

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING,

In compliance with a resolution of the Senate, further correspondence between the Department of State and the American Minister at Constantinople, relative to the Rev. Jonas King.

DECEMBER 19, 1854.—Read, referred to the Committee on Foreign Relations, and ordered to be printed in connexion with S. Ex. Doc. No. 67, of last session.

To the Senate of the United States :

Herewith I transmit a report of the Secretary of State, with accompanying papers, in answer to the resolution of the Senate of the 3d of August last.

FRANKLIN PIERCE.

WASHINGTON, *December 12, 1854.*

DEPARTMENT OF STATE,

Washington, December 12, 1854.

The Secretary of State, to whom was referred the resolution of the Senate of the 3d of August last, requesting the President "to furnish for the use of the Senate (if not incompatible with public interests) copies of that part of the correspondence, which has not been already furnished, between the Department of State and Mr. Marsh, our minister to Constantinople, relative to the affairs of the Reverend Jonas King," has the honor to submit, herewith, the papers specified in the accompanying list. These documents embrace all the correspondence between this department and the minister of the United States at Constantinople, relating to the subject, which is believed to be within the scope of the resolution.

Respectfully submitted.

W. L. MARCY.

To the PRESIDENT OF THE UNITED STATES.

List of paper accompanying the report of the Secretary of State to the President of December 12, 1854.

Mr. Webster to Mr. Marsh, (extracts,) April 29, 1852.

Mr. Everett to Mr. Marsh, (No. 24,) February 5, 1853.

Mr. Webster to Mr. Marsh.

[Extracts.]

DEPARTMENT OF STATE,
Washington, April 29, 1852.

SIR: Information having been received at this department concerning events which have occurred at Athens, affecting the property, rights, and personal safety of Dr. Jonas King, it is deemed highly important, in the absence of a diplomatic agent of the United States in that city, at the Greek court, that you should proceed thither and ascertain the nature of the difficulties, and inquire into all the facts connected with them, and report the same to this department. So far as the department is informed, the facts are briefly these: * *

* * * * *
Dr. King was first sent by the American Board of Foreign Missions as a missionary to Palestine, where he remained about four years, and then returned to this country in 1827.

He subsequently went to Greece, not in connexion with the board, but as one of the Philhellene agents to assist in relieving the Greeks from famine and distress, consequent upon their war of independence. In the year 1829 he was married in Tenos to a respectable Greek lady from Smyrna.

His connexion with the American Board was renewed in the following year, and has continued to the present time. Dr. King was among the first to commence a residence in Athens after its abandonment by the Turks, and that has continued to be his place of abode.

While the city of Athens was in a state of ruin by the wars of the Greek revolution, Dr. King, with the consent, and by invitation of the Greek authorities, and in common with many citizens of other countries, became the purchaser of a piece of ground, at that time little prized either by Turks or Greeks. In process of time, and especially since the capital of Greece has been permanently fixed there, the growth of the city towards the ground in question has occasioned it to become a most desirable part of the city of Athens.

Sixteen years ago Dr. King commenced collecting materials for the purpose of building upon his ground, but was prevented from doing so by the plans of the city, sanctioned by the government of Greece. The ground has remained nearly in the same state as it was; neither can it be sold, divided, or alienated for the benefit of the owner; and no person, under existing circumstances, can or is allowed to purchase, so long as the incumbrance of "*non usus*" is laid upon it by the government of Greece. Neither has the government, during that length of time, sought or made any use of it, nor has the rightful owner been suffered to do with it as to him seemed right and proper.

The lot in question contains about (72,000) seventy-two thousand square feet, situated on a beautiful elevation, commanding a view of Mar's hill and the Acropolis, and some of the principal antiquities of Athens, the Piræus and Gulf of Salamis, on the south and southwest; Mount Parnassus and the Plain of Athens, on the west and north; and Lycamettus and Hymettus, on the east.

The value of the land is believed to be about (\$100,000) one hundred thousand dollars. Dr. King, both personally and through the aid of the United States consul, has endeavored to come to some understanding with the Greek government on the subject, but without success.

The 12th article of the constitution of Greece declares that "no man shall be deprived of his property except for public necessity, suitably shown, when, and as the law directs. But under all circumstances the indemnification must be paid beforehand." Notwithstanding this positive declaration of the Greek constitution, Dr. King has received no indemnification, as the department is informed, from the Greek government.

