

CORRESPONDENCE

OF THE

United States —

DEPARTMENT OF STATE (1870.)

IN RELATION TO

THE SEIZURE OF AMERICAN VESSELS AND INJURIES
TO AMERICAN CITIZENS

DURING THE

HOSTILITIES IN CUBA.

TRANSMITTED TO THE SENATE IN OBEDIENCE TO A RESOLUTION.



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WASHINGTON.

GOVERNMENT PRINTING OFFICE.
1870.

LETTER

DEPARTMENT OF STATE,
Washington, July 9, 1870.

The Secretary of State, to whom was referred the resolution of the Senate of the 26th of May last, requesting the President "to furnish to the Senate copies of papers, correspondence, testimony, and other information in the case of the American brig *Mary Lowell*, captured by the Spanish gunboat *Andaluzia*, in the year 1869, on the Bahama banks;" and also the resolution of the Senate of the 14th of June last, requesting the President, "unless in his judgment it is incompatible with the public interests, to transmit to the Senate all information in possession of the government showing that during the hostilities in Cuba any American citizens have been executed without proper trial, or any American vessels have been seized upon the high seas, or the property of any American citizens has been confiscated or embargoed, with full particulars in each case, and to state also what steps, if any, have been taken in reference thereto," has the honor to lay before the President the information called for by the said resolutions. These resolutions are answered together, because the call of the 14th of June embraces the information asked for by the resolution of the 26th of May.

The information is arranged under the following divisions:

"I. A list of American vessels seized by the Spanish authorities during the hostilities in Cuba, together with the correspondence showing what steps, if any, have been taken in reference thereto." This division contains the information in regard to the *Mary Lowell*, called for by the resolution of the 26th of May.

"II. A list of persons, said to be American citizens, and to have been executed without proper trial during the hostilities in Cuba, together with correspondence showing some of the steps taken in reference thereto." In the cases of Charles Speakman and Albert Wyeth the correspondence is given at length; in the other cases only a summary is given.

"III. A list of persons, said to be citizens of the United States, whose properties are said to have been confiscated or embargoed during the hostilities in Cuba." This list contains a full summary of the correspondence in each case. All such as were not otherwise disposed of were brought to the notice of the Spanish government in a communication given in division No. VII.

"IV. A list of persons, said to be citizens of the United States, who are said to have been unlawfully imprisoned and held 'incomunicado' during the hostilities in Cuba." This list also contains a full summary of the correspondence in each case, and such as were not otherwise disposed of were, in like manner, brought to the notice of the Spanish government.

"V. A list of persons, said to be citizens of the United States, who are said to have been unlawfully imprisoned during the hostilities in Cuba, but not held 'incomunicado.'" This list likewise contains a full summary of the correspondence in each case, and such as were not

otherwise disposed of were in like manner brought to the notice of the Spanish government.

“VI. A list of the decrees of the Spanish authorities in Cuba (so far as known to this department) under which they claim to have acted in the several seizures, arrests, imprisonments, executions, embargoes, and confiscations referred to.” These several documents were communicated to the Department of State by consuls in Cuba, and are necessary to explain the correspondence which follows in division VII.

“VII. Additional correspondence, showing steps taken in reference to such seizures of American vessels, to such embargoes or confiscations of property, and to such imprisonment of persons claiming to be citizens of the United States.” This correspondence is still pending between the government of the United States and the government of Spain.

Respectfully submitted.

HAMILTON FISH.

The PRESIDENT.

LIST OF PAPERS, ARRANGED BY SUBJECTS, WITH A
SYNOPSIS OF THEIR CONTENTS.

I.—LIST OF AMERICAN VESSELS SEIZED BY THE SPANISH AUTHORITIES DURING THE HOSTILITIES IN CUBA, TOGETHER WITH THE CORRESPONDENCE SHOWING WHAT STEPS, IF ANY, HAVE BEEN TAKEN IN REFERENCE THERETO.

