled away by his companions and sold as a cooly, his name being changed to Hu-fuh.

An old man, named Chin Chi, stated that he was seventy years old, and his only son, Chin Chin, was all that remained of three generations; he had been kidnaped by crimps, and sold to the emigration-depot under the name of Sin Fuh, but managed afterward to get free from it. He informed some one that there were over two hundred men in the same ship, and they were all locked down below as soon as it came night.

From many articles which have appeared in the newspapers it is evident that the coolies who go to Cuba are regarded as slaves or cattle; and the cases of horrible cruelties which they suffer have been so numerous that they cannot be fully described. They, however, all tally exactly with the evidence already adduced of their bad treatment.

A letter was received in May, 1872, from the governor-general, Wanyuh, at Foo-chow, and in it was the following: "A Spanish merchant, named Abella, has requested permission to open an emigration-office at Amoy. The acting taotai there, named Pau, tells me that he has made some inquiries of returned coolies about these emigration-houses,

* This man was a Peruvian.

and they all describe them as like so many prisons, in which everybody is indiscriminately huddled very close together, and no one is allowed to see his relatives or associates. After they have started on the voyage they are fastened below deck in the most crowded manner; the filth and stench are dreadful, and not the least care or relief is granted to them; numbers of them die from hunger and thirst, whose bodies are thrown overboard without ceremony. When they reach the end of their voyage they are compelled to work from morning till night without any cessation; their food is very poor, and they are constantly whipped and beaten. When their contract-time has expired they are forcibly sold again, at a price varying from four to five hundred dollars. If they refuse to stay under these terms, they are chained and made to work in the hardest misery; and really, their sufferings follow them continually till death comes to release them from all. By this means the coolies never can fulfill their contract-time, and not one in a hundred ever lives to return home. Every article of their agreements is thus made void, and it is impossible fully to describe their miseries.

"The American consul at Amoy, Le Gendre, has told me [the taotai] in one of his dispatches that the climate of South America is very deleterious, especially in the islands that soldiers and others who go there are allowed, in order to avoid being infected with the malaria, to be changed every ten days; for, if not, they are struck and die. Foreigners dislike going to those regions to work as laborers. Therefore some unprincipled villains, greedy for gain, have bought foreign ships and have engaged Chinese crimps to go about and coax ignorant natives to go on board of them, when they are carried myriads of *h* across the seas to dig guano. They are put at every kind of work which slaves do, and are used for all kinds of labor, just like cattle. It is quite impossible fully to describe the sufferings and miseries which they undergo. If steps are not taken to prevent the beginnings and continuance of such evils, ere long they will so increase that all classes of natives will be outraged by their wrongs, which cannot be redressed. Even now the case is very lamentable, and excites everybody's indignation; and I hope that steps will be taken to put a stop to such atrocities, if only from reasons of common humanity."

The consuls for Germany, Denmark, France, Holland, Great Britain, and Sweden, all united at this time with the American consul in this joint dispatch to Pau, the intendant at Amoy, setting forth that the evils which grew out of this traffic in men were every year intensified and increased till they had become unbearable. The Spanish consul, Don Juan Oliz, at Amoy, says, moreover, that he cannot control or restrain the treatment of the coolies after they reach Havana. The consul soon after made a request that further contracts for laborers might be suspended.

The foreign office has a dispatch from the American minister, (Mr. Low,) June 14, 1872, in relation to contracts for laborers to go abroad, in which he says:

"The largest part of these coolies have formerly gone from Macao by ships to Cuba and other islands under Spanish rule, and also to Peru. Full details of their sufferings have already been made known in reports written by themselves, and I have recently heard that the condition of those in Cuba is even much worse.* There are no well-established regulations, which can be enforced, to prevent them being carried away from Macao to foreign lands. In former years the slave-trade was carried on from Africa under circumstances of great cruelty, and the United States have exerted themselves to the utmost to put a complete stop to it in every form."

Since Mr. Otin, the Spanish *chargé d'affaires*, came to Peking in 1872, many communications upon this subject of emigration have passed between him and the foreign office, and the result of the discussion was to refer certain points to the joint arbitration of all the foreign representatives in Peking. In June, 1873, Mr. Otin wrote as follows: † "Spain has the right to engage laborers to go abroad to her possessions, but

In consequence of this, the foreign office then wrote to each of the foreign ministers in relation to the emigration to Spanish colonies, stating that although it was no doubt contained in the treaty, it clearly stipulated too that the laborers should be protected; if they were cruelly treated, then this provision was violated.

The present intention of the foreign office to prohibit emigration to places notorious

*Mr. Low's dispatch reads for this sentence:

"Most of these emigrants shipped from Macao are brought here by their own countrymen by means of false promises or by force; and yet I am unable to learn that any honest or effective steps have been taken by the native officials in the vicinity to check or prevent such operations."

†The original was:

"Spain is of opinion that she has the right to engage laborers to go abroad to her possessions; and China thinks she has the right to put a stop to her doing so, because they are badly treated; who is right is a question to be decided after full discussion." whether China has a right to put a stop to her doing so because the laborers suffer injuries after their engagement, is a question which can only be decided after full discussion."

for the cruelties inflicted on the coolies, was not to be taken to mean that emigration was forbidden to countries where the Chinese coolies are not thus cruelly used; and it simply wished to ask whether, supposing it to be true that Chinese laborers in Cuba were cruelly used, as reported, the Chinese government ought quietly to submit to further emigration to that country?

Mr. Fergusvan, the Netherlands minister, replied: "Every country has the right to see that its subjects who emigrate to other lands are well treated there; and if China has undoubted proof that the laborers who have gone abroad have been cruelly treated, no matter in what country, she has the right to inform the high officials of that country that Chinese coolies can no longer be allowed to go there."

Mr. Williams, chargé d'affaires of the United States, replied: "With regard to the bad treatment of the Chinese laborers now in Cuba, it is necessary for a man to be on the spot, and personally learn for himself the truth by seeing and hearing what is done. I am myself able to say that, since the year 1849, when the business of contracting for coolies to go from Canton to Cuba began, up to the present day, I have constantly heard of the cruel usage they have there received, and that very few of those who had worked out their term of service ever returned home. If the Chinese government now desires to learn their real condition, the best way will be to send a special commission there to carefully inquire and personally ascertain the facts, which will probably not be hard to do. As to the question whether, if the coolies are cruelly treated in Cuba, the Chinese government will be justified in forbidding further emigration there under contracts, I consider that it can do so, and has a right to forbid it."

Mr. Wade, the British minister, replied, in substance, that if British merchants engaged laborers according to the regulations formerly agreed upon, and if China heard afterward that the men were cruelly treated, she could forbid any more coolies to be hired by them. He said, too, that if she still suspected that they were harshly used, the British minister would urge the Chinese government to send a special commission to carefully inquire into the facts on the spot, in order to determine the course of action to be taken.

At the conference held with all the foreign ministers, after full consultation, it was agreed that the proper course to take was to send a special commissioner to learn the facts in Cuba itself. Accordingly, on the 21st of September, 1873, the Yamen received orders, in answer to their memorial, to appoint a commission to go to the ports and towns in Cuba, and carefully inquire into the facts of the matter, and report. It consisted of Chin-Lan-pin, an officer of the fourth rank, and brevet secretary of the board of punishments, a titular prefect, with A. Macpherson and A. Huber, commissioners of customs, as his associates. This action was communicated to all the foreign representatives. The inspector-general, Mr. Hart, was also directed to give his attention to the matter, and drew up a series of inquiries proper to be made, under fifty-one heads, to which the commissioners were required to return the appropriate replies. From time to time Chin has sent the results of his inquiries, and informed the government of his progress. On the 6th of January a joint report was received from the three members of the commission, in which they remark: (See the inclosure for this quotation.)

The Yamen has the translation of a statement made by a Spanish gentleman at Havana, relating to the coolies, in which he says, "When the Chinese first came to Cuba, the time mentioned in their contracts was eight years; when that period had expired they were regarded in the same light as foreigners from other countries. They were at the end, also, permitted to bind themselves for four years' further service, and to swear obedience to the laws of Spain; and it was expressly agreed that at the expiration of the four years a naturalization-paper should be given them, showing that they were Spanish subjects, and allowing them to trade as they liked, just like other foreigners. This mode of dealing with them on the expiring of the last contract time was perfectly legal and fair, but at present, for some reason which I do not understand, everything has been changed, and every privilege formerly granted the coolies has been withdrawn. They are regarded as slaves, and the laws issued respecting their times and manner of work have been made still more onerous. Whenever a cooly now reaches Cuba, he is required to work out the eight years mentioned in the contract, which he brought with him, without a single holiday allowed him. His work is more severe, his wages are far less at present; and if he thinks that when his time is up he will be permitted, as before, to leave his employer and work for himself where he likes, he is now compelled to make a new contract. If he refuses straightway to sign his new contract, he is immediately sent to the public depot at Havana, to work for the government; he is treated just like a criminal, put in the stocks and made to suffer everything. Other classes of working-people in Cuba are treated according to law, and can employ their time as they choose; but the Chinese alone are regarded as slaves, and like slaves are sent to the Trocha,* or military trench, where their situation is so very hazardous that the man's life is put in imminent danger."

* The Trocha is a military trench or road which crosses Cuba in its eastern department; it is guarded by military posts, and the insurgents are, if possible, not allowed cross it.

A translation of a letter from the German consul at Havana, which he wrote for a paper in Berlin, has been furnished the Yamen, in which he says, "The commission sent by the Chinese government to inquire into the condition of their countrymen in Cuba and Peru has come, and the German government has directed its consuls at every place to assist it as far as possible. The British and Russian governments have, also, instructed their consuls in the same sense. It is to be hoped that the chief evils connected with the emigration of Chinese laborers abroad, such as their confinement in the prisons in Peru and Cuba, and the unjust and cruel treatment they receive, just as if they were slaves, may now all be removed. The testimony and depositions, oral and written, which the commission has collected, will form the best evidence of the facts: and when it is all printed, mankind will fully know the truth, and that the coolies should by right be their own masters. No crime is alleged against them except that they are Chinese. The sufferings they are subjected to in every place violates every law of humanity; and even the laws of Cuba declare that they are entirely different from the black slaves. I know very well that the people of Cuba, educated and uneducated, are alike sorry to see how these coolies are treated. It is only the few hundreds of sugar-planters and members of the police and patrol who wish to have them treated like slaves. These overseers only desire to get just as much work out of their coolies during the eight years as possible; when that time is over, their bodies are mostly destroyed or debilitated, their eye-sight is gone, they spit blood, and their legs are weakened. The overseers themselves do not comprehend that if they would only pay the coolies a fair and full wage for their work, they would willingly do more for the money, and then they, themselves, would be profited, for, in fact, if no Chinese laborers are to be had, the sugar-plantations will all go to ruin. As soon as the way in which the coolies are treated here is generally known in other lands, so unscrupulous and unjust in every way, some means will surely be devised to stop the emigration."

Another extract has been translated from the statement furnished to the commission by the Portuguese consul at Havana, in which he gives the numbers of coolies, and some names of those who had been taken away from their country by violence; their testimony is given in full in the report of the commission. Among these were three graduates of the rank of *suitsai*, or bachelors, from Kwangtung, named Chin Shao-yen, Sien Tso-pang, and Si Shao-chun; a man named Chang Lwan, from the same province, who had been acting captain in the garrison at Tingchon, in Fuhkien, and had obtained a feather; another from Kiangsu province, named Ching Tung-ling, who had filled the office of a subordinate justice in a district in Kwangsi; a fourth from Kwangtung, Moh Tung-hien, who was on the list for the first vacant captaincy, and another, an ensign, named Chin Hieh-Chau, with one more, Yeh Shing-tan, an own nephew of Yeh Yen-lau, now a secretary in the board of revenue and general council at Peking. These persons are all scholars, and holding official rank; they belong to respectable families, and could have no possible reason for going over the seas to get their living as day-laborers. They were all kidnaped and forcibly carried abroad to work as coolies; and if these men have suffered injustice and cruelty, it can fairly be inferred that others are also badly treated. One may well ask, where was the willingness on their part stipulated in the treaty, and the protection which is therein promised? The number of laborers engaged, as reported by the Spanish and Chinese authorities, in Fuhkien and Kwangtung provinces, include only about 1,200 names; but the total number who have arrived in Cuba is 140,000, of whom now 60,000 are still alive, and more than 30,000 have gone since the treaty with Spain was made. The places they came from, and what means were employed to engage them, can all be easily understood by everybody without further description.

We have had the depositions and statements and the replies to the fifty-one queries all printed for convenience of examination, and now send you a copy of each of them, together with a copy of the joint report of the three members of the commission, to which we invite your excellency's attention. When the various depositions of the coolies have been printed, which is now rapidly going on, a copy will also be sent for your examination.

We avail ourselves of this opportunity to wish you daily happiness.

Cards of

PRINCE KUNG,
PAO YUN,
SHAN KWEI FAN,
MAO CHANG-HI,
TUNG SIUN,
And others.

[Inclosure 2 in No. 45.]

Joint report of the Commissioners Chan Lan-pin, A. Macpherson, and A. Huber, addressed to the foreign office, sent with the preceding.

On the 18th of November, 1873, we received the following order: "It having been

decided to make careful inquiry into the condition of the Chinese laborers now in Cuba, with a view to some action in reference to them, the foreign office has appointed Chan Lan-pin, a titular prefect, now in charge of the pupils sent abroad for education, to be the commission for this inquiry, and have selected A. Macpherson, customs commission at Han-kow, with A. Huber, holding the same post at Tien-tsin, to join him, as soon as is convenient, and together proceed to Havana." The above was reported to the throne on the 21st of September, and the rescript was received: "Let it be as decided. From the Emperor." "The chief commissioner will await the arrival of his colleagues in the United States, and they will then all proceed to the Spanish possessions, there to carefully inquire into the condition [of the coolies]. After this has been done, they will make a report upon the subject, and furnish all the evidence obtained, in order that the government may decide what course then to adopt."

This order was acknowledged on the 20th of November, with the details and directions to be followed, as is already on record.