In a dispatch recently received from him, it appears that after the departure of Mr. Diomatari, the United States consul, he was left in charge of the consulate, about a year since, and has been recognized by the Greek governments as the acting consul. It further appears that since he entered upon the discharge of his consular duties he has been tried on a charge of heterodox preaching, sentenced to fifteen days imprisonment, and then to be banished from Greece.

The department is not informed precisely to what extent toleration is allowed in Greece, or how far the preaching of a religion other than that of the Greek church is permitted; but it has good reason to believe that the Roman Catholics, Episcopalians, Lutherans, Jews, and Mussulmen, exercise the liberty, without restraint in Greece, of preaching and expounding their peculiar views.

If this be correct the prosecution of Dr. King looks much like persecution. This government, while it will not support its citizens in the violation of the local laws of the countries where they temporarily reside, will protect them, to the utmost of its power, in all just rights and privileges to which they may be entitled; nor will it permit, on the part of the Greek government, any violation of its treaty obligations.

The department presumes there can be no doubt as to the citizenship of Dr. King, and his right to be protected by the government of the United States. Mere residence abroad, without the *animus manendi*, has never been claimed to sever the ties which bind the citizen to his country.

The views of Chief Justice Williams, of Connecticut, in one of the documents herewith submitted, upon the subject of the citizenship of missionaries, coincide with those of the department.

He remarks that "the merchant who seeks for gain, the soldier who fights the battles of other countries, and the sailor who spends his days in roving from shore to shore, all feel that they have a country which will acknowledge them as citizens. And it cannot be claimed that the missionary stands upon different grounds. There is nothing in his character, his pursuits, or his vocation, which renders him less worthy of the protection of his government. The merchant seeks for gain for himself; the soldier seeks for what he calls glory; and the sailor to indulge his roving disposition. The missionary, with untiring benevolence, looks not for his own good, but the good of others. He is the messenger of peace and the herald of salvation. He seeks not theirs but them. He looks not even for support to his new country, but draws his resources from his native land. He is, indeed, ambassador,

not sent out by the government as their representative, but as the representative of a great number of his fellow-citizens, to communicate knowledge to the ignorant and happiness to the miserable. To those from whom he derives his support, in his own land, is he accountable, and at their pleasure may be recalled. It is true he may be at a great distance from his native land, but not further than those who are in commercial pursuits. We see nothing therefore in his profession, nothing in his distance from home, nothing in his relationship to his country, which would place him upon different ground, as to his citizenship, from his commercial brethren.

"While, therefore, our missionaries, amidst their privations, are cheered with the knowledge, that they have the sympathy and the prayers of their Christian friends at home, and are recognized as brethren in Christ Jesus, they may rest assured that they remain fellow-citizens with us, and have a right to the protection of a government, whose distinguished characteristic it is to secure to all her citizens equal rights and equal privileges."

And in connexion with this subject, the following extract from a dispatch, addressed under date of February 2, 1842, to one of your predecessors, shows the interest which has heretofore been taken in the protection of the American missionaries by the United States government:

"It has been represented to this department that the American missionaries, and other citizens of the United States not engaged in commercial pursuits, residing and travelling in the Ottoman dominions, do not receive from your legation that aid and protection to which, as citizens of the United States, they feel themselves entitled; and I have been directed by the President, who is profoundly interested in the matter, to call your immediate attention to the subject, and instruct you to omit no occasion where your influence in behalf of such persons may become necessary or useful, to extend to them all proper succor and attentions of which they may stand in need, in the same manner that you would to other citizens of the United States, who, as merchants, visit or dwell in Turkey."

Such, in fine, are the main facts of the case, as now understood, which is presented for your investigation. You will please direct your particular attention to the papers accompanying this dispatch, being the voluminous correspondence, relating to the subject, that has been carried on through a long series of years. You will ascertain what are the local laws in Greece, relating to the taking of private property for public uses, and the usual mode of indemnification; what losses, if any, Dr. King has been subjected to, and what just and equitable claim he may have upon the Greek government, not only for a release of the injunction of *non usus*, or for the payment of the land taken by it, but also for indemnity for the losses to which he has thereby been subjected. You will also be careful to ascertain whether the late trial of Dr. King was for any offence, as alleged, against the laws of Greece; and whether it was conducted in all respects in a fair and legal mode; and also to what extent religious toleration is allowed and public preaching permitted, by law or usage, among those who do not belong to the established church; and also all other circumstances that may throw light

on the subject, and enable the department to give you further instructions.