1. THE MARY LOWELL.

No.	From whom and to whom.	Date.	Subject.	Page.
		1869.		
1	Mr. Hall to Mr. Fish. (Telegram.)	Mar. 23	Mary Lowell reported captured at Ragged Island by Spanish war vessel.	19
2	Mr. Hall to Mr. Hunter. (No. 12.)	Mar. 23	Full particulars of the capture	19
3	Mr. Hall to Mr. Fish. (Telegram.)	Mar. 25	Arrival of Mary Lowell at Havana, in tow of Spanish steamer. Cargo, reported arms and ammunition.	24
4	Mr. Hall to Mr. Hunter. (No. 14.)	Mar. 26	Statement of Mr. Gibbs, United States consular agent at Nuevitas, relative to arrival of Mary Lowell there. Report of conversation with the four seamen of Mary Lowell. Notes of commandant of marine at Nuevitas, to Mr. Gibbs, informing latter of her arrival. Mr. Gibbs to the commandant, desires to take statement of seamen; commandant assents. Note of her Britannic Majesty to Governor General.	24
5	Admiral Porter to Mr. Fish.	April 2	Incloses dispatch No. 36 from Rear-Admiral Hoff, relative to seizure of Mary Lowell. Full particulars of the locality and circumstances of the capture.	27
6	Mr. Kirkpatrick to Mr. Fish. (No. 310.)	April 2	Further account of the capture. Incloses letter of governor of Nassau, with depositions of George W. Wilson, acting collector, and Walter J. Wilson, custom-house officer, who was in charge of the brig at time of capture; also, deposition of James R. Norris, residing on Ragged Island, giving circumstances of capture. Extract from Nassau Herald.	28
7	Mr. Fish to Mr. Johnson. (No. 97.)	April 5	Transmits information relative to seizure, so far as obtained. It is presumed that the British government will hold the Spanish authorities accountable for the proceedings. United States will look to British government for indemnification for accruing losses to United States citizens.	31

1. THE MARY LOWELL—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
8	Mr. Hall to Mr. Fish. (No. 32.)	1869. April 21	Seamen of Mary Lowell released on 13th instant, and vessel declared a prize. Protest of British consul general. Case appealed to higher court. Incloses copies of affidavits of the four seamen. Also, of James K. Norris and John T. Tucker, witnesses to the capture.	31
9	Mr. Johnson to Mr. Fish. (No. 160.)	April 24	Inclodes copy of his note of April 19 to the Earl of Clarendon, reciting the circumstances of the capture, and notifying him that the United States will look to the British government for indemnity. Reply of Earl of Clarendon on April 23, acknowledges the serious nature of the event, but will await report from governor of Bahamas. Meantime transmits to Mr. Johnson copy of a telegram to British minister at Madrid, relative to the order of the Captain General of Cuba of March 24, which declares vessels on the high seas containing cargo of men, arms, ammunition, &c., as <i>de facto</i> enemies of Spain, and that those on board will be shot. Her Britannic Majesty's government protests against the enforcement of this order, and will look with the deepest concern on the enforcement of it against a British vessel which shall have not received due notice.	37
10	Mr. Hall to Mr. Fish. (No. 47.)	May 6	Inclodes articles from the <i>Voz de Cuba</i> , said to express the Spanish view of the seizure, and approving the proceedings of the Spanish officers.	39
11	Mr. Hall to Mr. Fish. (No. 170.)	May 26	Information of an informal interview with British minister at Madrid, relative to Mary Lowell, who stated that he had made a representation of the case to the Spanish government, but so far had received only a formal acknowledgment.	42
12	Earl of Clarendon to Mr. Thornton.	Nov. 19	British government of opinion, from evidence before them, that the locality of capture is not beyond doubt, whether within or without British waters, and does not feel entitled to demand restoration of the vessel.	42
13	Mr. Davis to Mr. Plumb. (No. 71.)	Nov. 24	Instruction to obtain authentic transcripts of the evidence and judgments in the case, with a view to determining the locality of the capture.	43
14	Mr. Plumb to Mr. Davis. (No. 241.)	Nov. 30	Acknowledges instructions of November 24, and being about to deliver the office to Mr. Hall, leaves it to his attention.	44
15	Mr. Hall to Mr. Davis. (No. 17.)	Dec. 24	Mr. Hall informed by the political secretary that the Mary Lowell papers have been sent to Madrid.	44
16	Mr. Fish to Mr. Sickles. (No. 21.)	1870. Jan. 4	General Sickles is informed that the original papers have been sent to Madrid, and is instructed to request copies.	44
17	Mr. Sickles to Mr. Fish. (No. 51.)	Jan. 27	General Sickles inclodes note from Mr. Sagasta that the papers are not at Madrid, but have been ordered, and copies will be given to him.	45