Mr. Huber reached the United States on the 12th of February, 1874, and on the 19th of that month he started for Cuba with the commissioner Chan, arriving at Havana on the 17th of March, where they met Mr. Macpherson. On the 19th they paid a visit to the governor-general of Cuba and the prefect and municipality of Havana; and after that, successively called on the consuls of Great Britain, France, Russia, United States, Germany, Sweden, Denmark, Holland, Austria, Italy, and Belgium. On the next day we examined the slave-mart of Ibañez & Co., and on the 21st we visited the cooly-depots belonging to the city; and, afterward, between the 22d and 23th days of March, revisited them all.

On the 30th and two following days we examined the city prisons; and the sugar-plantations of Las Cañas on the 3d and 4th of April. On the 8th of April we went to Matanzas, successively visiting the prisons and cooly-depots in the town, together with the plantations of San Cazetano, Concepcion, and Armonia, and their cooly-houses.

On the 14th we went to Cardenas and examined its prisons and cooly-depots; and on the following days visited the sugar-plantations of Cesperanza, Recreo, and San Antonio. From thence, on the 16th, we proceeded to Cimmurones, a town on the seaside, and on the Colon, looking into their prisons and cooly-depots, and visiting the sugar-plantations of España and Flor de Cuba, and their cooly-houses.

On the 21st, on going to the town of Sagua, we saw the prison and depots, and then went to the plantations of Santa Anna, Santa Isabella, and Capitolio, looking through each of them. Three days after, we reached Cienfuegos, looked over its prison and depot, and went through the sugar-plantations of Juanita and Candelaria.

On the 28th we came to the town of Guanazas, examined its prison and depot, and two days after returned to Havana, through the seaside town of San Antonio. On the 2d of May we went over to Guana Bacao to examine the sugar-plantations of Santa Catalina and Reglas.

At all the towns here mentioned, except at the inns and along the roads, when we met any Chinese whom we could ask, we were obliged to make arrangements with the local magistrates as to the time for visiting the depots and prisons; and they also always stated the hour beforehand when we could go through a sugar-plantation to make inquiries. As to the coolies whom we, the three commissioners, personally examined, their testimony was that fully eight of every ten were taken away from China by force or fraud. They estimated that out of every ten coolies who went aboard ships, one, at the least, died by cruel beatings or committed suicide; when the coolies reach Havana they are sold as slaves, in a few cases to live in families or shops, and there fare badly enough; but by far the greatest number are sold to work on the sugar-plantations, where their treatment is cruel beyond endurance. In those plantations the work is excessive, the food is very insufficient, the hours of labor are far too many, and the punishments inflicted, and the harsh usage the coolies there receive, beating and whipping them, locking them up or fastening them in stocks, altogether make their lives miserable.

Every year numbers of them are beaten or wounded so that they die; others hang themselves or cut their throats, drown themselves, take poison, or jump into the sugar-boilers. The evidences of the bad treatment they have received are still to be seen in the cases of maimed and lamed persons, or those whose eyes are out, teeth gone, or ears cut off, and others whose heads are broken, skin torn or flesh cut, and the number of these persons is not small, as everybody can see for themselves.

Still again, when the term of contract has expired, the employers will not give the coolies their papers showing that they have fulfilled it, but compel them to enter into a new contract, perhaps for eight, perhaps for a period of ten, years or more. If they do so, then their sufferings and ill-usage go on as before; but if they refuse they are immediately sent to the government depot and made to work on the roads without any pay, being treated in all respects like condemned criminals. This is all done that they may be obliged to enter into a new contract with their employers before they leave the depot. When this contract time is up they are again sent to the depot, and

it may be after that a third time; so that not only has the cooly no prospect of ever returning home, but more than this, he can never seek work for himself.

Those who have arrived since April, 1861, have none of them had passports or papers given to them showing that they had fulfilled their contracts, and such persons can be arrested by anybody; but even those whose contracts have expired, and who have papers, are always liable to be stopped by the police, in the houses or by the way, and examined, their papers forcibly taken away and destroyed, and they sent to the depot, there to enter upon another course of ill-usage, without hope of its ending.

It is our opinion that, from the 17th of March to the 8th of May, while we were in Cuba, most of the coolies whom we saw had been badly treated, and those we asked about had usually their tale of sorrow to relate. The number whom we, the members of the commission, saw and heard, and whose depositions we took down, is altogether 1,176; added to which there are 1,035 separate names appended to eighty-five petitions. These have all been translated into Chinese and English, and arranged for reference; they are now all handed up for the examination [of the foreign office]. Besides these documents, we have arranged the answers to the series of fifty-one inquiries given to us as a guide in 1873, giving the evidence obtained under each head as the response to it. A report from the British consul-general, and one from the Cuban cooly-office, containing the number of laborers arriving each year, are attached, together with the rules of the cooly-office, the directions given to masters of vessels by Cuban merchants, eight different forms of contracts, old and new, and the record given us of persons passing through this office. Each paper has been translated, and is appended to this report, which is now presented in its complete form.

The result of the inquiries made by the commission as to the carrying away of Chinese laborers by force to the island of Cuba, and the circumstances under which they are there most cruelly treated as slaves, are now all fully given in this report, of which we humbly request that a careful examination be given.

[Inclosure 3 in No. 45.—Translation.]

Prince Kung to Mr. Avery.

KWANGSU, 1st year, 1st moon, 24th day, (March 1, 1875.)

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

When the foreign office appointed Chan Lanpin, with Messrs. Macpherson and Huber, as a joint commission to go to Cuba to examine into the condition of the Chinese laborers there, a dispatch was addressed to your excellency's legation on the 28th of November, 1873, requesting that notice of the commission might be sent to the Secretary of State, at Washington, for the purpose of having the United States consul-general at Havana informed of this action, and instructed to lend its members, on their arrival, such aid as was in his power.

When the commission returned to Peking, last January, and gave in its report, the members reported that in their various inquiries into the condition of the Chinese coolies now in Cuba, the several consuls of the United States in the island rendered them great assistance in many ways.

For this friendly aid the prince and high ministers of the Yamen are exceedingly thankful, and now take this opportunity to make known their obligations; and further beg the favor that your excellency will inform the Secretary of State, on their behalf, of this communication.

To His Excellency BENJAMIN P. AVERY,
United States Minister to China.

[Inclosure 4 in No. 45.—Translation.]

Mr. Otin to Mr. Wade.

PEKING, February 22, 1875.

M. LE MINISTRE:

I wish to place before the council of arbitration my formal protest against the action which the Tsung li Yamen has deemed it proper to observe on the two following points:

1st. At noon, on the 5th of this month, a communication was sent from this legation

to the foreign office, reminding the Chinese ministers of the propriety of limiting the distribution of copies of the report to the five representatives and to the Spanish chargé d'affaires. The same day, between the hours of 5 and 7 p. m., several chiefs of legations established at Peking, not included in the stipulated number of arbitrators, received printed copies of the report. On my just remonstrance against this, the Tsungli Yamen replied, on the 13th instant, (since which date I have heard nothing in relation to it,) that after having infringed the second article of the protocol of November 23, 1873, by giving copies of the report to certain officials who had no right to interfere directly in the affair, they proposed still further to infringe it by sending other copies to those foreign representatives who did not reside in Peking.

When you, sir, proposed, at the conference of mediation held in August, 1873, that a commission of inquiry should be sent to Cuba, I accepted your suggestion in full faith, believing that the only object of this mission was to ascertain and furnish the council of arbitration materials for the final and definite solution of the affair; but I would never have given my consent to it had I supposed that the report of the inquiry would be diverted from its true destination. What right has the Tsungli Yamen to make public a document whose accuracy has not yet been assured by the council of arbitration? If the arbitration never takes place, owing to causes depending on the pleasure of the Chinese government, will not this inquiry made in Cuba, far from being a means of conciliation based on a common accord, be nothing else than an illegal interference, a right of visitation contrary to all law, and whose circumstances may be doubly grave in consequence of the publicity given to the report of the commission?

2d. The Tsungli Yamen refuses to furnish me with a copy of the foreign versions of the report. This commission was not the spontaneous and exclusive act of the Yamen, but rather the result of a common consultation; if, therefore, we intimated that it should be of a mixed character, and Europeans in the Chinese service should be associated with it, our intention surely was not to have them give us their ideas in Chinese. When the protocol was drawn up, in November, 1873, the ministers of the Yamen refused to sign the English text, prepared by Mr. Hart himself, and, truly, if they will not recognize the existence of foreign documents signed by Chinese, I can no more admit the authenticity of Chinese documents signed by Europeans. I cannot consider the report to be complete until the three texts are brought together; and, in view of the immense difficulty of translating the fourteen volumes of the Chinese portion, I find it impossible for me to prepare my defense.

All means of persuasion brought to bear upon the Yamen being thus far without efficacy, I have the honor, sir, to transmit to you my present protest, and ask the council of arbitration to be good enough to take note of it and give it the effect which they shall deem proper at the right time and place.

Pray accept, M. le Ministre, the assurance of my high consideration.

F. OTIN.

[Inclosure 5 in No. 45.—Translation.]

Memorandum handed by the ministers of the Yamen to the representatives of the five powers.

MARCH 4, 1875.

1. On the 2d instant consent was given on the part of the ministers of the five powers, with [the chargé d'affaires of] Spain, to the effect that those persons of literary status or official rank, and those who are the sons or relatives of families of distinction, who have been abducted and ill-treated [and who are now in the island of Cuba] as cool laborers, being persons who should not be under contract for labor, shall, as a preliminary measure, be sought out and sent back to China. After being subjected to examination by the Chinese government, to test the authenticity of their statements, they are to be returned to their respective homes.

2. The opinion formed in consultation by the foreign ministers in 1873 was, in general terms, to the effect that if it should prove to be the case the Chinese laborers in Cuba were not suffering under ill-treatment, indemnification ought to be agreed to, and emigration ought to be permitted; and that if it should prove to be the case that ill-treatment exists, then indemnification should not be agreed to, and emigration should not be permitted to continue.

The commission of inquiry having now handed in its report, such portions of the document as have been printed off have already been sent [to the foreign ministers] for perusal. It is now requested that, apart from the question of the repatriation of the persons of official status, &c., referred to in the preceding clause, the ministers of the five powers and of Spain will consider and decide what action is to be taken with regard to those who have been ill-treated and have died, and those who have been ill-treated and whose contracts have expired, as also those whose contracts have not expired.

[Inclosure 6 in No. 45.—Translation.]

FORM OF CONVENTION, BY MR. OTIN.

Preamble.

The governments of His Majesty the King of Spain and His Majesty the Emperor of China, being desirous of fixing in a permanent manner the intent of Article X of the treaty of Tien-tsin (1864) concluded between the two nations, and avoid all future controversy regarding the emigration of Chinese laborers to the island of Cuba, have now, through the mediation of their respective representatives, agreed to put in order, and trust and hold as good and valid, the following articles of the present convention :

I. The Chinese government having presented a list of persons holding a certain social rank in their own country, who are now in Cuba in the capacity of laborers, the Spanish government, animated by a desire to give China a proof of its good will and friendship, engage to return these persons to their own country at its own expense, relying on the assertion which the Chinese government has made as to their social position.

II. The Spanish government will receive in the courts of justice in the island of Cuba the individual complaints presented by Chinese subjects to the delegate Chan. These tribunals will examine one by one all the complaints, and decide them according to the principles of justice found in the laws of the land. Chinese subjects can be represented before these tribunals by their consul or his delegates, who can take part in the sittings in the quality of *procuradores*. Rules shall be drawn up between the Chinese consul and the local authorities, for the purpose of securing the registration at the consulate of all immigrants on their arrival in the island, and the necessary control and protection before and after their engagement.

III. Every cause of complaint between Spain and China having been arranged, each of their governments declares that they renounce all pecuniary indemnity. These three articles shall have the same force and value as the preceding convention, of which they form part.

IV. The Chinese government will authorize free emigration to the island of Cuba from all the ports open to foreign commerce, and engages, in the most formal manner, to put no obstacle nor otherwise hinder or interfere with the free resort of emigrants to these ports. The officials in the prefectures will no more oppose the posting of handbills throughout the towns and villages in the interior, informing people of the departure of vessels for Havana.

V. The government of Peking will nominate a consul-general, (Manchu or Chinese,) who shall reside permanently at Havana. This functionary shall have the same attributes and prerogatives as are enjoyed in the island of Cuba by agents of the same class from other countries. The local government of Cuba shall give to the Chinese consul every facility for having intercourse with other Chinese subjects, and for examining and registering their contracts at his chancery.

VI. Chinese subjects desirous of emigrating to the island of Cuba to seek employment, shall be allowed to do so freely, without being restricted by a contract, under the direction of a ship-owner, who will transport them to Havana, where they may enter into contracts for their labor before the Chinese consul, with the employer they have chosen, and for the remuneration which shall be agreed upon in view of their fitness for the kind of labor they are wanted for, and the wages given to freemen of their race. The Spanish representative at Peking, and the Tsung-li Yamen at Peking, shall unitedly determine the form of these contracts.

VII. The period of this engagement shall not overpass the time necessary to re-imburse the ship-owner, or his agent, by a deduction of a half or a third of the wages of the laborer, for the expenses incurred by reason of equipment, transportation, and feeding, the total outlay for which shall be inserted in the contract of engagement. Every other advance to the laborers is interdicted, except in cases of sickness. At the expiry of the engagement, the employer shall deposit in the chancery of the Chinese consulate at Havana, the sum of one hundred Spanish dollars in gold, or its equivalent, as an assurance to the emigrant that he will be sent home. The emigrant shall re-imburse his employer for this sum by prolonging his time of service under the same conditions he contracted for at the first period of service. The conditions now stated in this article are to be expressly mentioned in the original contract.