Commodore Stringham has been ordered to convey you to Athens in one of the ships belonging to the Mediterranean squadron. He will probably reach Constantinople about the last of June. You will please leave the duties of the legation at Constantinople in charge of the first dragoman, whom you will authorize to exercise your functions during your absence as heretofore.

You will keep an account of your travelling expenses, whilst engaged in carrying out these instructions, and send your account, in the usual form, to the department for settlement.

After transmitting your report, you will remain at Athens, or in its neighborhood, till you hear from the department.

In the discharge of the duties with which you are now entrusted, the department places entire confidence in your firmness and discretion. While you remain at Athens, the Navy Department will be requested to keep one or more of the vessels of the Mediterranean squadron in the neighborhood of that place, and subject to your order.

I am, sir, &c.,

DANIEL WEBSTER.

HON. GEORGE P. MARSH,

Minister resident at Constantinople.

Mr. Everett to Mr. Marsh.

[No. 24.]

DEPARTMENT OF STATE,

Washington, February 5, 1853.

SIR: Your dispatches up to 1st of November have been duly received, together with your reports in the case of Dr. King, dated Athens, 21st August, and Gleichenburg, 9th October, 1852. They early engaged my attention, but the pressure of business upon the department has been so great during the winter, in consequence of circumstances which will occur to you, that it has not been in my power at an earlier moment to write to you definitely on the subject.

Your dispatches and reports have been submitted to the President, and he directs me to convey to you his approbation for the promptness with which you repaired to Athens in pursuance of your instructions, and the assiduity and perseverance with which you applied yourself to the investigation of the case.

The subject, under your instructions, divides itself into two branches of inquiry, and is of course so treated in your report. The first relates to the losses suffered by Dr. King in consequence of the appropriation of his land to public purposes, and the restrictions laid upon his own use of it; the second relates to the trial and condemnation of Dr. King for alleged offences against the established religion of the State; and I shall, for a reason which will presently appear, first communicate the views of the President on this second branch of the subject; with reference to which he concurs with you in the opinion expressed in the conclusion of your report. Although the forms of the law may in

general have been observed, it is quite plain that Dr. King was not tried for any offence clearly defined by the laws of Greece; that his trial was in many respects unfairly and illegally conducted; that the constitution and laws of Greece guaranty a full toleration of all religious opinions, and that there is no proof that Dr. King has exceeded the just limits of the liberty of speech implied in such toleration. The nature of the punishment inflicted upon him, and the neglect to carry into execution the only portion of it which indicated a belief on the part of the court that he was guilty of the high crime laid to his charge, warrant the conclusion that no such belief was really entertained. In a word, the whole character of the proceedings, as minutely detailed by you, is such as to place the character of the Greek tribunals and the administration of justice in an unfavorable light. Either the sound and safe maxims of criminal jurisprudence which prevail in this country are unknown to the jurisprudence of Greece, or her tribunals were presided over by persons who entertained very false notions of the judicial character, or there are prejudices against Dr. King which, in his case at least, corrupted the fountains of justice. It is not in the power of this government, at so great a distance, to form a confident opinion to which of the above mentioned causes the result of Dr. King's trial is to be ascribed. It may have been in part produced by all three; and there is reason to suppose that such is the case. This state of things unavoidably destroys all confidence in the Greek courts as far as Dr. King is concerned, and compels the President to regard their decision in this case as unjust and oppressive.

There is, however, much difficulty in coming to an opinion as to the course which ought to be pursued by the government of the United States to obtain redress for the wrong which has been done to Dr. King in his trial and conviction. It is probable that, with some irregularities, the trial was in the main conducted in the forms of the law, and this is not inconsistent with gross departure from its spirit. Where, however, these forms are observed, it is difficult to find a practical remedy for judicial abuses, even in the operation of constitutional modes of redress, or animadversion by other branches of the government. This difficulty would be greatly increased in the case of a foreigner seeking the protection of his own government; and when the wrong done, though great in principle and in ulterior consequences, does not consist in heavy personal sufferings at the time.

