

EDITORIAL COMMENT

THE IMBRIE INCIDENT¹

On Friday, July 18, 1924, during a religious ceremony, Major Robert Imbrie, American vice-consul at Teheran, was attacked and done to death by a fanatical mob that misunderstood or resented his presence. The outrage was peculiarly atrocious in that the mob after severely wounding Consul Imbrie pursued him into the operating-room of the hospital where he had been taken for relief and there pounded him to death.

The local police appear to have joined in the attack, or at any event not to have made any effectual resistance to the mob, and the responsibility of the Persian Government was in consequence more seriously involved. The Government of Persia recognized this responsibility at once and took action to fulfil her obligations as a sovereign state. Teheran was placed under martial law; measures were taken to prevent the publication of newspapers inciting to hatred against foreigners; the Megliis, the Persian Legislature in open session, declared its sorrow and profound horror at the crime and urged the government to pursue the investigation relentlessly.

From the cabled report of Mr. Kornfeld, American Minister at Teheran, it was learned that Khalosi Zodeh, a leading Mullah, with two hundred persons suspected of participating in the crime, had been arrested. In the same cable Minister Kornfeld further reported that the Minister for Foreign Affairs and representatives of the Crown Prince had called at the American Legation to express their condolences, and that he had asked the Persian authorities for a precise statement of the facts concerning Major Imbrie's death. Minister Kornfeld stated that Major Imbrie was buried on July 19, with full military honors, and that the diplomatic corps had made to the Persian Government a strong protest relative to the commission of the crime.

On July 21, the Persian Chargé d'Affaires, Mr. Bagher M. Kazemi, acting under the instructions of his government, called upon Mr. Grew, Acting Secretary of State in the absence of Mr. Hughes, and read the following official communication: "The Persian Government assures the United States Government that it will do everything in its power to fulfil its duties in a diplomatic sense. The Persian Government is appalled by the disaster and promises every aid to apprehend the slayers of Major Imbrie."

The Department of State in a communication to the press made public

¹The discussion of this incident is based upon the facts as given out by the Department of State and the cabled press reports published in the *New York Times*.

the formal note of protest telegraphed to Minister Kornfeld on July 25 for presentation to the Persian Minister for Foreign Affairs. After the note was dispatched the Department learned of the attack upon the widow of Major Imbrie in the streets of Teheran and sent further instructions to Minister Kornfeld to make adequate oral representations on this account, but the nature of these supplementary instructions was not made public.

The text of the note of protest as communicated to the press was as follows:

I am instructed to inform you that the Government of the United States views with the gravest concern the killing in Teheran of its consular representative, Mr. Robert W. Imbrie.

Immediately after learning of the circumstances under which Mr. Imbrie had been killed and his attendant, Mr. Melvin Seymour, seriously injured, your Excellency's Government was advised, through its representative in Washington and through the American Legation in Teheran, that my Government would expect adequate reparation to be made and prompt punishment meted out to those responsible for the killing and to those who by their failure to act contributed to make possible this incident unprecedented in recent times.

My Government has now instructed me to supplement the representations already made.

It was felt proper that these representations should be made only in the light of a full knowledge of the events which had transpired and when it might be possible to fix the responsibility and to gauge the reparation which would be adequate to the situation.

The facts of the case appear sufficiently established in so far as all essential elements are concerned. The American consular representative in Teheran, accompanied by an American citizen, was brutally assaulted in the streets of Teheran, in broad daylight. In endeavoring to escape from their assailants, they entered a carriage and drove a considerable distance, when they were again assailed and the tragedy occurred.

The American consular representative would appear to have had no reason to anticipate danger from visiting the particular place where he was the victim of the unjustified assault.

It is most regrettable that it is necessary to add to this statement that the facts before my Government do not indicate that the police or military authorities made any adequate effort to protect the American consular representative, and there appears, in fact, to be evidence which it is believed the Persian Government will itself desire to investigate most vigorously, that certain military elements participated in the assault.