If the laborer tries to evade, or if, for any other cause, as death, he is unable to work out all the time of his second period, that portion of the funds set aside for his repatriation which he has thus failed to re-imburse his employer, shall be repaid to the latter, and the remainder shall be retained by the consul, and applied to objects of benevolence for the good of Chinese living in the island of Cuba. In case of death, this fraction of this fund for repatriation shall be remitted by the consul to the family of the workman, with the product left by will to his heirs. This sum of one hundred Spanish dollars, in gold, or its equivalent, shall remain on deposit at the Chinese con-

sulate, and shall not be paid over to the workman until the moment arrives for sailing on his return home. An exception is made to this, however, in the case of such laborers as have, at the expiration of their contract, and with the consent of the local authorities, obtained from their employers some land in *métayage*, (allotment,) from which they shall have thenceforth the right to receive the funds for repatriation. Those Chinese who shall be found in Cuba, at any time, in a state wholly unable to labor, on account of their infirmities, shall be sent back, on their demand, at the charge of the Spanish government.

VIII. When the contract time has been once worked out, the Chinese laborer shall go home, or shall hire himself out to anybody he chooses for himself, at such conditions of time, wages, and other points as the two parties can agree upon. He may continue to reside on the island free of all engagement, provided that he offers a surety, who will act as his bail, and is acceptable to the local authorities competent for this purpose. Those Chinese who have immigrated with their families can reside in the island without any sureties.

Those Chinese who are found in the government depots shall be provided with contracts in accordance with the new plan to defray the expenses of repatriation contained in the preceding (VIIth) article of the convention.

IX. The Spanish government will accord the most efficacious protection to all Chinese subjects residing in the island of Cuba.

X. The carrying of the emigrants can be done by vessels of any nation having a treaty with China, provided that their accommodations shall be found to fulfill the regulations imposed by their own government for the transport of emigrants. The Spanish representative at Peking shall draw up the particular rules to be observed by Spanish vessels which shall engage in the transport of Chinese emigrants to Havana.

XI. The special articles contained in the present convention shall be in full force and vigor after their ratification, which shall be done within ten months, or sooner, if possible; and none of them shall be altered or annulled without a previous examination of the reason for doing so. A previous notice of at least two years shall be given to the other party whenever such an intention exists.

Done at ———.

[Inclosure 7 in No. 45.—Translation.]

Comments of the Tsungli Yamen on Mr. Otin's form of convention.

MARCH 11, 1875.

1. Inasmuch as at the interview which took place on the 4th instant, at the French legation, between the ministers of the Yamen and the representatives of the five powers, with the *chargé d'affaires* of Spain, it was acknowledged by the ministers of all the powers that there is nothing but what is true in the accounts of ill-treatment of the Chinese in Cuba, elicited by the commission of inquiry, the Chinese government and the foreign ministers are consequently in accord upon this subject. All that is now needed is to arrive at an understanding with the ministers of the five powers and of Spain, on the course to be pursued for the deliverance of the 60,000 Chinese who are in a state of suffering.

2. It was agreed on the 2d March, by the ministers of the five powers and of Spain, that the Chinese of official or literary rank or connections now in Cuba, who should not be in the position of contract-laborers, should be repatriated by the Spanish government, and, after investigation by the Chinese government, should be sent back to their homes.

3. The ministers of the five powers, and of Spain, are requested to decide what steps are to be taken with regard to those Chinese who have died in Cuba [after] suffering under cruel usage, on the actual number of such individuals being ascertained by the Spanish government on receipt of information from the Spanish minister.

4. To all Chinese who have completed the period of five years' contract-labor, or any period less than five years, for which they may have engaged, there shall, without exception, be given certificates of the completion of their term of service, together with funds for their return-passage, and a permit for departure, allowing them to return to China. The passage-money issued to them shall be in cash, not in paper money. To any Chinese who, having completed their term of service, may be willing to remain in Cuba as laborers, the authorities shall give certificates of completion of their five years' service, and allow them to find employment as they may see fit. They are not to be restricted to re-engagement with their late employer only. On a further engagement being entered into, the employer must assign them, for purposes of distinction, a separate lodging place, and not quarter them indiscriminately with the laborers still serving under their original contracts. Chinese, whose original contracts have

expired, shall, in all cases, be authorized to make application on their own behalf to the authorities for either the certificate of completion of five years' service, or else the permit of departure and passage-expenses, at their own option, without the necessity of providing themselves with a guarantor. As regards the laborers whose term of contract has not expired, in addition to affording them full protection and treatment, in conformity with the emigration convention of 1866, they shall be allowed each day, on the completion of their work, to go out and move about as they please without written permits.

5. Passage-money, in specie, and permits of departure, shall be given to all Chinese belonging to the following categories:

A. Those who arrived in Cuba under the age of twenty without certificate of permission from their parents, or from the authorities, and whose contract-term has expired.

B. Those below the age of fifteen, who have arrived without their parents, no matter whether their contracts have expired or no.

C. Those above the age of fifty, whose contracts have expired.

D. Those above the age of sixty, whether their contracts have expired or no.

E. Chinese females employed as laborers in Cuba, not in the island as the families of male laborers, whether their contracts have expired or no.

Persons answering to the above descriptions shall be duly forwarded back to China.

6. Employers of laborers in Cuba shall not be allowed to maintain prisons or lock-ups of their own in which to confine Chinese laborers, nor to set Chinese laborers to work in fetters, or to torture and flog them; neither shall laborers, whose contracts have expired, be sent to the government depots to labor or to enter into fresh engagements. If all the above-indicated various forms of ill-usage be vigorously suppressed, and the laborers treated as they are by the other foreign governments, there is no reason whatever for assuming that a laborer will desert from the service of his employer. In the event, however, of such a case, perchance, arising, the employer shall not be at liberty to inflict punishment of his own notion. He shall send the delinquent to the Chinese consul to be tried and dealt with in conformity with the principles of justice.

7. In appointing a consular representative, the Chinese government may request the consul of one of the powers with whom it has treaty relations to undertake the duty for the time being, and [the representative thus appointed] shall be empowered to use the fullest efforts for the protection of the Chinese laborers. Guilds, constituted by the natives of Kwang-tung, Fukkien, &c., shall be further established at Havana, and the other ports of Cuba, the managers of which the Chinese shall be allowed to elect themselves. The Chinese laborers shall be allowed free access, at all times, to these guild-houses, in order to make statements of any kind.

The Chinese government shall establish lines of steamers or sailing-vessels to ply to the ports of the island, for the carriage of letters, or for the conveyance of Chinese backward and forward in the prosecution of their business, wherever it may take them.

Finally, the point of paramount importance with China being the deliverance of Chinese laborers who are at present in a condition of suffering, and the important point with Spain being the conduct of emigration in future, all that is necessary is, that Spain should institute measures for the deliverance of the laborers who are at present in a state of suffering, and should repatriate all those who are entitled to be sent back to their own country. A guarantee for the protection of the emigrant will then have been given. It is known to all the powers that China has allowed the Spanish government to carry on emigration under the convention of 1866, while in Cuba, the regulations heretofore established are, in a number of ways, at variance with the terms of the convention. On the two following points, viz, in what manner the existing regulations are to be brought into accord, [with the convention,] and whether the employers of labor in Cuba can be depended upon to act in obedience to the arrangements that may be consented to by the Spanish minister, and not to institute enactments of their own for the oppression of the Chinese laborers, an agreement of the most formal nature must be entered into by the ministers of the five powers and of Spain.

Further comments by the Tsungli Yamen on Mr. Otin' form of convention.

MARCH 11, 1875.

ARTICLE I. Satisfactory.

ART. II. The proposal embodied in this article, involving active judicial proceedings and decisions, owes its origin to the assurance given by his excellency Pai, [M. Perreyre,] the Spanish minister, to the effect that on evidence being obtained as to the place at which acts of cruelty have been committed, and the individuals by whom they have been perpetrated, his excellency would not fail to inflict punishment for

the offense. It has to be observed, however, that in the inquiry conducted by the Commissioner Chen, the number of persons from whom statements and depositions were taken does not amount to one-tenth of the entire number of the Chinese in Cuba. The scope of the article requires adaptation and enlargement. The following modification is proposed: [After the words "the Spanish government will receive in the law courts of the island of Cuba the individual complaints presented by Chinese subjects to the Commissioner Chen," the following words to be added,] "as also the circumstances set forth in the depositions taken, and furthermore [the complaints] of Chinese subjects who were not examined by the Commissioner Chen, or of any Chinese who may hereafter be in Cuba under circumstances of a similar kind to those elicited during the inquiry."

The Chinese laborers being in urgent need of deliverance, the principle of first importance at the present moment is the establishment of measures for their succor and repatriation, and their efficacious protection. The trial in due form of law of the employers who have ill-treated the laborers, stands second in order of importance.

The ministers of the Yamen have, consequently, now draughted a scheme for the immediate protection of the Chinese emigrants, which they present in a separate paper for deliberation. (N. B.—The conditions of the Spanish laws hitherto must be ascertained.)

ART. III. Satisfactory.

ART. IV. This article deals exclusively with sanction on the part of China to emigration conducted by Spain. On this subject there are already in existence the tenth article of the Spanish treaty, and the emigration convention of 1866, which suffice as a basis for action. There is no necessity for additional articles on the subject. If it be desired to add anything further, it is proposed that what is added be placed in the shape of one or two clauses at the end, [of the agreement,] with the declaration, moreover, that when the measures stated in the preceding articles for the protection of the Chinese laborers have been *bona fide* given effect to, emigration may be undertaken for the supply of labor to the island of Cuba, in accordance with Article X of the Spanish treaty and the convention of 1866.

ART. V. With the exception of the paragraph to the effect that "contracts shall be given to the Chinese at present in the government depots, in order that they may provide themselves with means for the return passage under the arrangement set forth in Article VII," the purport of this article is quite satisfactory, and it is the wish of the Chinese government to act in the manner therein set forth. But in the urgent necessity which exists for effecting the deliverance of the Chinese laborers, justice and the circumstances of the case forbid that the institution of measures for their protection should be made absolutely dependent on the appointment of a consul. The measures laid down in the separate memorandum, handed in by the ministers of the Yamen, must be put in action. After these shall have been carried into effect, the propositions of the article now in question can be proceeded with.

With reference to the Chinese at present detained in the government depots in Cuba, inasmuch as they are all men whose contracts have expired, it is manifestly right that they should, without exception, be released and provided with means for their return to China, as it is set forth in the separate memorandum.

ART. VI. This article is not in harmony with the eighth and other articles of the convention of 1863. Having the convention of 1866 as a rule of action, it is considered that no additional arrangements need be discussed.

ART. VII. This article is not in harmony with the ninth article of the convention of 1866. The convention of 1866 being in existence, it is considered that no additional arrangements need be discussed. The concluding paragraph, however, to the effect that "Chinese who may be incapacitated from work by physical infirmity, shall be sent back to their own country by the Spanish government, on their application to this effect," is extremely satisfactory, and should be complied with.

ART. VIII. Of this article, the first portion is satisfactory. The clause relating to a person acting as guarantor gives reason to apprehend that it may be made use of by the Cubans as a handle for obstructive and vexatious practices. For the clause in question it is proposed to substitute the following: "Chinese who may elect to remain as residents in the island of Cuba shall be entirely at liberty to do so, and shall be treated on precisely the same footing as the subjects of the five powers whose representatives join in the present negotiations. They shall not be looked upon in the light of negroes."

ART. IX. Satisfactory.

ART. X. This article, also, is concerned with the course to be pursued after emigration has been sanctioned. In the same way as is stated in Articles IV and V of the present memorandum, consideration of the proposal should be postponed until protection to the emigrants has been actively provided.

The regulations established by the different foreign powers (for arrangements on board vessels carrying emigrants) should be sent to the Yamen for examination after the conclusion of the pending agreement.

ART. XI. For all matters relating to Chinese emigration, the convention of 1846, concluded by the Chinese government with the ministers of Great Britain and France, affords a rule. When protection for the emigrants shall have been actively provided, action can, of course, be taken in all respects conformably to the convention of 1846.

ART. XII. Inasmuch as the Chinese now in Cuba are in urgent need of deliverance, it is necessary that immediately after the conclusion of the pending agreement, the repatriation and protection of the Chinese emigrants be carried into effect as soon as possible. The provisos with reference to the protection of Chinese are, in fact, arrangements in fulfillment of treaty obligation, and as the treaty has long since been ratified, there is no need to make any further arrangements respecting the period of ratification. All that is necessary is that the emigrants of the present be afforded protection, whereupon permission can be given to engage the emigrants of the future. How soon this is to be, and whether it is to take place or no, is solely dependent on the question whether or no Spain can afford the protection in question. It is considered that the provisions relating to a period of ten months [for ratification] and to future modifications, need not be included in the document.

[Inclosure 8 in No. 45.]

The representatives of the five powers to Prince Kung.

PEKING, March 2, 1875.

To His Imperial Highness Prince KUNG, &c. :

The English minister having communicated to the undersigned, envoys extraordinary and ministers plenipotentiary of Russia, the United States of North America, and Germany, and chargé d'affaires of France, the telegram which he has received from the viceroy of India on the subject of the murder and outrages of which English officers have been the victims in Yunnan, and he having declared to them that the state of his relations with the Chinese government no longer permits him to take part in the conferences relative to the settlement of the Cuba question, the undersigned think it their duty to notify his imperial highness that it is impossible for them to continue the work of mediation which they have undertaken, or proceed to arbitration, until the English minister can rejoin them.

The undersigned avail themselves of this occasion to renew to his imperial highness the assurance of their high consideration.

BÜTZOW.
AVERY.
BRANDT.
ROCHECHOUART.

No. 152.

Mr. Avery to Mr. Fish.

No. 46.]

LEGATION OF THE UNITED STATES,
Peking, April 1, 1875. (Received May 25.)

SIR: Referring to my No. 45, in which mention is made of the massacre of Mr. Margary, an English officer, and five Chinese who were accompanying him on an exploring mission from British Burmah into Yun-nan, a Chinese province adjoining Burmah, in the southwestern part of this empire, I am now able to furnish the particulars given in the inclosed memorandum, for which I am indebted to the courtesy of Her British Majesty's minister, Mr. Wade. Some of the ministers of the Tsungli Yamen inform me that Yunnan is partly inhabited by savages, whom it is difficult to control, and attribute the massacre to them. But Mr. Wade's information seems positive on the point that the men who attacked Margary's party were soldiers, and only the advanced guard of an army of 3,000 sent by order of the governor of Moumei to destroy the British party. Mr. Strover, who is named in Mr. Wade's memorandum as the authority for this information, is known here to be

You are at liberty to show this note and my dispatch to the missionaries, *in confidence*, if you think it advisable. I am anxious to give them every facility and protection which I am likely to be sustained in affording. They must see on what delicate ground they stand when they quit the treaty-limits.

