

TREATIES WITH GERMAN STATES.

M E S S A G E

FROM THE

PRESIDENT OF THE UNITED STATES,

IN ANSWER TO

A resolution of the 9th ultimo relative to correspondence and negotiation relating to the rights of naturalized citizens in the German states.

APRIL 4, 1868.—Referred to the Committee on Foreign Affairs and ordered to be printed.

To the House of Representatives:

I transmit to the House of Representatives, in further answer to their resolution of the 9th ultimo, the accompanying report from the Secretary of State.

ANDREW JOHNSON.

WASHINGTON, April 2, 1868.

DEPARTMENT OF STATE,

Washington, April 2, 1868.

The Secretary of State, in further answer to the resolution of the House of Representatives of the 9th ultimo, directing him to furnish to that body copies of all "correspondence, negotiations and treaties had or made with any of the German states since the first day of January last, relating to the rights of naturalized citizens," now has the honor to lay before the President the papers specified in the accompanying list.

Respectfully submitted:

WILLIAM H. SEWARD.

The PRESIDENT.

List of papers relating to the rights of naturalized citizens.

- No. 31. Mr. Bancroft to Mr. Seward, January 21, 1868.
- No. 33. Mr. Bancroft to Mr. Seward, January 23, 1868.
- No. 39. Mr. Seward to Mr. Bancroft, February 10, 1868.
- No. 41. Mr. Seward to Mr. Bancroft, February 13, 1868.
- No. 44. Mr. Seward to Mr. Bancroft, February 13, 1868.
- No. 41. Mr. Bancroft to Mr. Seward, February 14, 1868.
- No. 43. Mr. Bancroft to Mr. Seward, February 21, 1868.
- No. 44. Mr. Bancroft to Mr. Seward, February 22, 1868.
- No. 50. Mr. Seward to Mr. Bancroft, March 7, 1868.
- No. 51. Mr. Seward to Mr. Bancroft, March 10, 1868.

Mr. Bancroft to Mr. Seward.

No. 31.]

AMERICAN LEGATION,
Berlin, January 21, 1868.

SIR: To-day I am able to report to you progress in the settlement of the question respecting the right of the adopted American citizen to immunity from military service in Prussia.

Immediately after the proceedings, of which I gave an account in my number 9, letters of inquiry were sent to the principal foreign legations of Prussia. In due time answers were received. That from France was such as I could have wished on the essential points. That from England was imperfect, its writer not having been familiar with the usage of the British government previous to the recent prohibition by law of the impressment of marines; but as the answer otherwise had nothing adverse to our wishes, I did not think it worth the while to add anything to what I had already communicated on that subject.

The next step was for the foreign department to take the opinions of the minister of war and the minister of internal affairs. They were both adverse. I was told that I might discuss the subject with the ministers and directors of those departments, and was rather invited to do so. An occasion offered of speaking with the present head of the war department. His expressions of regard toward the United States were all that could be wished. He disclaimed any thought of holding an adopted American citizen to service in the Prussian army; but he wished to leave the present law unaltered, that the subject might be under control. He expressed not merely the willingness but the desire that exemption should be granted as each individual case should arise.

I spoke of these answers at the foreign department, expressing a belief that as the objections of the war department related chiefly to form, they might be overcome, and it proved so.

The minister of the interior raised a question of the Prussian constitution and the Prussian law as being opposed to the request of the United States. I thought it not safe to discuss with a domestic minister of state the interpretation of the laws of his own country, for it would belong to him of right to interpret those laws at least for the guidance of his own government. My answer on this point was, therefore, that whatever might be the laws of Prussia, they must be considered as final only for Prussians, and the relations of a foreign power were a proper subject for a convention. This answer on my part met with no objection from any quarter.

Meantime the subject had been constantly brought before the attention of Count Bismarck himself, and he became interested in it. A new law was draughted which would greatly facilitate the concessions which the President desires, and I was asked not to urge the question until that draught should be finished. The matter was thus in the very best way. On the draught of the new law, and before its adoption, the interior department withdrew its objections, and I believe Count Eulenberg now lends his hearty co-operation to the policy of his colleague. Nothing remained but to get the consent of the King, and last Saturday evening Count Bismarck informed me that he had brought the subject before the King and that the King had given verbally his concurrence. That assent will, according to the usages of this government, be given formally in writing, and then we shall proceed to settle the convention.

I have thought that sufficient progress has been made to justify this report.