My Government desires nothing which the facts of the case do not fully justify. It approaches the situation with no wish to offend a friendly Government or to require punitive damages. It is, however, insistent that full reparation should be made, that punishment should be meted out to the guilty, that assurances be given and enforced of adequate protection for the lives of American citizens and that the safety of its officials in Persia should be guaranteed.

My Government does not wish at this juncture to indicate in detail the particular steps which would be considered adequately to meet

the situation resulting from the killing of Mr. Imbrie. The Persian Government has already stated on its own initiative that redress for the wife of the victim would be made. This redress should also extend to the covering of the expenses which might be incurred in connection with the dispatch to a Persian port of an American man-of-war to receive the body of Vice Consul Imbrie, which should be accompanied while on Persian soil by a suitable Persian military guard of honor and rendered appropriate honors at the time of leaving Persian territory. It is further considered that an appropriate guard should, if requested by the Legation, be furnished by the Persian Government both to the American Legation and to the American Consulate, such guard to be maintained pending the notification to the Persian Government that it is no longer considered necessary.

My Government has further instructed me to reserve, for a later communication, further suggestions as to the action which may be considered necessary to meet the exigencies of the situation. I am instructed by my Government to add that the character of any additional statement which might be made to the Persian Government would be materially influenced by the action which that Government may immediately take on its own initiative to make such further redress as may be appropriate, particularly in punishing those responsible for the crime and in giving full publicity to the action taken.

The maintenance of relations between countries is primarily dependent upon the according of adequate protection to their respective nationals and to their official representatives. Diplomatic usage, treaty provisions, in fact the very provisions of the treaty between the United States and Persia of 1856, emphasize this view. This Government feels that the continuance of its diplomatic and consular representation in Persia will be dependent upon the action which the Persian Government may take in this case to vindicate this fundamental principle of international law and this foundation upon which international intercourse is predicated. It confidently awaits such action to supplement the steps already taken by the Persian Government. It cannot overemphasize the seriousness of the view which is taken of the present situation.

In reply the Persian Government on July 29, addressed the following note to Minister Kornfeld and made public through the Persian press an account of the promised reparation:

Pursuant to my letter No. 9458 I beg to advise your Excellency of the views of the Imperial Government in response to your note of July 25, 1924.

As your Excellency has observed, the Government and people of Persia are extremely chagrined and depressed by the lamentable incident of Friday, July 18, and have expressed their feelings to that effect in numerous instances and in various ways.

You state that Excellency's Government does not desire to approach the situation in such manner as to offend my Government. The Persian Government regards this as an evidence of the unequivocal good will and friendship of the American Government, and requests your Excellency to be good enough to communicate its thanks and appreciation to the authorities of your great Government.

As I stated in the course of my letter No. 9155, the Imperial Government is making extreme efforts in pursuing and punishing the persons who caused and perpetrated the killing of Mr. Imbrie, and it will not hesitate to take any kind of steps in this connection. Up to the present time the action of the Government in pursuing this object has proceeded with rapidity. Many of the persons who were either suspected or were accused of committing the crime have, regardless of the class to which they belong, been arrested. Other persons who participated will shortly, as a result of the vigorous efforts of the Government, be apprehended and the culprits will receive drastic punishment after their trial.

I also feel it again necessary to give your Excellency the assurance that the Imperial Government is extremely desirous of repairing the above-mentioned regrettable incident.

Considering the official status of Mr. Imbrie, the deceased, the Persian Government agrees with the suggestion of the United States Government that the body of Mr. Imbrie be accorded honors during its transportation. The Persian Government is concerned over this matter to such an extent that it would ship the remains of the deceased Consul to America aboard a Persian man-of-war if Persia possessed one. But inasmuch as it is unable to do so it agrees to pay the expenses which may be incurred by the dispatch of an American man-of-war to receive the remains.

Your Excellency has already been advised verbally and in writing as to the Persian Government's desire to relieve and console the widow of the deceased Consul.