Yours, truly,

BENJ. P. AVERY.

No. 162.

Mr. Avery to Mr. Fish.

No. 64.]

LEGATION OF THE UNITED STATES,
Peking, June 12, 1875. (Received August 9.)

SIR: The attention of the Chinese government has lately been called by the discussion of Cuban coolieism, growing out of the pending issue with Spain, to the necessity of adopting careful port-regulations with reference to emigration.

Being questioned by the Tsungli Yamen as to the character of American laws on the subject, I made some general statements verbally, embodying information which subsequently, at the request of the ministers, I wrote out more in detail, accompanying it with translations of portions of our statutes controlling the transportation of passengers, and prohibiting the coolie traffic.

The Yamen received the information thus afforded with expressions of gratitude. Copies of the correspondence on the subject are inclosed.

In my letter to the Yamen, besides giving the facts they desired, I aimed to show the exceptionally liberal treatment of Chinese subjects in the United States as an indirect incentive to more liberality toward our citizens in China, and to strengthen the disposition of the Government to insist upon the principle of free emigration in all further passenger commerce from the ports of the empire. I find the ministers of the Yamen all very anxious to prevent the revival of coolieism either openly or covertly, and have fully explained to them the position of our Government on this subject, with which they are in hearty sympathy.

I have, &c.,

BENJ. P. AVERY.

[Inclosure 1 in No. 64.]

Mr. Avery to Prince Kung.

LEGATION OF THE UNITED STATES,
Peking, May 29, 1875.

SIR: In compliance with your request for some information about the laws of the United States regulating emigration from China and other countries, I have the honor to communicate the following facts:

The laws make no distinction between the people of China and any other country, and no tax or charge is allowed to be imposed or enforced upon any person emigrating from a foreign country which is not equally imposed and enforced upon every person emigrating from any other foreign country.

The charges collected from emigrants on their arrival at different ports are small in amount, and are expended on offices established to look after their welfare, on hospitals, &c.

Formerly it was the custom in California to collect a special monthly tax from Chinese for the privilege of extracting gold from the mines, as is the custom in all other countries where gold is dug; but this tax has been abolished.

Laws have been passed against the importation of foreign convicts, paupers, and lewd women, because it was found that some countries were sending such persons to the United States to get rid of them, or for worse reasons, as Chinese prostitutes have been sent from Hong-Kong to San Francisco; but all foreigners who choose to come to America freely, for purposes of curiosity, trade, or as permanent residents, are welcome to do so; and to travel, reside, engage in labor or business, lease and buy property.

work mines of coal, iron, gold, and silver, bring suits in the courts, follow what religion they prefer, send their children to the public schools, and generally enjoy, without let or hindrance, the privileges of free men under equal laws. This system of free immigration and equal privileges has had a large share in making the United States prosperous and strong, and has been encouraged and protected by very careful laws, which are strictly enforced.

The only reference made to immigration from China, which does not apply to all other countries, is the law forbidding the importation of coolies as they were formerly taken to Cuba and Peru. American vessels engaging in this wrongful traffic are declared forfeit to the Government, and it is the same if they carry coolies to a foreign port. Persons who engage or build vessels for the traffic, or who take or receive coolies, are severely punished by fine and imprisonment. In order to guard most carefully against fraud in this matter, the consuls of the United States in Chinese and other foreign ports where Chinese emigrants may take passage on board of American ships, are obliged to satisfy themselves that the emigrants really go of their own free will and accord, and the ship cannot sail without the consular certificate to that effect.

In regard to every class of immigrants from all countries alike, many laws have been passed to protect them from extortion, neglect, and unkindness during the voyage to the United States, and after their arrival. A certain amount of space must be allowed to each person on board ship, so that there shall be no discomfort or sickness from crowding; a limit is fixed to the number of passengers a ship may carry; the size and character of the berths are carefully regulated; sufficient good food must be provided at stated hours; cleanliness, ventilation, and order are strictly required, and in every way the comfort, safety, and health of passengers are sought to be secured.

These regulations, of course, can only be enforced by the United States against vessels owned in whole or part by its own citizens, but the Government has frequently called the attention of other countries to the necessity of providing with equal care for the welfare of immigrants on foreign-owned ships, and has secured treaty-stipulations on this subject.

Besides this, private individuals, either singly or associated, in America exert themselves to secure good treatment for the immigrants both while traveling and when they are yet strangers on their first arrival, liable, without such help, to be imposed upon and wronged.

In order still further to protect the immigrant who comes by American steamship, regulations are made about the manner of building and inspecting engines and boilers, about transportation of explosive or inflammable substances, and many necessary details which it would be tedious to repeat.

Your imperial highness will see from these statements that the laws of the United States aim to be impartial and just, to protect the immigrant on his voyage and on his arrival, and to insure that he comes as a free man for lawful objects.

There are bad men who try to evade these laws sometimes, but the courts are generally watchful for their enforcement, and the penalties imposed for their violation are severe.

To give all the particulars on this subject would fill a volume, but I trust what I have written will be of service to your highness, and I inclose such extracts from the laws as are likely to be most useful.

I avail myself, &c.

BENJ. P. AVERY.

His Imperial Highness Prince KUNG,
Chief Secretary of State, &c.

[Inclosed were translations of Title XXIX, sections 2158, 2159, 2160, 2161, 2162, 2163, and 2164; Title XLVIII, chapter six, sections 4252, 4253, 4255, 4257, 4258, 4259, 4260, 4261, 4262, 4263, 4264, 4266, and 4268, of United States Statutes at Large.]

[Inclosure 2 in No. 64.—Translation.]

Prince Kung to Mr. Avery.

Upon the 29th of May we had the honor to receive a note from your excellency, detailing measures for the protection of strangers, and inclosing translation of certain laws.

They have all had our most careful examination, and evince the excellent purpose and efficient methods of your Government, as also the unaffected goodness and sincerity of your excellency.

We, the prince and ministers, are desirous of expressing to you the most unbounded gratitude.

[Cards of Prince Kung and ministers of the Yamen.]

PEKING, June 1, 1875.

of the United States has heretofore invited consideration to a project for an international convention for the protection of all cable-lines, as well as to encourage the future construction of new ones, and is still desirous to see this project carried out, believing that it will finally develop the most substantial results. Considering the peculiar circumstances of foreign representation and residence in China, and the identity in a large measure of all foreign interests here, we would, in my opinion, be acting wisely to co-operate in the spirit of the above invitation, not with a view to obtaining any exceptional advantages for any country or scheme, but to provide for the general protection and encouragement of all cables in Chinese waters.

With this view, it appears to me that it would be advisable to invite the co-operation, with the signatories of the protocol of January 27, of the representatives of all other nations having treaty relations with China, one of which, Japan, has an extensive system of land and submarine cables connecting with the lines of the Chinese coast, while others have connections through their colonies off the southern coast of this continent. To some extent it will naturally devolve upon the companies owning cables along the shores of China, and particularly the Great Northern Company, to take the initiative in measures for the protection of their property against foreign trespassers. They can test the willingness or the power of consuls to move in the matter by bringing formal complaints before them for any injurious acts committed by their respective nationals. Some precautionary and preventive measures could also be devised by cable-owners. It might be well, for instance, as Mr. Henderson has suggested to the superintendent of the Great Northern Telegraph Company at Amoy, to have those places where a cable is most exposed to accidents from vessels marked by lines of buoys indicating its locality. Should it be decided to take action on this suggestion, the Chinese authorities should be informed thereof, and if it appears that the general proclamations expected in pursuance of the Yamen's instructions have not been issued in all the seaboard provinces, we should remind the Yamen of the omissions, and ask to have them supplied, failing the success of local applications by our consuls, which should first be made. It would have been better had the various consuls at each port conferred and acted jointly in this matter heretofore, and I would suggest that they be asked to do so hereafter whenever practicable. A joint consular application to a governor-general or other high official, to issue a friendly proclamation in a province where none has yet been posted, would hardly be denied. In conclusion, I would remark that, while the action of the Tsungli Yamen and of the provincial authorities, so far as reported, has been more favorable than we expected at the outset, the policy initiated needs to be nursed and developed, and I am convinced that something like the measures suggested in this letter would be most useful.

Be pleased to receive, my dear colleague, the assurance of my high regard.

BENJ. P. AVERY.

His Excellency W. RAASLOFF, *Danish Minister.*

No. 168.

Mr. Avery to Mr. Fish.

Nc. 73.]

LEGATION OF THE UNITED STATES,
Peking, July 7, 1875. (Received September 10.)

SIR: Referring to my No. 45, of March 31, which recounted the progress of mediation in the matter at issue between China and Spain, I have now the honor to continue the narrative.

At the date mentioned, negotiations had been suspended by the withdrawal of the five representatives pending the non-settlement of a grave question growing out of the Margary massacre.

On the 3d of April, Mr. Wade, the British minister, having notified his colleagues that his demands in this matter had been complied with, they addressed the Tsungli Yamen, asserting their readiness to resume mediation, since their colleague could now join them.

To this note Prince Kung replied the next day, requesting that the protocol of a convention agreed upon by the five representatives be forwarded for his consideration. As the protocol had already been handed in, the prince must have misconceived Mr. Wade's note,

which referred to a joint communication prepared by the mediators, explaining their view of the protocol, and recommending its adoption. The original draught of this note, as prepared by Mr. Wade, after an exchange of opinions with his colleagues, was, by them, revised and modified to a considerable extent, and, as finally sent in, was intended to explain our position and powers as mediators, to set forth what we thought would be the practical operation of the proposed convention, to answer certain objections raised by the Yamen in their long memoranda of March 11, (inclosures 6 and 7 of No. 45,) and to state our conviction of the inutility of further negotiations unless the Yamen was prepared to make some concessions—notably on the demand for wholesale repatriation—and for the granting of extraterritorial powers to the Chinese consul proposed to be appointed in Havana.

The ministers of the Yamen seemed unable to understand, or unwilling to admit, that it was not in our power to impose conditions on Mr. Otin which he declined to accept, and that having obtained from him, after much effort and with the most earnest disposition to secure the fullest practicable measures of redress and reform, all that he was willing or felt himself authorized to concede, we could do no more than submit the result for their decision.

The full text of our note is sent herewith.

After it was prepared Mr. Wade went to Shanghai, and all subsequent proceedings have been conducted by the representatives of Russia, the United States, Germany, and France, our Russian colleague, Mr. Bützow, acting as *doyen*; but Mr. Wade agreed to abide by whatever his colleagues should do in the matter, and it was decided to allow the presence of his secretary, Mr. Fraser, at any conferences which might be held with the Yamen.

On the 25th of April we received from the Tsungli Yamen a reply to our joint note, reviewing our arguments and the provisions of Mr. Otin's amended project at great length, and submitting a counter-project of their own. While this reply shows a better understanding of our position as mediators, it is marked by the usual tendency to indulge in tedious repetition, to reason in a circle, and to insist upon impracticable points.

Great stress is laid upon the maintenance of the twenty-two regulations, which, as explained in my No. 45, have no real validity, and, so far as they were acted on by Spain, left the door open to all the evils of the contract system, and were seen to be plainly inconsistent with the principle of free emigration, without contracts in China.

Curiously enough, in the face of all their protests against the abuses inseparable from the old contract system, and in the face of their free emigration treaties with the United States and Peru, the Yamen seemed to be still willing that Spain should have coolies, provided they were contracted and shipped under the twenty-two rules. After a careful perusal of these rules, and an inquiry into all the facts connected with the shipment of laborers from China, I became convinced that any system which permitted the laborer to be contracted in Chinese ports would be liable to great abuses, and that there was no security for the freedom and just treatment of the laborer except in letting his departure be entirely voluntary, and leaving him to make his own engagement abroad.

I was gratified to ascertain, on discussing the matter with my colleagues of Russia and Germany, that they concurred with me on this point, and we came to an agreement to insist upon an abandonment of the twenty-two rules, and advise a strict adherence to the principle of

free emigration, subject only to such modifications in practice as the peculiar condition of Cuba might seem to render necessary.

The Yamen again insist upon the concession of extraterritorial powers to their consul in Cuba. The reasoning by which they support this demand is not without point and justice; but the impolicy of yielding to them on this point is manifest. Even if Spain were willing to do it, which she is not, none of the other treaty powers would consent to an abandonment of the distinctive principle regulating their dealings with the entire oriental world.

As to the repeated demand for the gratuitous repatriation of large masses of the coolies now in Cuba, we considered it impracticable, and thought the provision which would open the courts for the investigation and redress of cases of individual hardship, and which contemplated new contracts for short terms, at high wages, would gradually ameliorate the condition of all now in Cuba without embarrassment to Spain. Yet we would have gladly procured from Mr. Otin all the concessions on this point which he could be brought to yield.

Some of the suggestions in the Yamen's project are good, and we resolved to give them the consideration they merited. Other suggestions only went to details, which should be matter of regulation between the two parties after they have agreed upon a convention.

On the 8th of May we felt constrained to inform the Yamen that unless they were prepared to make some concessions on some of the points in their letter and project, we doubted the utility of further mediation; but we invited another conference on the mooted points if they should desire it.

On the 10th of May we met the Yamen again, at the Russian legation, and discussed the points just gone over. I rehearsed my objections to the twenty-two regulations, and to any system of contract emigration, stated the policy of my Government on coolieism, recounted briefly its efforts against the traffic, and declared that I could not consistently assist in further attempts at mediation unless the principle of free emigration were carefully guarded and the twenty-two regulations abandoned. My colleagues of Germany and Russia expressed substantially the same opinion and conclusion.

The French chargé simply pronounced upon the inutility of further discussion or negotiation so long as the two parties were so far apart. Finally, as the sequel to a lengthy debate, the Yamen agreed, on their part, to abandon the twenty-two regulations, to negotiate upon the basis of absolutely free emigration, to give up the claim for extraterritorial powers to their consul, and to modify their demand for wholesale repatriation.