The difficulty in the present case is increased by the subject-matter of the trial—that of an alleged offence against the established religion of the State. There is no subject in reference to which the minds of men, in other respects intelligent, are so apt to be biased by prejudice; and persons holding radically different opinions on subjects of this nature, when heated by controversy, become incapable of weighing evidence, or listening to reason, at least as understood by the other party. The President thinks it quite likely that, in the present low state of intelligence in Greece, as in many other countries, it would be really impossible for a foreigner, teaching religious opinions wholly at variance with the established religion, and charged as Dr. King was with reviling it, to obtain a fair trial.

There is another circumstance which increases the difficulty of act-

ing upon this question. If the President should undertake to arraign before the Greek government the conduct of the tribunals in this trial, he would be obliged to enter into the discussion of some of the greatest niceties of dogmatic theology. It would be highly inexpedient for this government to engage in such a discussion, and impossible to bring it to any satisfactory result. As a precedent, such a discussion would be very dangerous. There are at present a great number of Americans employed as missionaries in foreign countries, inhabited by nations professing the faith of other christian communions, of Mahometanism, and of the various forms of paganism. These missionaries are entitled to all the protection which the law of nations allows this government to extend to citizens who reside in foreign countries in the pursuit of their lawful avocations, but it would be a source of endless embarrassment to attempt to reverse the decisions of regular tribunals as to the questions connected with the peculiarities of doctrinal belief.

For these and other considerations which will probably occur to you, although the President, as I have stated, has formed an unfavorable judgment of the manner in which Dr. King's trial was conducted, he does not think it would be expedient to require any pecuniary indemnification on this account to be made to Dr. King. You will, however, on repairing to Athens, in pursuance of the instructions given at the close of this letter, intimate to the government of Greece the decided opinion of the President that Dr. King did not have a fair trial, and that consequently the sentence of banishment ought immediately to be revoked. As I have already observed, the omission to carry it into effect is, under the circumstances of the case, a sufficient intimation that he had done nothing to deserve it. So great and general is the prejudice against him, that it would unquestionably have been carried into effect if it could have been done with any show of reason.

The other part of the case is much more clear of difficulty, and the President has no hesitation as to the course which ought to be pursued. It is evident that Dr. King has been and is deprived of the free use of his land for public purposes by the authority of the government; and that no compensation has been made to him for the losses which he has thereby sustained. The President regards as a mere subterfuge the attempt of the Greek government to throw the responsibility of what has been done, and the duty of making compensation, upon the municipality of Athens. It has frequently been declared by the Greek government and its agents that the land was taken for a national purpose, (the erection of a national church,) and though at other times the objects for which it was said to be taken were of a municipal nature, these objects have never been carried into effect, and if they had been, it is sufficiently evident, from the facts detailed in your report, that the responsibility of making a fair indemnity to Dr. King for his loss, devolves, in the first instance, at least, if not ultimately, upon the government of Greece. It would be a waste of time to recapitulate the facts and reasonings so ably collected and stated in your report which lead to this conclusion.

There is a single point only in which, at first view, Dr. King's claim upon his own government to interfere in his behalf may seem premature, and that is his omission to seek redress by bringing an action

against the Greek government, as authorized by the code of civil procedure. The rule of public law is settled, that a private citizen in a foreign country is not entitled to the forcible interference of his government to procure him redress of wrongs till justice has been denied him by the local tribunals. This consideration would perhaps prevent the President, at this time, from interfering, had not the conduct of the courts of Greece, in the trial of Dr. King, sufficiently shown that he could not expect justice at their hands. The rule of public law to which I have referred takes for granted that the tribunals are entitled to confidence, and the President can place no confidence in those of Greece in any case where Dr. King is concerned. Besides, the government of Greece has never placed its refusal to indemnify Dr. King on the ground that his claim had not been duly adjudicated by the tribunals, but has positively disclaimed all responsibility, and attempted to turn him over to the municipality of the city of Athens, by which, in turn, he is thrown back upon the general government. Such being the state of things, the President feels it his duty to interfere to procure redress to Dr. King.