As to the security of American citizens, and particularly American official representatives, the Persian Government has always considered and will continue to consider this as its positive duty and gives assurance that it will by no means hesitate to fulfill this duty. It goes without saying that if the Honorable Legation deems it necessary the guards of the American Legation and Consulates will be increased.

I also beg to advise your Excellency of the fact that the Imperial Government has always made, and will make it in the future, an essential point to respect the principles of international law and the treaty on which the relations of the two Governments rest. I am hopeful that in view of the good will of the two parties and the Imperial Government's great desire to repair the incident and fulfill the points that are suggested there will remain no ground whatever for any anxiety on the part of the United States Government.

In accordance with the understanding reached through this exchange of notes, arrangements were made for the U. S. S. *Trenton* to proceed from Naples to Bushire, on the Persian Gulf, to receive there on August 25, from the Persian officials and guard of honor, the body of Major Imbrie, Vice-Consul of the United States at Teheran. In a telegram dated August 23rd, the American Minister at Teheran reported that the Persian Government had advised the Legation of its acquiescence in the payment of an indemnity of \$60,000 to Mrs. Imbrie. After the arrival of Major Imbrie's body, memorial services were held in Washington, on September 29th. The President, the Secretary of State, and other high officials of the government

were present. The Persian *Chargé d'Affaires* officially represented his government at the ceremony. On October 1st the Persian Government delivered to the American *Chargé d'Affaires* in Teheran a check for \$60,000 which will be turned over to Mrs. Robert W. Imbrie. In a despatch received the following day the Department of State was informed of the execution by a firing squad of Private Morteza of the Persian Army for the slaying of Major Imbrie. Charges which brought about the sentence of Morteza specified that he had "incited the mob to kill Vice Consul Imbrie, having disregarded the orders of Second Lieutenant Mustapha Khan and non-commissioned officer Mohamed Ali Khan who three times ordered him to desist and pulled him out of the mob and having nevertheless persisted in attacking." The execution was performed in the presence of the entire garrison of the Kasr Kadjar barracks.

From the point of view of international law the adequate redress so promptly furnished by the diligence of the Persian Government may well serve as an example of a substantial compliance with each requisite step of the procedure recognized by the practice of states as appropriate in such cases. The first step was the immediate action of the government and local authorities to prevent further outrages. The police regulations adopted in this instance consisted of the declaration of martial law and the bridling of the press. The next step was to conduct a thorough and impartial investigation of the facts. In some instances such an investigation is left to a commission composed entirely or in part of officials of third states.

While these measures are in course, or even before they have commenced, the local government should at the earliest opportunity formally express its regrets through the diplomatic channel and offer to make such redress as the investigation when completed should indicate as due. In the present instance this apology was appropriately given the widest significance and emphasis through publicity in the local press and by means of other expressions of popular or official sorrow and sympathy for the bereaved.

A formal and prompt demand for redress follows from the injured government. The nature of the redress demanded must of course be made conditional upon the facts as disclosed by the investigation. The protest or demand for redress should avoid any intimation of duress; no state is justified in assuming that a sister state will not of its own volition make adequate redress, and any intimation at this stage that constraint may be employed is a gratuitous insult which would go far toward justifying a refusal to make redress, which then takes on the aspect of a national humiliation. But when, as in the present instance, the government is weak and unable always sufficiently to police its territory in order to fulfill its obligations of a sovereign state, a strong statement of the gravity of the situation and the probable consequences of the outrage may be of assistance and enable the responsible government to take the steps requisite to afford adequate redress.

Viewed in this light, the strong terms of the American note were in no sense unfriendly to Persia. International law, based upon practice which is necessarily harmonized with the needs of international intercourse, can hardly refuse to justify language which helps to prevent a rupture of diplomatic relations by indicating the danger of such an event.

The formal acceptance of the reasonable terms of the demands for redress and compliance therewith completed the procedure and closed the incident.