The conference broke up with the understanding that the four representatives would draft a new convention embodying these points.

This was subsequently done, and a copy of the document is sent herewith. Since the principle of voluntary emigration was set forth in the new project more absolutely than in the original project of Mr. Otin, as revised by the five representatives, all of the details relative to terms of contract were omitted.

The American supplementary treaty was followed in respect to the freedom of emigration, and the Peruvian treaty in respect to equality of rights for Chinese subjects in conformity to the favored-nation clause; and the same treaty was followed in the clauses relative to repatriation of coolies whose contracts have expired, engaging the Spanish government to nothing in this respect which is impracticable or unreasonable. This project is essentially a compromise between the

extreme views of either party, and seemed to us a fair adjustment of a grave dispute.

On the 4th of June, it was submitted and explained to the Yamen, when they expressed their satisfaction with much of it, but wished to offer some articles in addition.

The text of these was sent in to us shortly afterward, and proved to be an entire project for a convention, embodying the essential features of our own, besides a quantity of detail as to shipment of emigrants which should be matter of local regulation on the part of China. In respect to the Chinese now in Cuba, they made more sweeping exactions than at our last conference.

In the mean time we had submitted our project to our Spanish colleague. Mr. Otin had been relieved of his charge by Señor Faraldo, formerly Spanish consul at Macao, who came with full credentials as minister. Some modifications were made in the language and order of the preamble and first four articles to suit his views; but he declared that it was impossible to accept the articles guaranteeing the free movement and equal treatment with other nationals of the Chinese in Cuba, urging the exceptional condition of things in that island as one reason. It was evident, however, that he equally objected to the principle of these concessions and to the provisions for repatriation, other than the limited ones agreed to by Mr. Otin. In short, he gave us to understand that only Mr. Otin's project was quite acceptable, even after we had assured him of the downright refusal of the Yamen to give up the very points which it did not embrace, and to which particularly he objected in our new project.

Nothing remained but to inform the Tsung li Yamen of his decision. He had been shown their own final project, and was no better inclined to that, of course, than to ours.

First, Mr. Bützow, as *doyen*, procured from him a note, stating briefly his non-acceptance of our project, and the reasons therefor, among which he included virtual abrogation of portions of the Spanish treaty, though this certainly is not correct beyond the contract-emigration provisions.

In our note to the Yamen this was repeated. The Yamen, in their reply, under date of June 15, declare that they cannot yield the points of free circulation and equal rights, and sharply resent the refusal to concede them.

While they are not justified in stigmatizing as disrespectful or insulting the conduct of a minister who simply announces his inability to accept certain propositions, some warmth of feeling on the subject is not unnatural, when we reflect that their pride is touched by what they must consider as a virtual assertion of Chinese inferiority.

With the same communication they sent another, inclosing further suggestions for a convention, which do not differ enough from their former projects to make it worth while to forward a copy.

The ministers of the Yamen remaining firm in their position, declining even to admit certain restrictions in practice upon the principle of the debated clauses, such as might be claimed as necessary for Spain, considering the distracted state of the Island of Cuba, we were constrained to inform Señor Faraldo that we felt ourselves powerless to reconcile the differences between the two parties, and to intimate that we must withdraw from any further negotiation, unless it could be renewed with more prospect of mutual accommodation than now exists.

We also informed the Tsungli Yamen that we considered further mediation useless, unless mutual concessions were made.

And so the matter stands at present. We are not without slight hope that both parties, seeing the imminent danger of a rupture, will invite a renewal of mediation on a basis more likely to be mutually acceptable. We are even prepared to wait until Señor Faraldo can communicate with his government and receive instructions that will leave him more latitude.

I have expressed myself personally in favor of renewing mediation as soon as there is the least reason to expect that it may be useful, and my colleagues are of the same mind. Apart from motives of humanity, growing out of our desire to ameliorate the condition of the Chinese now in Cuba and to effect a reform for the future, we feel that a failure to settle the pending dispute on a basis that will remove all causes of complaint about the treatment of Chinese by Spain would react against foreigners generally, in the estimation of the people of this empire, and, by intensifying their hatred for us, lead to increased difficulties in our relations with them. The facts elicited by the Cuban commission have become widely known, and exaggeration will not fail to magnify their bad effect.

Hence it is desirable, in every point of view, that we should secure, if possible, a just settlement of this difficult and delicate business.

Trusting that my action thus far will meet with your approval,

I have, &c.,

BENJ. P. AVERY.

[Inclosure 1 in No. 73.]

The Ministers to Prince Kung.

PEKING, April 3, 1875.

To His Imperial Highness Prince KUNG:

The undersigned, envoys extraordinary and ministers plenipotentiary of Russia, the United States, Germany, and chargé d'affaires of France, having been informed by the English minister that there exists no longer any hinderance in his taking part in the conferences relating to the settlement of the Cuban question, have the honor to make known to your imperial highness that they are prepared to resume the consideration of that question.

The undersigned embrace this opportunity to renew to your imperial highness the assurance of their high regard.

BÜTZOW.
AVERY.
BRANDT.
ROCHECHOUART.

[Inclosure 2 in No. 73.—Translation.]

Prince Kung to the Ministers.

PEKING, April 4, 1875.

Prince Kung, chief secretary of state for foreign affairs, herewith makes a communication in reply:

Upon the 3d of April, 1875, I received a communication from your excellencies, stating that, having received a note from his excellency the British minister, Mr. Wade, to the effect that there was no longer any obstacle to prevent his participating in the discussion of the Cuban question, your excellencies were therefore willing to resume at once the consideration of that business.

The prince begs leave to state that March 24 he received a dispatch from Mr. Wade, setting forth that he had invited the four representatives—of Russia, the United States, Germany, and France—to meet at his legation, in order to lay before them the details of a telegram received by him from the Viceroy of India, and to inform them that, in consequence of the affair therein recited, he could not at present join with

them in considering the Cuban matter. Upon the following day (March 25) a dispatch from your excellencies was received, stating that the adjustment of the Cuban question must be delayed until his excellency the British minister could join you, at which time it would be resumed.

Yesterday a dispatch was received from his excellency, Mr. Wade, stating that he was now able to discuss with the other ministers the adjustment of the Cuban question as before; that the four ministers—of Russia, the United States, Germany, and France—were perfectly familiar with all the points in the case, and the protocol of a convention had been prepared by them in conjunction with him; that a dispatch was ready and only awaited translation into Chinese, when it would be at once forwarded for my inspection; that the ministers had most earnestly considered the coolie question, and had devised a mode of adjustment, and if settlement could be made according to this plan it would be cause of great congratulation. But if not, the Tsungli Yamen and his excellency the Spanish chargé d'affaires still desired to bring the points of variance before the ministers for arbitration; it would then become necessary to examine clearly as to the basis on which the business can be proceeded with, in a manner different in no way from that already pursued by the four ministers and himself.

Having thus learned to-day that your excellencies are ready to resume the discussion of this business, and his excellency Mr. Wade and yourselves are of one mind, I would therefore request your excellencies to forward the protocol of a convention agreed upon by your excellencies and Mr. Wade, when translated into Chinese, to this Yamen in order that I may consider it. And for the purpose of making this request I transmit this communication in reply.

To their Excellencies the MINISTERS of *Russia, the United States, Germany, and the* *Chargé d'Affaires of France.*

[Inclosure 3 in No. 73.]

Mr. Wade to the Tsungli Yamen.

PEKING, April 2, 1875.

The minute mentioned in my note of the 15th March as containing my own views upon the propositions of Mr. Otin, and the counter-propositions of the Tsungli Yamen has been made the base of a note, to which my colleagues and myself have agreed, and which will be sent to your imperial highness as soon as it can be translated. My minute, which was at great length, has not been put into Chinese, and there will not now be any occasion to trouble your imperial highness with it.

I should be glad to find that the note now on its way from my colleagues and myself induced acceptance of the adjustment of the emigration question we have been striving so hard to promote.

Should it be otherwise, and the Tsungli Yamen and the Spanish legation still entertain a desire to submit the issue between them to arbitration, I shall be ready, as before, to join my colleagues in whatever course it may be found practicable to follow.

[Inclosure 4 in No. 73.]

Joint note of five ministers to the Tsungli Yamen.

PEKING, April 6, 1875.

The undersigned, representatives of England, Russia, the United States, Germany, and France, have considered with careful attention the two memoranda placed in their hands by the ministers of the Tsungli Yamen on the 11th March.

From the tone of these it is plain that some misconception exists regarding the relation of the undersigned to the Yamen in the late conferences regarding the Cuban question; some misapprehension also of the purport of what has fallen from the undersigned.

In November, 1873, the five legations of France, Germany, Great Britain, Russia, and the United States were invited by the Tsungli Yamen, and M. Otin, representative of Spain, to form a court of arbitration, on certain issues not very precisely stated, which were to be submitted to that court whenever the report of a Chinese commission, then about to proceed to Cuba, should be received by the Yamen.

It having become evident, when the commission returned in November, 1874, that much time must elapse before the arbitrators could be put in possession of the evidence to be laid before them, and that whenever a court should be formed its proceedings would be attended with much difficulty, and probably with little or no practical result, the

two appellants were sounded as to possibility of some adjustment of their differences without submitting them to arbitration.

The Yamen was unprepared with any alternative course. Mr. Otin, after some deliberation, produced a draught-convention, which, with certain modifications suggested by the undersigned, they have recommended the Yamen to accept.

In recommending it, the undersigned were moved by the consideration that the object which the Chinese government professes to have specially at heart—a speedy amelioration of the status of the Chinese now in Cuba—would be at once commenced and gradually achieved; their protection against wrong in the time to come being at the same time provided for.

In their consideration of Mr. Otin's draught-convention, and in their recommendation of it to the Yamen, the undersigned have been acting, not as arbitrators, but as mediators. As arbitrators they could have done nothing until the whole of the evidence was laid before them. Then, being duly advised of the particular issues on which their decision was desired, and being formally assured by both parties that, whatever might be the decision of the court of arbitration, it would be accepted as final, they would have proceeded to examine the evidence. So much for the relation of the undersigned to the two parties *en litige*.

Next, to the misapprehension on one or two points of the meaning of what they have said.

In their memoranda the ministers of the Yamen assume that the undersigned admit the truth of the evidence taken by the commission sent to Cuba. The undersigned have made no such admission, and could not have made it consistently with the duty which would have been imposed upon them as arbitrators.

There is a further assumption in the memoranda that the concessions made in Articles I, III, VII, and IX of the draught-convention have been made unconditionally, and that the undersigned are pledged with Mr. Otin to their accordance.

The ministers of the Yamen, in advancing this statement, evidently forget that the proposals laid by Mr. Otin before them form a whole, and can be considered as binding upon the Spanish representatives only if accepted *in toto*; the undersigned certainly have neither the power nor the right to press upon Mr. Otin what he declares his inability to concede.

As mediators, however, they feel bound to urge once more upon the Yamen the expediency of declining Mr. Otin's convention.

By its acceptance—

First. The quarrel between China and Spain, now open since 1872, is closed, and with it all question of the indemnity claimed by Spain.

Secondly. The surrender of Spain's treaty-right to engage laborers under contract in China puts an end to impressment by crimps and kidnapers, a result the ministers of the Yamen have repeatedly declared themselves very anxious to obtain.

Thirdly. The condition that the Chinese laborer is henceforth to be a voluntary emigrant (proceeding to Cuba under the same conditions as Chinese now proceeding to California) guarantees immediate effort on the part of Cuba to remove causes of complaint.

Fourthly. The provision that the form of contract under which henceforth Chinese are to engage themselves in Cuba shall be prepared in Peking, enables the Yamen to secure insertion of all reasonable conditions respecting the laborer's term of service, his rate of wages, support, general treatment, and repatriation.

Fifthly. The Chinese of condition now in Cuba are to be immediately repatriated, as also those whose infirmity incapacitates them for work.

Sixthly. Chinese now detained under the vagrancy laws by the local government, if they cannot be at once repatriated, are to be provided with fresh contracts to enable them to work out their repatriation at an improved rate of wages.

Seventhly. The convention is intended to guarantee redress by law to any Chinese laborer ill treated by his employer, and the undersigned are authorized by Mr. Otin to state that such redress will be obtainable for all parties aggrieved in the future as well as in the past; and will not be confined, as the Yamen appears to believe, to those only who have already sent in petitions to the Chinese commission.

Eighthly. The appointment of a consul insures to the Chinese plaintiff the assistance of his own authorities before the Spanish courts; the enforcement of the contract; the protection of the Chinese when uncontracted; and the denunciation and therefore speedy redress of defects and abuses in existing laws or regulations.

The Yamen's memoranda draw special attention to the punishment of Chinese by their employers. The Spanish regulations admit the punishment by the employer only in the manner and under the circumstances mentioned in the annexed copy of articles 69 and 70 of the "Rules for the introduction of Chinese Colonists."

It will therefore be the duty of the Chinese consul to watch over the enactment of the Spanish laws as far as his countrymen are concerned; and in the performance of this duty he will without doubt meet with the ready and effectual assistance of the Spanish authorities and courts of justice.

But the Yamen must not expect that the Chinese consul will be invested with powers over his nationals not accorded to the consul of any other power represented in Cuba, or that rights will be granted to China which are not possessed by any other nation.

With regard to the measure of repatriation desired by the Yamen, the undersigned have been informed by Mr. Otin that he cannot go further than he has already done in his proposal laid before the Yamen.

It will therefore rest with the Chinese ministers to decide if, by insisting on a demand which they have not pressed in their negotiations with other powers, they are prepared to cause the present negotiations to be broken off, and to prolong a state of things in Cuba of which they complain, and with it those evils from which their countrymen are charged to be suffering, and which the ministers profess so strong an anxiety to alleviate.

The undersigned, in recommending once more the acceptance of the proposals of Mr. Otin as the only available way to arrive at a speedy and practical result, feel it their duty to inform the Yamen that unless by the acceptance of the proposed conventions as modified by the declarations contained in this note, and which Mr. Otin has expressed his readiness to accept, a practical basis is found for the continuation of the mediation, they are persuaded of the intility of further negotiations in this direction, and are further of the opinion that arbitration, while it would consume much time, would leave the question still undecided as to the objects which the Yamen has most at heart.