1. THE MARY LOWELL—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1870.		
18	Mr. Fish to Mr. Biddle. (Telegram.)	Mar. 1	Mr. Biddle requested to ask for copies of the papers, it being represented that they have been returned to Havana.	45
19	Mr. Biddle to Mr. Fish. (No. 16.)	Mar. 8	The authorities at Havana state that they have telegraphed to Madrid for instructions as to delivery of the papers.	45
20	Mr. Fish to Mr. Sickles. (Telegram.)	Mar. 17	General Sickles instructed again to apply for the papers.	46
21	Mr. Sickles to Mr. Fish. (No. 72.)	Mar. 19	Incloses copy of his note of 19th instant to the minister of state, reciting the history of the application for the papers, and stating that the United States expects its reasonable request to be complied with without delay.	46
22	Mr. Sickles to Mr. Mr. Fish. (Telegram.)	Mar. 24	Minister of state answers General Sickles's note of 19th instant, that minister of marine has been requested to order copies of the papers to be delivered if certain proceedings of the Navy Department offer no obstacle.	46
23	Mr. Davis to Mr. Biddle. (Telegram.)	Mar. 25	Mr. Biddle is informed that orders have been given to furnish copies of the papers, and instructed to renew his application and telegraph result.	47
24	Mr. Biddle to Mr. Davis. (Telegram.)	Mar. 25	Mr. Biddle reports Captain General absent. Vice-Governor says he cannot deliver the papers without his authority; will write him and communicate result to Mr. Biddle.	47
25	Mr. Biddle to Mr. Davis. (No. 42.)	Mar. 25	Mr. Biddle reports at length his interview with the Vice-Governor, the substance of which is given in his telegram of 25th March.	47
26	Mr. Sickles to Mr. Fish. (No. 77.)	Mar. 27	Transmits copy of note of minister of state to his request of 19th instant. Substance given in telegram of March 24.	48
27	Mr. Biddle to Mr. Davis. (No. 49.)	April 2	Vice-Governor replies to Mr. Biddle's request for the papers, that the case being in course of judicial procedure, and no order from Madrid being received, he cannot, in the absence of the Captain General, deliver the papers.	48
28	Mr. Fish to Mr. Sickles. (Telegram.)	April 6	Instructed to renew request for the papers; United States dissatisfied with the prolonged delays.	49
29	Mr. Sickles to Mr. Fish. (No. 82.)	April 8	Upon the renewal of the request General Sickles is informed that probably the orders for the delivery of the papers had not been received at Havana, but would doubtless be found sufficient for the purpose.	49
30	Mr. Sickles to Mr. Fish. (Telegram.)	April 8	Minister of state says the orders already given will be sufficient to secure the papers requested.	50
31	Mr. Fish to Mr. Biddle. (Telegram.)	April 9	General Sickles's telegram of April 8 communicated to Mr. Biddle, and he is instructed to renew his request for the papers.	50
32	Mr. Biddle to Mr. Fish. (Telegram.)	April 12	Vice-Governor declines to give copies, saying he is without instructions, but will telegraph for them.	50

1. THE MARY LOWELL—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1870.		
33	Mr. Fish to Mr. Sickles. (Telegram.)	April 13	General Sickles informed that the authorities in Cuba still refuse to give papers. Ask explanation. Request orders to be sent by telegraph.	50
34	Mr. Davis to Mr. Biddle. (No. 36.)	April 13	Informs Mr. Biddle that instructions have been sent to General Sickles which it is hoped will effect a compliance with the just wishes of the United States.	51
35	Mr. Sickles to Mr. Fish. (No. 107.)	May 11	General Sickles incloses copy of a note from minister of state, transmitting a copy of a report of the council of state dated November 16, 1869, in the case of the Mary Lowell. It is stated by the minister of state that orders for exhibiting the papers in the case were given by minister of marine on April 27. If the papers are returned to Madrid before the orders are received they will be furnished there.	51
36	Mr. Sickles to Mr. Fish. (Telegram.)	May 15	Minister of state informs General Sickles that orders have been sent to exhibit the Mary Lowell papers to the consul, and allow copies.	53
37	Mr. Davis to Mr. Biddle. (Telegram.)	June 2	Papers in Mary Lowell case not received. The delay not understood. Inquire and report by telegraph.	53
38	Mr. Biddle to Mr. Davis. (Telegram.)	June 3	The Captain General <i>ad interim</i> states that the Spanish minister at Washington is informed that the Mary Lowell papers have been sent to Spain, and that General Sickles will receive a copy.	54
39	Mr. Fish to Mr. Sickles. (Telegram.)	June 4	Gives Mr. Biddle's telegram of 3d June. The continued misunderstanding between authorities of Madrid and Cuba not satisfactory. Ask for an explanation, as well as copies of the papers.	54
40	Señor Lopez Roberts to Mr. Fish.	June 6	The Secretary of State is informed that the papers of the Mary Lowell are in the Naval Comandancia General, where the consul general may take copies.	54
41	Mr. Biddle to Mr. Davis. (Telegram.)	June 12	Mr. Biddle telegraphs that the Mary Lowell papers are forwarded by the Moro Castle.	54
42	Same to same. (No. 156.)	June 10	Inclosing copies of correspondence with Spanish authorities relative to copies of the proceedings in the case of the Mary Lowell; also full copies of all the proceedings.	55
		1869.		
	Adolfo Rabiori to Commandant of Marine, Nuevitas.	Mar. 16	Transmits report of the commander of the Andaluza on the capture of the Mary Lowell.	56
	Emilio Fiol, ensign of the Andaluza.	Mar. 15	His report of the boarding of the Mary Lowell.	58
	John Reynolds, first mate of the Mary Lowell.	Mar. 16	His testimony at the primary investigation at Nuevitas.	59
	Louis Exton, seaman of the Mary Lowell.	Mar. 16	His testimony at the primary investigation at Nuevitas.	60
	James Well, seaman of the Mary Lowell.	Mar. 16	His testimony at the primary investigation at Nuevitas.	60