Since the international law rules of procedure for the settlement of differences between states are based on the actual practice of states, these rules may be expected to prove effective except when one or other of the parties cherishes unavowed designs of aggression. The rupture or threat of rupture of diplomatic relations at the very moment when the appeasing and peaceful mission of diplomacy is most needed should ordinarily be condemned. But should the personal immunity of the representative be violated or his presence used to insult his nation, he can no longer act in his capacity of an agent of contact and serve a peaceful purpose. The cessation of relations is then the only course.

The protest of the diplomatic corps at Teheran is worthy of remark and is a happy instance of the growing tendency toward international coöperation to secure the observance of international law. Such action supports the protests of the injured state and at the same time emphasizes the gravity of the situation. The local government furthermore finds it easier to justify before its own people whatever expiatory measures it may adopt. After the diplomatic corps has lodged a vigorous protest the representatives of the Powers will be in a much better position to intervene when necessary to prevent a demand for redress from being turned into a pretext for aggression.

Article II of the treaty of friendship and commerce of December 13, 1856, referred to in the exchange of notes provides:

The Ambassadors or Diplomatic Agents whom it may please either of the two high contracting parties to send and maintain near the other shall be received and treated, they and all those composing their missions, as the Ambassadors and Diplomatic Agents of the most favored nations are received and treated in the two respective countries; and they shall enjoy there, in all respects, the same prerogatives and immunities.

and the first paragraph of Article III provides:

The citizens and subjects of the two high contracting parties—travellers, merchants, manufacturers, and others—who may reside in the territory of either country, shall be respected and efficiently protected by the authorities of the country and their agents, and treated in all respects as the subjects and citizens of the most favored nation are treated.

But treaty stipulations of this nature are generally no more than the record of existing international law obligations. Their function is to serve

as evidence and to facilitate the proof of the right or obligation rather than to create it. To quote the phrase of the note of protest, the provisions of the treaty of 1856 "emphasize" the existence of the international law obligation to afford adequate protection to the respective nationals and representatives of the high contracting parties.

The preamble of this same treaty describes the Shah as: "His Majesty as exalted as the planet Saturn; the Sovereign to whom the sun serves as a standard; whose splendor and magnificence are equal to that of the skies; the Sublime Sovereign, the Monarch whose armies are as numerous as the stars; whose greatness calls to mind that of Jeinshid; whose magnificence equals that of Darius; the heir of the crown and throne of the Kayanians; the Sublime Emperor of all Persia." It is interesting to compare this hyperbole of 1856 with the humble confession of the Persian note that "the Persian Government would ship the remains of the deceased consul to America aboard a Persian man-of-war if Persia possessed one." But by her diligent efforts to make amends and scrupulously to fulfil her international law obligations Persia in 1924, honors herself truly in deed.

ELLERY C. STOWELL.

REORGANIZATION AND IMPROVEMENT OF THE FOREIGN SERVICE

By an act of Congress passed at the last session the United States has followed the example of a number of European states since the war and provided for the reorganization of its foreign service. The act was passed after long discussion and it embodies recommendations made by various recent Secretaries of State, including Mr. Bryan, Mr. Lansing, Mr. Colby, and Mr. Hughes; by Mr Wilbur J. Carr, formerly Director of the Consular Service and now an Assistant Secretary of State; by the Hon. John W. Davis, former ambassador to Great Britain, and other persons interested in the reform of the foreign service. The author of the act was the Hon. John J. Rogers of Massachusetts, to whose deep interest and untiring zeal the passage of the law was mainly due.

For a long time complaints had been multiplying that our foreign service was no longer equal to the demands made upon it, nor its organization in harmony with the admitted standards of efficiency. Some tentative efforts had already been made at different times in the direction of improvement, but they by no means met the situation. By an executive order issued by the President in 1905 it was provided that vacancies in the office of secretary of embassy or legation should thereafter be filled by transfer or promotion from some branch of the foreign service or by appointment after examination of qualified persons from outside the service. This order marked the beginning of a much needed reform, but being only an executive order it was of course binding only on the President who issued