WADE.
BÜTZOW.
AVERY.
BRANDT.
ROCHECHOUART.

[Inclosure 5 in No. 73. — Translation.]

Reply of the Tsungli Yamen to the representatives of the five powers.

Upon the 6th day of April a note was received from your excellencies concerning the question of Chinese emigration to Cuba, expressing the fear that the undersigned still misapprehended the nature of the draught for a convention sent them; and reciting the advantages of the adjustment agreed upon between your excellencies and his excellency M. Otin. The undersigned have reported to the prince the kindly thought of your excellencies; it has also been most carefully and thoroughly considered by the undersigned.

The representative of Spain, holding that the Spanish government has not subjected the Chinese laborers in Cuba to ill-treatment, held that China ought to make indemnity for refusing to allow Spain to obtain laborers in accordance with the terms of the twenty-two regulations.

China, holding that there was ill-treatment of the Chinese laborers in Cuba, therefore temporarily suspended the engagement of coolies.

The foreign representatives agreed that a commission be sent by the Chinese government to investigate, the object being that, if alleged abuses should be proved to exist, China should not pay indemnity, and should prevent the further emigration of laborers; if it was proved that no abuses existed, China should indemnify Spain.

A note was also received from his excellency M. Otin, stating that, if the Chinese government believed that their laborers abroad were ill-treated, and consequently put an end to emigration, China was but doing its duty.

It now appears from the entire details of the examinations and the depositions taken by the commission, although not yet fully examined, that there are actual abuses, agreeing, in all particulars, with the statements of the various consuls of foreign governments, and with the information reported by his excellency Mr. Low, formerly American minister.

Consequently, the claim of his excellency M. Otin against the Chinese government for indemnity becomes invalid; and the promise of his excellency M. Otin to repatriate persons of reputation, and those who are diseased, is a plain demonstration of this. The undersigned, inasmuch as your excellencies and his excellency M. Otin desired, prior to arbitration, to attempt settlement by mediation, and agree with the undersigned in a most urgent desire to relieve those laborers who are, at the present time, suffering ill-treatment, were moved by this excellent thought to consult with your excellencies, and not to retain so fixed a determination to refuse further emigration. Yet there must be delay until the relief and full protection of those now in Cuba is really accomplished, when there may be further consideration of emigration.

If, hereafter, there shall be consent given for emigration, it still must be under the twenty-two rules.

Upon March 24, 1873, his excellency M. Otin informed this Yamen that, in case Spain

was not allowed to obtain coolies under the same twenty-two rules accorded to France and England, such discrimination against his government was an infraction of the "favored-nation clause" in the treaty. He further stated that at the time of emigration the limit of the contract as to time should be plainly stated, and it should be definitely agreed that a day's labor should not exceed nine and one-half hours; each Sunday they should rest, or, in case they preferred to labor, the returns of such labor should be their own; the rations of the laborers, and their passage-money each way, should be provided by their employers; in case any laborer should be taken ill, a physician should be called to attend him, all in accordance with the twenty-two rules.

This is a proof that his excellency M. Otin was most desirous to proceed according to these twenty-two rules, and not anxious to set them aside. How can it be that his excellency M. Otin was originally desirous to proceed according to the twenty-two rules, and to-day, since an investigation has been made, and the good offices of your excellencies are accorded, he changes his mind, and desires that the twenty-two rules be set aside? If it be said that heretofore, with the twenty-two rules, how could these abuses exist, it may be replied that these abuses exist because of *failure* to observe the twenty-two rules, and not because of their observance.

In this matter there are now, 1st, the project of Mr. Otin for a convention; 2d, the project of your excellencies; and, 3d, the project of the undersigned.

In these three plans there is the protection of the laborers.

The undersigned have not misunderstood. In the points of disagreement, the idea of the undersigned has been, first, to relieve those at present suffering ill-treatment, as a guarantee of power to protect those laborers who may go in future, and *thereafter* to discuss emigration.

The idea of your excellencies and M. Otin has been to take up the protection of coolies and the emigration question together. In a word, there must be proof of the protection of the laborers (now in Cuba.) In the matter of the protection of coolies, there are some new regulations to be added to the former, but the former twenty-two must not be evaded. In this way only can it be accomplished.

Although there appear to be some slight differences of opinion, yet in the main there are no points of difference. If there is only anxiety to get more laborers, and not to first relieve those who are now at labor, it is like considering how to rebuild a house now in flames, without endeavoring to save it from the fire. Would that be regarded as protecting the house now burning?

In the discussion of this question, as there are now three projects, the undersigned have collated from the three the admissible points into one, without setting aside the twenty-two rules, and have written them out separately, with the greatest carefulness and moderation. Thus they have combined the three into one, and request your excellencies to consider them and express an opinion; and they also request M. Otin to examine them.

Regarding the note recently received from your excellencies, the undersigned can but speak plainly. Although arbitration and mediation are different, the end desired is the same. In arbitration the law is considered, yet not in opposition to the facts; in mediation the facts are considered, yet not outside of the law.

In arbitration, the two parties cannot both be right. In mediation, each can gain his own. When mediation is desirable, the objects sought by the two parties must be placed in an even balance for exact justice and equity.

In the matter at issue, the desire of China is, first, to relieve the laborers who are now being ill-treated; the wish of Spain is to obtain additional laborers in the future. If your excellencies would mediate with the best results, first secure the relief of those at present at labor; and thereafter, according to Mr. Otin's desire, allow the engagement of coolies in future under the twenty-two rules. This would be most satisfactory. Regarding the annulling and setting aside of the twenty-two rules, his excellency Mr. Otin has formerly had no such thought, and it need not to be considered.

Regarding the unwillingness of your excellencies to accept as valid the conclusions of the commission, inasmuch as mediation is now being considered, the undersigned do not insist upon this; and, for the present, if the former statement of the undersigned to the fact of such an admission on the part of the foreign representatives meet with no consideration, there will certainly be no objection.

Concerning the projects for a convention of your excellencies and Mr. Otin, they are not entirely one-sided, and as in the project which the undersigned now submits it is agreed that, after the relief of laborers now suffering ill-treatment, coolies may be sought under the twenty-two rules, therefore this project is not all for China; and moreover, it has many points in common with the projects of your excellencies and M. Otin. If it be said that all of Mr. Otin's plan must be accepted, and that ours can be made use of in no way, this is not consistent with the kind wish of your excellencies for mediation.

The advantages recited by your excellencies are eight in number. They have been carefully considered. As regards the *first*, China has a right to require indemnity

of Spain for cruelty. Since mediation is on the *tapis*, and consequently there need by no indemnity, the advantage is not all on the side of China.

As regards the *second*, it appears from the twenty-two rules that the use of a contract was to do away with all the mischiefs of crimps, kidnapers, and those who deceive. Without a contract there would be no investigation, and these troubles would grow even greater. And if it is desired to draw up a contract after reaching Cuba—suppose, on arrival, the coolies were unwilling to labor according to the terms of the contract, advance and retreat are equally difficult; how can they return to China?

Concerning the *third*, going abroad at will, without contract, there has never been the least hinderance; it is so plainly stated in the general statement with the twenty-two rules. The Chinese emigrants now in California and similar places are all of this sort. And hence it is stated in the supplementary treaty with the United States "that all other modes of obtaining laborers are prohibited," &c., and this is not cooly emigration. Since, now, Spain wishes to obtain coolies, it can only be according to the twenty-two rules. As to the statement that the local authorities in Cuba will use their best endeavors to eradicate all existing abuses, and enact satisfactory regulations in order that the number of laborers may be increased, this is an excellent idea. If it be fully carried out, the numbers of Chinese laborers who desire to go abroad will not wait to be sought; they will run as in a race, fearing to be behind. The advantage of the laborer is the advantage of the Spanish merchant.

Regarding the *fourth*. To decide whether the contract is advantageous or the contrary, one must examine the rules now agreed upon, whether they are acceptable or not. If they are acceptable, then it must be considered whether the Spanish merchants will act according to them.

Regarding the *fifth*. In the matter of the return to China of all persons of quality and the sick, the just intentions of your excellencies and his excellency Mr. Otin are already manifest. But in the case of the aged, females, and all who have fulfilled their terms of labor, it has not yet been agreed to repatriate these classes of persons, and it will only be acceptable to act in regard to these persons according to the terms of the project sent herewith.

Regarding the *sixth*. In justice, all whose terms have expired ought to be repatriated by the Spanish employers, according to the terms of the twenty-two regulations, and they ought to be provided with a certificate of completed contract and a passport. All whose terms have not expired should, at once, have an increase of wages, to provide for their return home, and all existing abuses should at once be corrected. When their term has expired, they, too, should be provided with a certificate of completed contract and a passport. A discriminating adjustment of this nature is not beyond the power of Spain to effect.

Regarding the *seventh*. The idea is excellent, but it must be seen whether it is feasible. After the appointment of a Chinese consul, satisfactory rules must be most carefully considered and agreed upon; until his appointment, there must be protection afforded to Chinese laborers by Spain. At the present, when rules are not yet determined, if Spain has the kindness toward the coolies, prompting effective protection to each man, China will certainly hear of it.

Regarding the *eighth*. It is as the seventh; the idea is excellent, it is a satisfactory rule; but we must see it accomplished; when it can be really reckoned an advantage.

In these points of advantage the coolies will obtain protection and the Spanish employers will obtain laborers. Acting thus will have the common results for good from which the kind disposition and complete management of your excellencies and Mr. Otin in this business will be extolled over the whole earth. Would not this be a cause of great congratulation?

The undersigned have another point of the greatest concern to them, about which as your excellencies and his excellency Mr. Otin are agreed in desiring to afford relief to the Chinese laborers, they can but most frankly advise with you.

The commission, while in Cuba, made copies of the "Cooly Regulations," established by the government of Spain, and they are not identical with the tenor of the regulations communicated to this Yamen by his excellency Mr. Otin. For example, the Spanish regulation as to each day's labor is for more than ten hours' work, while that stated in the communication of his excellency Mr. Otin, of March, 1873, was nine hours. The rules established by the Spanish employers differ again from those of the government of Spain, and there are regulations which the government has not approved, under which the Spanish employers are already acting. If, after these negotiations shall have been concluded, Spanish employers still persist in following their own private rules, will not the present conference all prove to be idle? Means ought to be considered and agreed to by his excellency Mr. Otin, by which a single line of conduct may be assured.

As regards the matter of imprisonment, at the will of the employer, when the laborer is guilty of misdemeanors, how can he be imprisoned at the personal will of his employer? Is the employer legitimately a jailor? Is not this a plain evidence of cruelty? We hear that Spain deals with negroes in this manner; but Chinese coolies still are Chinese, and cannot be classed with negroes; how can Spain thus think lightly

of China? Moreover, other nations do not treat negroes in this manner. China and all the western nations are all friendly powers with Spain—in case Spain had dealt with subjects or citizens of western powers after this manner, would they consent, or not?

The communication of your excellencies states that China must not expect to obtain for her officials rights and powers which are not granted by Spain to the consuls of other powers.

But Spain ought to deal with Chinese subjects according to the laws observed in her dealings with other nationals. Why does she treat the Chinese only as she treats negroes? And it is the law of each nation that when other nationals come within its jurisdiction they must submit to be governed by its officials. But with foreigners in China, when cases between the two nationals arise, the Chinese is dealt with according to Chinese law by Chinese officials, and the foreigner according to the law of his own government and by his own superiors. Treaty-regulations are all of this sort. Since Chinese and foreign modes of punishment are unlike, heretofore all intercourse has been upon this plan. But now, since the treatment of Chinese laborers by Spain is after this manner, in case China hereafter appoints a consul to Cuba, dealings ought to be according to the treaties, in cases concerning the Chinese. The officials of the two governments should first examine and adjudicate the case, and in case of wrong on the part of the Chinese he should be handed over to be dealt with by the Chinese officials.

Previous to the appointment of a Chinese consul, Spain certainly ought not to treat the Chinese like negroes. As to the forbidding Spanish employers to imprison Chinese, and the like, this is eminently right and just, and we hope your excellencies will frankly and carefully consider it.

Your excellencies' communication also states that the present plan of mediation may fail of completion.

The undersigned are exceedingly unwilling that this should occur, and the kind thought of your excellencies for mediation all come to naught. In the project for a convention now submitted are many points of agreement with those submitted by your excellencies and Mr. Otin. Since the laborers sought by Spain are Chinese, it becomes the duty of the undersigned to consider with the greatest care and honesty existing facts, and see how they may be afforded protection. It is manifest that your excellencies and Mr. Otin have already, on behalf of the undersigned, planned for the entire question from beginning to end; but although your excellencies and Mr. Otin have spoken for the undersigned, it cannot prevent the undersigned from speaking for themselves, and we request that the project for a convention sent herewith be carefully considered by your excellencies and a response be given us.

With cards, compliments, &c.

PEKING, April, 1875.

The wages received by Chinese laborers at the time of their engagement did not exceed a few dollars, or even a few hundred cash; and all the expenses of every sort for the passage never exceeded \$190.

But those who sold the time of the coolies in Cuba received from two to four times this amount. After deducting expenses of passage, &c., each laborer should have received \$200 or \$300. For 10,000 men this would amount to \$2,000,000 or \$3,000,000. For 140,000 men it would amount to many millions of dollars. The amount of this excess, and the amount due and never paid, for working on the highways for the government, after terms of contract had expired; and in addition to these, the amount retained from wages by the officials, at a certain rate per month, agreed upon by the official and the employer at the public office at the time of making new contract, which had been rumored, and which was deposed to before the commission, but which need not be especially considered—but the two former, as to their amount, both of the number of men and the money due, ought to be carefully considered, and it ought to be returned by Spain.

Moreover, the Spanish merchants professed to engage laborers, when in fact they sold men for gain, still more in violation of the dealings with civilized powers.

Your excellencies and his excellency Mr. Otin are most earnestly requested to consider these things, and to state in reply what ought to be done in view of these circumstances.

[Inclosure 6 in No. 73.—Translation.]

Protocol for a convention submitted by the Tsungli Yamen.