At the same time I desire you and the President not to regard the matter as settled until the convention in all its details shall be formally agreed upon; and in the mean time I would request that this despatch be kept from the press, though there is no reason why the substance of it should not be made known to any one whom you may judge entitled to the communication.

I remain, sir, sincerely yours,

GEORGE BANCROFT.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Bancroft to Mr. Seward.

No. 33.]

AMERICAN LEGATION,
Berlin, January 23, 1868.

SIR: Your letter No. 33, of January 6, has been received.

Count Bismarck informs me that the British government has inquired of him as to the answer the Prussian government would make to the American government on the subject of naturalization. In reply he informed them of the intention of this government to come to an understanding with that of America, according to its request. The remarks of Count Bismarck implied that the British government is inclined to follow the example of the Prussian, and that the settlement of the question here will be virtually a settlement for Great Britain.

In the prosecution of this business to a settlement there is need of great patience, as the several departments interested in the measure have to be consulted and to propose their difficulties and desired modifications. Some time must therefore pass away before the negotiations can be closed.

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I remain, sir, sincerely yours,

GEORGE BANCROFT.

Mr. Seward to Mr. Bancroft.

No. 39.]

DEPARTMENT OF STATE,
Washington, February 10, 1868.

SIR: Your despatch of the 21st of January, No. 31, marked private, has been received.

The President is pleased with the progress which you report in the negotiation towards the convention for modifying the law concerning the obligation of military service in the case of Prussian subjects naturalized in the United States. Your counsel and wishes in this respect are approved and will be complied with.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

GEORGE BANCROFT, Esq.,
&c., &c., Berlin.

Mr. Seward to Mr. Bancroft.

No. 41.]

DEPARTMENT OF STATE,
Washington, February 13, 1868.

SIR: Your despatch of the 23d of January, No. 33, has been received.

I thank you for your attention manifested in informing me what has passed between the governments of Great Britain and Prussia concerning the question on the naturalization laws existing between the United States and those two governments respectively. I have informally suggested to the British minister here that a proceeding in a form of mutual or common legislation in the two countries would be more simple and probably easier than formal negotiations, inasmuch as there are so many other questions which urgently require settlement between the United States and Great Britain besides that of the conflicting naturalization laws. Perhaps it would be well for you to speak in the same sense to the British ambassador at Berlin.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

GEORGE BANCROFT, Esq.,
&c., &c., Berlin.

Mr. Seward to Mr. Bancroft.

No. 44.]

DEPARTMENT OF STATE,
Washington, February 13, 1868.

SIR: Your despatch of the 24th of January, No. 34, has been received.

The progress you have made in negotiating for a settlement of the rights of naturalized citizens of the United States in Prussia and in Germany is highly gratifying. A proper power will be prepared and sent you without delay. In accordance with your suggestion, it will embrace the subject of proper treaty arrangements with the North German states, concerning commerce, navigation, and extradition.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

GEORGE BANCROFT, Esq.,
&c., &c., Berlin.

P. S.—The power referred to above is herewith enclosed.

Mr. Bancroft to Mr. Seward.

No. 41.]

AMERICAN LEGATION,
Berlin, February 14, 1868.

SIR: Yesterday I had an official meeting with Mr. König, who has received full powers to settle with me the question relating to the naturalization of Germans in America.

I proposed to him these terms: First. Germans and Americans may reciprocally emigrate. Secondly. Naturalization after a five years' residence changes nationality and releases from military duty. Thirdly. Naturalization till after a residence of five years shall not be binding on the original country. Fourth. Naturalization shall not be an excuse for desertion from military service actually entered upon, but shall free from all liabilities for eventual service not due at the time of emigration. Fifth. A naturalized citizen returning to his native country with intent to resume his domicile therein and proving his intention by a continuous residence of —, shall not be entitled to the interposition, respectively, of the United States or of North Germany.

Mr. König received the proposals with general assent, and, in return, offered to send me a draught of a treaty. This offer I the more cheerfully accepted, as up to this time I had nothing from the department in writing. In the evening I received the draught. Mr. König appears to me to have impaired the clearness of the paper, by a desire, as far as he could, to avoid a glaring conflict with ancient law, but in substance his project seems to me to offer a basis for the settlement of the questions in discussion. The right of expatriation is conceded. The Prussian law would wish American citizenship not to be obtainable by a Prussian except after a ten years' absence; but Count Bismarck will accept our American rule of five years' continuous residence, as it has been established by law since 1795.