You will therefore, if still in Austria, immediately on the receipt of this letter, repair to Spezzia, which is the rendezvous of the United States squadron in the Mediterranean. Commodore Stringham will be instructed to convey you to Athens, where you will forthwith put yourself in communication with the proper department of the Greek government. You will state, in general terms, the opinion entertained by the President of Dr. King's trial and condemnation, as above intimated, and his expectation that a formal remission of the sentence of banishment should be granted by the proper department; and you will state in a general way the reasons why the President forbears in any other respect to make a national question of the treatment of Dr. King on this occasion. You will then represent the affair of Dr. King's land in the light in which it is placed in your report.

State strongly and briefly the results of your inquiry, taking care, as far as possible, not to be drawn into a lengthened discussion for the purposes of delay. Avoid the tone or language of menace, but let the government of Greece perceive that the President is quite in earnest. In the meantime, you will be pleased, in any way you may deem expedient on the spot, by taking the opinion of intelligent and impartial foreigners, by recent sales of land in the vicinity, by a private arbitration of disinterested persons, or by any other sources of information, to ascertain what amount of loss Dr. King has really suffered; by which is meant not speculative and consequential losses, but such as would probably be adjudged by candid and practical men.

Having in this way ascertained, as far as practicable, what sum of money would be a reasonable compensation to Dr. King, propose at once to the Greek government to allow it, and urge upon it the expediency of at once putting an end to this long delayed and vexatious affair. If the Greek government is discreet, they will immediately close with this offer, and you will use all your address to induce them to do so. If they decline, you will then make them this proposition, viz: to refer the whole question to the arbitration of a friendly power.

The President has no strong preference as to what power is selected. He would be well content to select the King of the Belgians for the

arbitrer. If it would be more convenient to Greece to refer it to the Queen of England, at whose court there is a Greek minister, the President would readily acquiesce in this choice.

If the Greek government accepts this offer, and will formally pledge itself to abide by the result, you will draw up a suitable form of submission, to be subscribed by yourself and the Greek minister of foreign affairs, on behalf of his government. It is not deemed necessary to make the agreement the subject of a convention, to be approved by the Senate, and it is desirable to avoid the delay incident to that course. Having subscribed the submission in duplicate, you will immediately transmit it to this department, in order to ulterior proceedings.

Should this proposal also be refused, in other words, should the government of Greece persist in denying justice in any form to Dr. King, you will immediately report the facts to this department and return to your post. It will be for the government of the United States to adopt such a course as may be deemed expedient under the circumstances of the case. Considering the great disparity of the parties, you will, in all your conferences with the Greek minister, avoid the language of menace, and be especially careful to leave your government entirely uncommitted as to ulterior measures.