ARTICLE I. Lists shall be prepared by the Chinese government of all literary men, officials, members or relations of wealthy families, now among the laborers in Cuba, for the information of Spain; and the Spanish government engages, on the evidence

furnished by these lists, to repatriate all persons of the classes named, as an evidence of good faith and good will.

ART. II. All points of difference between the Chinese and Spanish governments are to be considered as settled, and all questions of indemnity on either side are waived.

ART. III. All Chinese now in Cuba, who are unable to labor because of sickness or physical defects; all who at the time of their emigration were less than twenty years of age, and were not provided with a written permit from their parents, and to whom Chinese officials have given a certificate of completion of contract; all who were at the time of their emigration to Cuba less than fifteen years of age, and who were not accompanied by their parents, whether their term is expired or not: all above fifty years of age whose term has expired; all above sixty years whether their term has expired or not; and females who are not members of the families of laborers; all persons of these several classes shall be furnished with passports, and with funds for their return to China, by the Spanish government.

ART. IV. All laborers now in Cuba who have completed a term of labor, whether of five years or less, shall be furnished by their masters with a certificate of completed service, and by the local authorities with a pass for completed service, and with a passport, and by their masters with expenses for their journey, which shall be in silver, and not in bank notes. If, because of the excessive number of those who have completed their term, it should prove to be inconvenient to pay the entire amount of passage-money at once, the Chinese government will not crowd Spain in this contingency, but will consult and make a temporary arrangement upon the following basis: State the entire number of laborers who have completed their contract; state how much money for return-passages to China the Spanish merchants are able to provide; and divide them into installments according to the pecuniary ability of the merchants. Upon a certain year, month, and day send the first installment of a certain number; upon another date send the second installment; and by this method the matter will be easily managed.

If any, having finished their term, desire to remain in Cuba and labor, the employer shall again sign a contract with him for five years, and the contract shall state plainly that he is permitted to go upon the street, and not merely for one year, as an evidence that he willingly contracts for the labor. If, after he has found an employer, he has difficulty with him, he shall be permitted to seek another.

The wages paid shall be according to the new arrangement, an advance upon the old, and he shall not be forced to recontract himself. He shall be required by his master to live apart by himself, and he is not to be permitted to live with those who have not completed their terms.

There shall be discrimination. All those who have completed their term shall go in person before the official and take out their papers, whether of completed contract, passport, or re engagement, or of funds for return home, and shall not be required to find a surety. Those who do not wish to re-engage, but desire to engage in business in any place, shall not be required to find surety.

ART. V. All who have not completed their contract, in addition to all the protection afforded by the twenty-two rules, shall be allowed, at the close of each day's labor, to go out and come and go at pleasure, and no permit shall be necessary from their masters.

This class, comprising all who have gone, and shall hereafter go, at the time of the completion of their contracts, shall, according to the rules, be returned to China, and all who are now at service shall have increase of wages to enable them to lay up something. At completion of service the employers shall provide sufficient amounts for their return—at the lowest it shall equal six large Spanish gold-pieces, equivalent to \$100.

ART. VI. Cuban employers shall not be allowed, of their own will, to imprison, nor compel men to labor when fettered, nor to punish improperly. And those who have completed contracts shall not be taken by their masters to the contract-officer for forced engagement. If all the occasions of former suffering can be done away with, the Chinese laborers certainly will not run away. If occasionally there are runaways, or those guilty of crime, the employer shall not be allowed, of his own motion, to punish, but shall hand them over to the Chinese consul for investigation and settlement.

ART. VII. The consul appointed by China to Cuba shall be allowed to afford protection to the full extent of his power in all cases calling for his intervention, in accordance with treaty and the usages of other consular officers.

At Havana, and other points in Cuba, Canton and Foo-chow guilds shall be established, supervised by men of their own selection, and to these guilds the Chinese shall at all times have access, where they may get full information as to all labor-regulations, &c. And it shall be permitted to China to establish lines of steamers or sailing-vessels between all ports, for the transportation of mails and Chinese passengers.

ART. VIII. When China shall have appointed consuls to Cuba, the examination and protection of laborers shall be by Cuban officials, who shall use their best endeavors, and in each case shall make thorough investigation and afford full protection

to the Chinese cooly. In cases of hardship or injustice to the coolies, the Chinese consul shall present all the facts to the Cuban officer, who shall deal with it impartially. In the cases of all petitions presented to the commission recently sent to Cuba, and all sufferers who have not petitioned, Spain has already agreed to receive all such complaints and transmit them to the local judges, (in Cuba.) After the appointment of a consul, petitions shall first be made to him, and by him transmitted to the local authorities, who shall decide upon and properly adjudicate each case. And hereafter the Chinese laborers, in cases of hardship or ill-treatment, can complain against their employers, and such complaints shall be impartially heard and decided. If the employer, in violation of treaty and regulations, ill-treats his coolies, of which there is plain proof, the police officer shall deal with the case according to justice, in conjunction with the Chinese consul.

After examination of any case by the judge, if the Chinese complainant is not satisfied, he may appeal to a higher court.

Either before or after the appointment of a Chinese consul, in the cases of all Chinese laborers in Cuba, the Cuban authorities shall use their best endeavors to afford ample protection, to remove all unjust or unsatisfactory restrictions, and deal with Chinese exactly as with English or Americans. It shall not be allowed hereafter, as formerly, to force the Chinese to cut off their queue, or to receive baptism, and to oppress and restrain them with all sorts of restrictions.

ART. IX. In addition to the foregoing regulations for the protection of coolies, Spain will obtain coolies in accordance with the twenty-two regulations; in addition to these twenty-two regulations, when a foreign merchant is about to dispatch a vessel to Havana, he shall in advance notify the day of departure to the officials, and at the same time he (the merchant or owner) shall post a notice in all parts of the port, informing all who do not wish to go aboard that they must not go on board his vessel. If any desire to go aboard, the Chinese government will depute an officer, before the ship shall have sailed, and while the emigrants are either at the emigration-office or on board ship to examine them, in order to their satisfactory protection and the prevention of fraud. On arrival in Cuba, if a Chinese consul has already been appointed, the laborers shall go before the consul, that he may examine clearly whether all is according to regulations; thereafter the emigrant may seek labor. The government of China will first concert a plan (with the representatives in Peking) for fixing and determining all the rules and regulations, and the consul sent will adhere to them in every particular.

ART. X. Hereafter, if Spain seeks laborers to proceed to Cuba, in addition to the twenty-two rules, in the matter of the arrangements for the expenses of the return of the coolies to China, it may be permitted either that, according to the twenty-two rules, at the expiration of the contract-term, the employer shall furnish the means for sending him home, or, according to the new agreement, he may pay him greater wages. If he elects to pay additional wages, he shall, instead of paying \$4 per month, pay \$5 per month, and the dollar shall at least equal 70 tael cents.

The employer shall retain one-third, to be deposited with the Chinese consul for the expenses of the return to China. Each man shall provide \$100 for passage-money, and, having laid up that amount, nothing need be retained from his wages, but the whole shall be paid over to the laborer for his own use and disposition.

The consul shall retain the \$100 passage-money thus provided for each man until the time of his return to China, when it shall be paid over to him. In case any prefer to remain in the island, he shall notify the consul, who will pay over to him his \$100 for a capital in trade. At the time of making contract it shall be distinctly fixed which of the two foregoing plans the employer elects to follow, and notice shall be given to the Chinese consul, who shall proceed accordingly.

ART. XI. Hereafter, coolies proceeding to Cuba shall only go on ships of those nations with which China has treaty-relations, and the vessel shall in all respects comply most strictly with all rules and regulations of its own government regarding the care and treatment of emigrant passengers. Each minister will communicate to the Tsungli Yamen the regulations of his government, and the representative of Spain shall determine what rules and regulations regarding coolie-ships he will follow, and shall notify the Tsungli Yamen for its examination and approval, and that notice may be given to all the ports.

ART. XII. After the agreement upon this convention, if Spain shall faithfully comply with the foregoing provisions for the protection of coolies, and the twenty-two rules for obtaining them, in case hereafter, in the matter of coolie emigration, China shall make any greater concessions to other powers, Spain shall have the full benefit and advantage of such concessions to the full extent that they are granted to the most favored nation, and she shall comply with all requirements made of any other nation.

ART. XIII. In the rules heretofore established by Spain for obtaining coolies, the points not in the agreement with the twenty-two rules nor of this convention. The twenty-two rules and this convention shall hereafter be considered as the final, certain rules, fixed and determined, and they shall be considered as the most plainly understood and positive authority.

[Inclosure 7 in No. 73.]

The foreign ministers to the Tsungli Yamen.

To their Excellencies the members of the Tsungli Yamen:

MAY 8, 1875.

The undersigned have had the honor to receive the note addressed to them by your excellencies, under date of 25th April, and the accompanying project for a convention relative to the emigration of Chinese laborers to the Island of Cuba.

The conditions enumerated in this project are so opposed to those which the representative of Spain had submitted as a basis for a settlement of this question, and which he has repeatedly declared himself unable to concede, that the undersigned are compelled, to their great regret, to doubt the utility of further attempt at mediation, which they had undertaken solely with the hope of reconciling the interests of the two governments, and in the desire to serve the cause of humanity.

Should your excellencies still have the desire, which has been expressed to the undersigned, to have an interview in order to discuss this question, the undersigned will be pleased to have a conference at the Russian legation, May 10, at 2 P. M.

The undersigned avail themselves, &c.

BÜTZOW,
AVERY,
BRANDT,
ROCHECHOUART,
FRASER,
For the British minister.

[Inclosure 8 in No. 73.]

Protocol of the foreign ministers.

The governments of His Majesty the King of Spain and His Majesty the Emperor of China, desiring to establish upon a new basis the emigration of the Chinese subjects who may go to the Spanish possessions, and to prevent all misunderstanding in this matter, the undersigned, duly authorized to that effect, have agreed upon the following rules:

ARTICLE I. The stipulations of the treaty concluded at Tien-tsin between Spain and China, 1864, relative to the emigration of Chinese subjects under contract, are abrogated, with the exception of those clauses in article X of said treaty concerning the enticing away of emigrants, and the restoration to Chinese authorities of convicts escaped from prison, and those convicted or accused of crime.

ART. II. The difficulties arising from the enforcement of the provisions of the said treaty of Tien-tsin relative to emigration are waived, and the two governments renounce, on either part, all right to pecuniary indemnity.

ART. III. It is agreed between the high contracting parties that the emigration of their respective subjects shall be entirely free and voluntary. They formally condemn all other modes of emigration, as well as all acts of violence or fraud which may be committed in the ports of China or elsewhere, with the purpose of taking away to foreign parts the subjects of China against their will.

The two governments co-equally engage, with all the rigor of their laws, to punish all violations by their respective subjects of the preceding stipulations, and to inflict the penalties provided by their respective laws upon the subjects guilty of violation of this stipulation.

ART. IV. The government of His Majesty the Emperor of China authorizes on its part free emigration to the Spanish possessions from all the ports of the empire open to foreign trade, and it contracts to interpose no obstacle, either on its own part or on the part of the provincial authorities, to the free emigration of its subjects. It is, however, understood that the Chinese authorities have the right to assure themselves that the emigration is effected conformably to the spirit and the terms of the present convention.

ART. V. The government of His Majesty the Emperor of China will appoint a consul-general, who will reside at Havana. This officer shall have all the rights and prerogatives enjoyed by officers of the same class from other countries. It is expressly stipulated that this officer shall be a native and a subject of China.

The authorities of the island of Cuba shall accord to the Chinese consul-general all the facilities in their power to place him in communication with his nationals, and shall give him all the protection which is his due.

ART. VI. The subjects of China residing in the island of Cuba shall be possessed of

all the rights, privileges, immunities, and guarantees of every sort which are accorded to the subjects and citizens of other powers.

ART. VII. Chinese subjects shall have free access to the Spanish tribunals to defend or maintain their rights. They shall enjoy the same right as to testimony with the residents on the island, and shall have in all respects the same treaty-rights as the subjects and citizens of other powers.

Chinese subjects shall have the right of representation before tribunals by their consul, or his deputy, who shall attend the sittings in the position of attorney.

In the cases of complaints made by Chinese subjects actually residing in Cuba, and who have made such complaints of ill-treatment prior to the exchange of the ratifications of the present convention, the Spanish courts will examine such cases separately and deal with them equitably.

ART. VIII. The consul-general of China at Havana, and the proper authorities of the island, shall conjointly arrange regulations for the registration at the consulate-general of all Chinese emigrants now upon the island or who may arrive hereafter; and measures shall be agreed upon between the authorities and the consul-general for the protection to be accorded to emigrants.

The Cuban authorities shall communicate to the Chinese consul-general all the intelligence they may be possessed of as to the number and the names of all Chinese subjects in every part of the island, and shall facilitate personal inspection, on the part of his delegates, into the condition of the Chinese engaged to labor on the various plantations.

ART. IX. The transport of emigrants shall only be upon ships which shall conform to the stipulations of the present convention, and with the same provisions for safety and health made for their own people, and those of other countries.

ART. X. The government of His Majesty the King of Spain, desiring to give to the government of His Majesty the Emperor of China a proof of good-will and friendship, engages itself to repatriate, at its own expense, a certain number of persons of condition retained upon the island of Cuba as laborers, the repatriation to be effected upon information from the government of China as to the social condition of these individuals.

The government of Spain also engages itself to repatriate, at its own expense, immediately upon exchange of ratifications of this convention, all Chinese laborers then in the island of Cuba, who are incapacitated for service by reason of any physical infirmity, and who wish to return to China.

The government of Spain will require the employers of Chinese emigrants whose terms of contract have expired, and who, according to the terms of their contract, were entitled to repatriation, to execute the obligations which they have made with the emigrants.

With regard to those laborers who have completed their term of contract, but who are not entitled to repatriation by their employers, and are not themselves provided with the means of return, the local authorities, in conjunction with the consul-general of China, shall fix upon the requisite measures for providing the means for their return to China.