The second section may need explanation. Mr. König remarked that he wished to meet the case of the fugitive from justice who, if he chanced to get naturalized in America, could not be demanded under the extradition treaty, and who must remain liable for his old offences if he should return to Germany.

The third section explains itself, and has no obscurity. The fourth is right in principle. If a naturalized German turns his back on America, and makes Germany once more his permanent domicile, he should submit to the laws of the country of his choice. * * * * *

I remain, sir, sincerely yours,

GEORGE BANCROFT.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Privy Councillor König to Mr. Bancroft.

[Translation copy.]

BERLIN, *February* 13, 1868.

I have the honor, in pursuance of our understanding, to transmit, respectfully, to your excellency the enclosed project for a treaty.

I beg you to consider this project as a suggestion merely, not binding, as I have not yet submitted it to Count Bismarck, and have received, as yet, no instructions respecting it.

With sentiments of the most distinguished consideration, your excellency's obedient servant,

KÖNIG.

[Translation.]

1. Members of the North German Union who acquire the right of citizenship in the United States of America shall in their relation to the North German Union, and citizens of the United States of America who acquire membership in the territory of the North German Union shall in their relation to the United States of America, enjoy the full operation of their naturalization only after an uninterrupted residence of five years in the country in which they are naturalized; so that a German naturalized in America who, before completion of his five years' residence there, returns to the territory of the North German Union, can be required to discharge all the public duties which the laws of the same impose upon him, without any objection thereto being made by the government of the United States; while, in like manner, an American naturalized within the territory of the North German Union, who, before completion of his five years' residence there, returns to the United States, can be required to discharge all the public duties which the laws of the same impose upon him, without objection thereto being made by the said Union.

The mere declaration of the citizens and members of the one country of a wish to become, respectively, citizens and members of the other, has not the effect of naturalization.

2. Naturalization in the territory of one of the contracting parties does not prevent the person naturalized from being, upon his return to the territory of the other, subject to trial and punishment on account of any punishable acts committed before emigration.

3. The terms of the present treaty do not affect the agreements in article 3 of the convention of June 16th, 1852, between Prussia and the other states of the German Union on the one side, and the United States of America on the other, concerning the delivery up in certain cases of criminals fugitive from justice. The said treaty will hereafter be applicable to all states of the North German Union.

4. If a German naturalized in America returns to the territory of the North German Union, and settles there permanently, he shall have no claim upon the protection of the government of the United States. In like manner the American naturalized in the territory of the North German Union who returns to the United States and permanently settles there, shall have no claim upon the protection of the North German Union.

The intention to take up a permanent residence shall (soll) be regarded as existing when the person naturalized resides for more than two years within the territory of the other party.

5. The present treaty goes into effect ——— and continues in force till ———. If neither party gives notice to the other six months before of its

intent to terminate the same, it shall be deemed in force until twelve months after one of the contracting parties shall give notice to the other of such intention.

6. The present treaty shall be ratified by the King of Prussia in the name of the North German Union, with the consent of the Council of the Union, and the approval of the Imperial Diet; and by the President of the United States by and with the consent of the Senate; and the ratifications shall be exchanged at Berlin within — months of the present date.

Mr. Bancroft to Mr. Seward.

No. 43.]

AMERICAN LEGATION,
Berlin, February 21, 1868.

SIR: Yesterday morning I received your despatch No. 38, containing the supplementary letter accrediting me to the government of the North German Union. The receipt of it enabled me at once to complete the pending treaty on naturalization, and I hope to be able to send it to you, signed and sealed for ratification by the President and Senate, next week. My draught was adopted except in the second article. That article as it now stands reads as follows:

A naturalized citizen of the one party, on return to the territory of the other party, remains liable to trial and punishment for an action punishable by the laws of his original country and committed before his emigration; saving always the limitation established by the laws of his original country.

The limitation in the case of deserters was, not unreasonably, objected to.

The right of emigration is established, and the release of the emigrant from future claims to his military service dates not from the moment of his naturalization, but from the moment of his emigration. This settles the point raised by Prince Hohenlohe, in our favor and against the view adopted by the Bavarian government. All is granted that our government ever asked for.

This letter I send for the information of yourself and the President. I shall accompany the treaty with all necessary explanations.

Your despatch No. 34 has not yet been received.

I remain, sir, yours sincerely,

GEORGE BANCROFT.

Hon. WILLIAM H. SEWARD, &c., &c., &c.