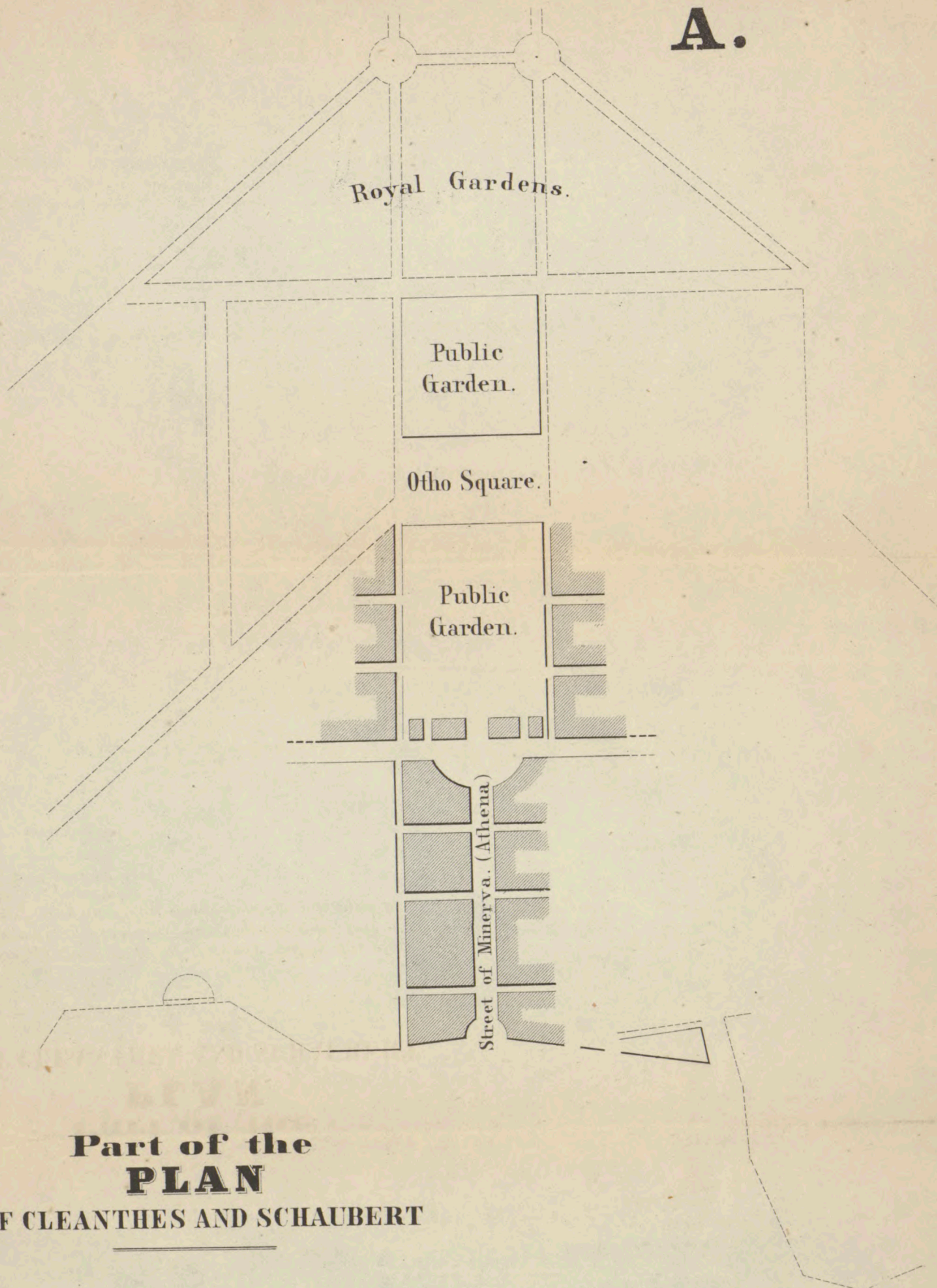
Before closing this dispatch, I think it expedient, for greater caution, to call your attention to that part of your instructions of the 29th of April, 1852, which relates to the citizenship of Dr. King. Those instructions were given in the understanding that he has never relinquished nor intended to relinquish his character as an American citizen; that though married, and for many years a resident of Greece, he has never abandoned the intention of coming home; that he has never renounced, nor intended to renounce, his allegiance to the United States, nor taken any steps towards becoming a citizen of Greece. That such is the case is inferred from the correspondence of Dr. King, and of the missionary society by whom he has been employed, with this department; and it is on this assumption that the President has felt it his duty to interfere in his behalf.

At the last advices the United States flag-ship was at Genoa, but expected soon to return to Spezzia. A portion of the vessels composing the squadron have been directed to convey the newly-appointed consul-general to Alexandria. It is accordingly somewhat uncertain when and where you may be able to meet with Commodore Stringham, and much must be left to your discretion and his in this respect. You will spare no exertions to get to Athens in the frigate as soon as possible. Be pleased immediately to acknowledge the receipt of these instructions, and keep the department regularly advised of your proceedings.

I am, sir, respectfully, your obedient servant,

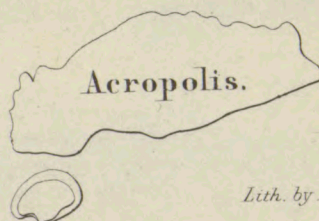
EDWARD EVERETT.

A.



**Part of the
PLAN
OF CLEANTHES AND SCHAUBERT**

(The precise situation of Dr King's land by this plan cannot be ascertained, but it would have fallen partly into the Public Garden, and partly into the blocks adjacent.)



Lith. by A. Hoen & Co. Balt^o.

Athènes.

1857.

F. Altenhoven.

Plan of Altenhoven

B.