The emigrants now in Cuba, whose terms of service are already completed, shall receive, immediately upon the signing of this convention, certificates stating that they have fulfilled their contracts, and passports, which shall allow them to circulate freely about the island, or to leave it at their option. Similar certificates and passports shall be given, at the expiration of their terms of contract, to all persons whose terms have not yet expired. All Chinese subjects held in custody by the government of the island of Cuba, not convicted or accused of crime, shall be set at liberty immediately upon the going into effect of the present convention, and shall be provided with the certificates and passports above mentioned, and shall in all respects receive the same treatment as other Chinese subjects.

ART. XI. The present convention, made in — copies, shall be ratified, and the ratifications exchanged at Peking within — months, or sooner if possible.

In testimony whereof the respective ministers have signed this convention and affixed their seals.

Done at Peking.

[Inclosure 9 in No. 73.—Translation.]

Amended protocol from the Tsung li Yamen.

In the matter of the emigration of Chinese coolies to Cuba, the Chinese government having, with the consent of Spain, sent a commission to investigate, the five representatives of Great Britain, Russia, the United States, Germany, and France, acting as mediators, have agreed upon the following articles of a new convention:

ARTICLE I. After the investigation by the Chinese government it is still permitted to Spain to engage coolies according to the regulations. But the Spanish govern-

ment, of its own will, abandons that system. Chinese emigrants shall go voluntarily, and the government of China will oppose no obstacle, according to the rules heretofore made, to which consent is here renewed. Spain agrees to deal with Chinese emigrants according to the Chinese emigrant laws in force in the United States. In the case of criminals flying from justice, and all kidnapers and the like, they shall be dealt with according to the 10th article of the former treaty.

ART. II. All persons, who, either in the ports of China, or at other points of departure, steal or kidnap Chinese, and force them to go abroad contrary to their will, shall be rigorously dealt with according to the laws of the two governments.

ART. III. All points of difference between the two governments are hereby declared satisfactorily adjusted, and all questions of indemnity on either part are waived.

ART. IV. China will appoint consuls to reside at Havana and other ports, who shall receive the same treatment at the hands of the Spanish government as is accorded to the consuls of other nations. The Spanish officials shall accord to the Chinese deputies all the facilities necessary for their free intercourse with their nationals, and for affording them proper protection.

ART. V. Chinese laborers and emigrants in Cuba shall receive all the privileges of liberty to travel, trade, protection, and similar advantages which are now, or may hereafter be enjoyed by the citizens or subjects of other nations, and Chinese shall not be treated like the blacks.

ART. VI. After the appointment of consuls to Cuba, the Spanish officials shall, in conjunction with them, investigate and settle all cases of complaint; all modes of redress open to other foreigners shall acquire to the Chinese; and in matters of every sort they shall be treated as other foreigners. The Chinese shall be represented by the Chinese consul, or his deputy, who shall have in the courts the position of attorney; and all cases of complaint or hardship coming previous to the signing of this convention shall be separately investigated and equitably settled by the Spanish tribunals, according to the rights granted to other foreigners.

ART. VII. The Chinese consuls in Havana and other ports shall, in conjunction with the proper authorities, fix regulations for the government of the Chinese now in Cuba, and who may hereafter go, and agree upon laws for their protection; and the Cuban officials shall report the number and names of all Chinese upon the island to the Chinese consul for registration, and shall devise suitable regulations for enabling the consul or his deputies to have direct communication with the Chinese laborers, and inform himself of their condition.

ART. VIII. In future all ships carrying Chinese emigrants shall conform to the terms of this convention, and to the regulations of their own governments for the protection of emigrants.

ART. IX. As emigration is to be voluntary, the clause in former regulations providing for the examination of laborers shipped on cooly-vessels need not be enforced; but in the case of ships clearing for Cuba direct, whether they carry single emigrants or families, they shall be regulated according to the 10th article of the former treaty with Spain; and no emigration shall be allowed from other than treaty-ports.

At the departure of any vessel carrying emigrants, the customs Taotai of the port shall send a deputy to make examination of the passengers. If it really appears that they go of their own accord, the customs Taotai shall give a passport to each, bearing the seal of his office, which shall be indorsed by the Spanish consul, and then handed over by the commissioner of customs to those who are to go abroad. On the emigrants' arrival in Cuba, the passport shall be submitted to the inspection of the Chinese consul. If it appears to the deputy that the emigrants do not go voluntarily, but are induced or led to it by other parties, the said emigrants shall be handed over to the customs Taotai for his action.

In case of emigrant-vessels clearing for other ports, and not direct for Cuba, in addition to the above-stated examination at the time of their clearing by the customs, and the ascertaining by the proper authorities that there are no unwilling emigrants on board, within one day after the arrival of the emigrants by such vessels in Cuba, they shall proceed to the Chinese consulate and obtain passports.

In case the Chinese consul discovers among them those who have not the passport of the customs Taotai, and have not obtained such a paper from him, it shall be held ground for suspicion that such persons are either criminals evading justice, or have been kidnaped, and the consul shall examine and deal with them according to the facts.

ART. X. The customs Taotai shall fix a time for the examination of ships about to sail with emigrants, and the ship-master must in advance notify the customs Taotai of the time of sailing. In case the ship-master fails to notify the Taotai, and sails in advance of the examination, his ship shall be confiscated.

ART. XI. All voluntary Chinese emigrants who may hereafter go to Cuba shall receive the same treatment as other nationals, and in the matter of passports to travel no special regulations shall be made for the Chinese, to restrain them to labor, different from those made for other nationals.

ART. XII. Spain desiring to give China a proof of friendship and good will, agrees upon information to be furnished by China, to repatriate, immediately upon the exchange of ratifications of this convention, at her own expense, certain persons of quality now held to unwilling labor in Cuba; and, also, to repatriate all those Chinese laborers in Cuba who are unable to labor because of disease, and desire to return, at her own expense. She also engages to require the employers of coolies whose terms have expired, and whose contracts specify for their return, to return them according to contract. When there is no such stipulation, and the laborer has no means of his own, the Spanish government engages itself to send him to China at its own expense, and without charge to the laborer.

All laborers now in Cuba whose terms have expired shall be furnished with a certificate of completed contract, and a passport allowing them to travel or leave the island. In the case of laborers whose terms have not yet expired, in addition to giving them at once a permit to go and come at will on completion of contract, they shall be furnished with the papers above mentioned; and all Chinese laborers now under confinement in government depots shall be at once liberated, allowed to go at will, or leave the island, and none shall be compelled to labor or suffer extortion, but shall be furnished means to return to China, or allowed to remain in the island and engage in trade, at their option.

ART. XIII. All those whose terms have not expired, and those who have no fixed term of contract, shall at once, upon the signing of this convention, be treated as free emigrants, and as other nationals; and upon the signing of this convention between China and Spain all the cases of imprisonment, working for government, and all other cases of injustice, hardship, and wrong of every sort shall be investigated and ended, and the former ill-treatment shall not be allowed.

ART. XIV. In cases of indebtedness of Chinese laborers in Cuba to their employers, the Spanish authorities shall, in conjunction with the Chinese consul, adjudicate them; but they can only recover the amount of the indebtedness, and cannot imprison them as absconding criminals.

[Inclosure 10 in No. 73.—Translation.]

Mr. Faraldo to Mr. Avery.

PEKING, June 9, 1875.

MY DEAR COLLEAGUE: In response to the note which you have addressed me under the present date, I have the honor to reply that, as it seems to me, my government cannot consent to Article VI, and to paragraph 5 of Article X of your project for a convention, since it modifies essentially, even to nullifying, in my opinion, certain points in the treaty of October 10, 1864.

The project presented by Mr. Otin for the regulation of free emigration of Chinese laborers to the island of Cuba offers all the desired guarantees for the protection of the rights and the interests of the emigrants, and avoids all the difficulties which can present themselves.

I embrace this occasion, my dear colleague, to renew the assurance of my sincere regard.

FIB. FARALDO.

[Inclosure 11 in No. 73.]

Foreign ministers to Tsungli Yamen.

Copy of a note addressed by Russia, the United States, Great Britain, and France to the members of the Tsungli Yamen, under date of June 10, 1875.

The undersigned having again addressed a note to the Spanish minister to obtain his opinion upon certain stipulations of the project for a settlement of the question of emigration to the island of Cuba, have the honor to inform your excellency the ministers of the Tsungli Yamen, that M. Faraldo declares himself unable to accept Article V* of the project, and other clauses which refer to freedom of circulation, since these stipulations modify essentially and annul in certain points the stipulations of the treaty concluded between China and Spain, 10th October, 1864.

The undersigned avail themselves, &c.

*Article VI of inclosure 8.

[Inclosure 12 in No. 73.—Translation.]

Tsungli Yamen to the foreign ministers.

Upon the 10th instant we had the honor to receive a note stating that the protocol for a convention in the matter of Chinese emigration to Cuba had been submitted to the Spanish minister, and a reply received from him stating plainly that he could not accept the fifth article,* and the clauses elsewhere allowing the Chinese to go about at will, because they differed greatly from the provisions of the Spanish treaty made in 1864, and parts had been stricken out.

The undersigned would remark that China deals with Spanish subjects in her dominions as she does with all other nationals, and Spain certainly ought to treat Chinese within her borders as she treats the subjects or citizens of other powers.

The refusal of the Spanish minister to assent to the fifth article, and those clauses elsewhere which allow the Chinese in Cuba to move about at will, is an act of disrespect to China, and the undersigned, servants of His Imperial Majesty, cannot consent to any insult, of whatever nature, to the dignity of China.

With regard to the statement of the Spanish minister that the clauses referred to "differ greatly from the provisions of the Spanish treaty of 1864, and parts had been omitted," he fails to state clearly what has been altered and what omitted, and the undersigned would request your excellency to inquire particularly of his excellency the Spanish minister and inform them.

With cards, compliments, &c.

PEKING, June 15, 1875.

To the representatives of Russia, the United States, Germany, France, and Great Britain.

[Inclosure 13 in No. 73.—Translation.]

Mr. Bützow to Mr. Faraldo.

PEKING, June 26, 1875.

MY DEAR COLLEAGUE: My colleagues and I have not failed to bring to the notice of the Chinese ministers the statement contained in the letter which you were so kind as to address me upon the — instant relative to Article V and the fifth clause of the Article IX of the project for a convention upon the emigration to the island of Cuba.

The ministers, in response to this communication, have informed us that they cannot consent to strike out from the project in question the clauses in references to which you have taken exceptions; and I can only send you a copy of the ministers' note in order to acquaint you with the considerations on which their refusal is based.

You are aware, my dear colleague, that we have endeavored in vain to secure the acceptance, by the members of the Tsungli Yamen, of certain restrictions of the principle of the participation by the Chinese in the rights which are conceded to other foreign residents in the island of Cuba, and that we have consequently been unable to arrive at a reconciliation between the demands of the Chinese government and those which result from the peculiar conditions consequent upon your establishing a special rule for Chinese emigrants to the island.

The status of Chinese emigrants in Cuba is the main point in the question of Chinese emigration, and any arrangement of this question is impossible while that point is undecided.

We are unable to see how, in view of the declarations made by yourself and the Tsungli Yamen, our good offices can further serve to bring to agreement the great difference existing between your government and that of China.

Our mediation finds itself in the presence of incompatibilities which we are unable to reconcile; to pursue it, without concessions made on either part, would not serve in any way to lessen the distance which separates the demands of the two parties.

It is with regret that my colleagues and I are obliged to abandon the work which we had undertaken.

But I believe I am able to assure you that we hold ourselves in readiness to give you our co-operation if it can be used in a more efficacious manner than has been possible heretofore.

BÜTZOW.

*Article VI in inclosure 8.

[Inclosure 14 in No. 73.]

Foreign ministers to the Tsungli Yamen.

PEKING, June 27, 1875.

The undersigned have had the honor to receive from their excellencies the ministers of the Tsungli Yamen, under date of the 15th instant, a note relating to the statement of the Spanish minister, that certain points of the project for a settlement of the question of emigration to the island of Cuba, &c., as well as the note accompanying the project for a modified convention from your excellencies.

The undersigned have communicated the first of these notes to the minister for Spain and have informed him that they could not further give their good offices in the question of emigration to the island of Cuba, since the last declarations of your excellencies and those of Señor Faraldo will not permit them to hope that their efforts to bring about an arrangement by mutual concessions would be successful.

The undersigned see even more the difficulty of further mediation, since the new project of the Tsungli Yamen contains clauses entirely inadmissible, as the undersigned have frequently embraced occasion to explain. Your excellencies, in bringing forward these stipulations, and declaring their unwillingness to renounce them, increase the difficulties of an adjustment.

The mediation of the undersigned is impossible under existing circumstances.

BÜTZOW.

AVERY.

VON BRANDT.

ROCHECHOUART.

FRASER.

No. 169.

Mr. Avery to Mr. Fish.

No. 77.]

LEGATION OF THE UNITED STATES,
Peking, July 13, 1875. (Received September 10.)

SIR: The Chinese government has lately sent more troops forward to quell the so-called insurrection in the Manchurian province of Shingking, bordering on Corea.

Fourteen hundred foreign-drilled troops were conveyed to that province, by Chinese steamers, during last month, proceeding from Taku up the gulfs of Pechele and Liantung, to the river Lianho, and by the river into the interior. These steamers were followed by a German bark laden with shell and other munitions of war. The transportation of troops and munitions by steamers to the very seat of trouble, where these steamers will be used as gunboats in co-operation with the land-forces, is a novelty in Chinese military operations worthy of notice. The preparations made would appear to indicate a rather formidable outbreak. The most full and accurate information on the subject which has come to my knowledge is contained in the inclosed copy of a dispatch from our consul at New-chwang, Mr. F. P. Knight.

In the extreme south of the empire there has been another outbreak of a different character, by several hundred natives engaged in opium-smuggling, who occupied a village near the Pagoda Anchorage, defied the authorities, and even organized an attack on the customs premises. A considerable force of imperial troops, report puts it as high as 3,000, was recently sent to the smugglers' village, when the smugglers fled to the hills without a fight.

Such outbreaks as this, and that in Shingking, which are frequent in China, may be regarded as natural incidents to a dense population, large portions of which must at times feel the pressure of want, and become reckless and desperate. That they are not still more frequent