Mr. Bancroft to Mr. Seward.

No. 44.]

AMERICAN LEGATION,
Berlin, February 22, 1868.

SIR: I hold it of good augury that the treaty between the United States and North Germany respecting the effect of naturalization has been signed on Washington's birthday.

Immediately upon entering upon my office I gave attention to this subject, respecting which your instructions were so full as to leave nothing to desire. I was met in the most friendly spirit. If we had followed the standard books on international law we could have come to no result, for they fail in the great point of the right of the naturalized citizen to maintain his new citizenship in his old country. The opinions of the lawyers of the United States are, as you so well know, in conflict with each other. The laws in Prussia and in the United States, interpreted according to the letter, were also in conflict. To

succeed it was necessary to consider the principles underlying the laws of the two countries, and here there was found to be a remarkable harmony. The disposition of the foreign department to comply with our wishes was made known to me by Messrs. Von Philipsborn and König, in my interview with them on the 18th day of September last.

Nothing then remained but to remove difficulties growing out of the previous administrative system of Prussia; and there could have been no progress had not the chiefs in the department of war and the interior discussed the questions which arose with a candid desire to remove every obstacle. Count Bismarck, from the first, took a large and liberal view of the case; but with all this the difficulties were numerous and grave. I made it my rule throughout to avoid controversy and not to precipitate a decision.

On the question of the right of expatriation there arose no discussion. It is recognized by the laws of both countries.

On the question of residence and as a condition of naturalization, which the mother country should respect, there existed no difference.

The time of residence was a point of more delicacy. The Prussian law required an absence of ten years; ours a residence of five. With liberality and frankness Count Bismarck declared himself willing to accept the American rule, as it had received the sanction of the administration of Washington, and had become fixed by the usage of more than threescore years and ten.

Should the United States see fit for its own purposes, as lately in the act of July 17, 1862, to concede naturalization on a shorter residence, their right to do so is not impaired; but the meaning of this treaty is, that they will not ask North Germany to recognize such a naturalization till the adopted citizen shall have completed the term of residence now required by their normal law.

A question has arisen at what time the emigrant shall be released from liability to military service, whether from the moment of his emigration or of his naturalization. The object of this government is a real, permanent, friendly adjustment of all questions that have been raised; and it has, therefore, in the second article agreed that the emigrant on his return shall not be called to account for the non-performance of any military duty to which the liability may arise subsequent to his emigration.

The third article establishes the principle that a North German, who, in conformity to the terms of the first article, has been received as an American citizen is no longer liable to extradition.

The fourth article is intended to prevent insincerity in the transfer of allegiance. A German naturalized in America and returning to Germany for two years does not necessarily renounce his American citizenship; only he may be called upon to declare his purpose explicitly.

The fifth and sixth articles require no explanation.

I trust the President and Senate will unanimously approve what I have done, and that the ratification of the treaty herewith enclosed will be immediately returned for the necessary exchange. The result is to be ascribed to the hereditary disposition of this government, unaltered from the days of the great Frederick and Franklin, to cherish the best relations with us; and to the mutual desire that the first important transaction between the United States of America and the United States of North Germany may bear indelible marks of a disposition to recognize and perpetuate the natural friendship of the two countries.

I remain, sir, yours sincerely,

GEORGE BANCROFT.

Hon. WILLIAM H. SEWARD,
Secretary of State.

Mr. Seward to Mr. Bancroft.

No. 50.]

DEPARTMENT OF STATE,
Washington, March 7, 1868.

SIR: I have your despatch of the 14th of February, No. 41, and also your private note of the 20th of February.

The President believes that the treaty, in the form it is understood to have been adopted, will prove satisfactory, but a definite expression of his views is reserved until the arrival of the treaty, which even now is due. In the mean time I have pleasure in assuring you of his commendation and felicitation.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

GEORGE BANCROFT, Esq., &c., &c., *Berlin.*

Mr. Seward to Mr. Bancroft.

No. 51.]

DEPARTMENT OF STATE,
Washington, March 10, 1868.

SIR: Your despatch of the 22d of February, No. 44, accompanied by the naturalization treaty, is this day received. I have sent you, by telegraph, a despatch, as follows:

Received, approved, submitted to Senate.

The treaty meets the entire approval of the President. Your history of the negotiation is very interesting, and will be laid before the Senate when called for. I sincerely hope the treaty may receive an early ratification.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

GEORGE BANCROFT, Esq., &c., &c., *Berlin.*

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