CERAMIQUE EXTERIEUR

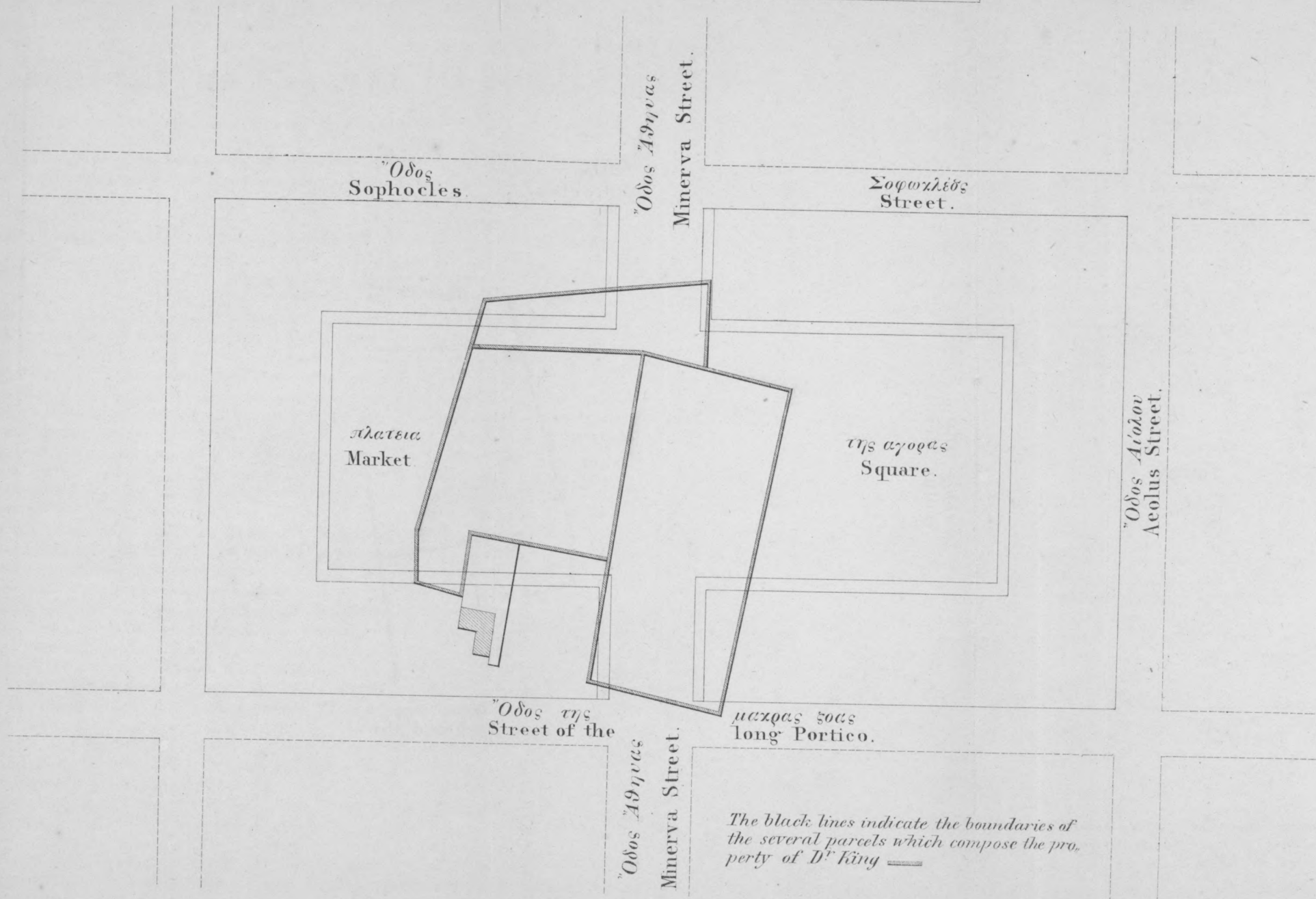
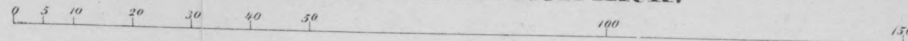


Le Parthenon est 173 Mètres au dessus du Niveau de la Mer
Le Lycabettus 278

Copy of a part of Kleuzé's Plan.

C.

Scale of French inch.



The black lines indicate the boundaries of the several parcels which compose the property of D^r King