1. THE MARY LOWELL—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1869.		
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	Ramon Chenol, seaman of the Andaluza.	Mar. 16	His testimony at the primary investigation at Nuevitas.	61
	José Inqua y Fernandez, corporal of marines of the Andaluza.	Mar. 16	His testimony at the primary investigation at Nuevitas.	62
	John Shaw, seaman of the Mary Lowell.	Mar. 16	His testimony at the primary investigation at Nuevitas.	62
	Francisco Lasaga.	Mar. 16	Delivery of the preceding testimony to the commander of the Andaluza.	63
	Jacobo Aleman, commander of the Andaluza.	Mar. 16	Delivery of the Cuban cockade found on the Mary Lowell.	63
	Commander of Nuevitas.	Mar. 17	Appoints Benigno Aldez as notary for the proceedings in the case.	63
	Commander of the Andaluza.	Mar. 17	Statement of the captain of the Mary Lowell.	64
	Emilio Fiol, ensign of the Andaluza.	Mar. 17	Declaration concerning the capture of the Mary Lowell.	64
	Eduardo Albacete, ensign of the Andaluza.	Mar. 17	Declaration concerning the capture.....	65
	Francisco Lazaga.	Mar. 17	Declaration concerning the capture.....	66
	José de Urdanio Luz, paymaster of the Andaluza.	Mar. 17	Declaration concerning the capture.....	67
	Antonio Perez, third boatswain of the Andaluza.	Mar. 17	Declaration relative to the capture.....	67
	Miguel Losa, pilot of the Andaluza.	Mar. 17	Declaration concerning the capture.....	68
	Antonio Bugallo, gunner's mate of the Andaluza.	Mar. 17	Declaration concerning the capture.....	69
	Francisco Arnot y Caldona, engineer of the Andaluza.	Mar. 17	Declaration concerning the capture.....	69
	Francisco Palen, seaman of the Andaluza.	Mar. 17	Statement concerning the capture.....	70
	Cruz del Carmen Lerez, seaman of the Andaluza.	Mar. 17	Statement concerning the capture.....	70
	Francisco Alvarez, private of marines of the Andaluza.	Mar. 17	Statement concerning the capture.....	71
	Commandant of Nuevitas.	Mar. 19	Copy of log-book of the Andaluza just previous to, during, and after the capture.	71
	Do.....	Mar. 20	Order transmitting the proceedings to the commander of the naval station of Havana.	73

1. THE MARY LOWELL—Continued.

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		1869.		
	Jacobo Aleman and Francisco de Fradamadhes. Commandant of Nuevitas.	Inventory of articles found on the Mary Lowell.	73
		Mar. 20	Letter to commandant of naval station at Havana, transmitting proceedings in the case.	74
	Rafael de Aguilar.	Mar. 24	Acknowledges the letter of the commandant of Nuevitas, of 20th March, and suggests a method of procedure in the case.	74
	José Malcampo.	April 2	Order relative to discharging the cargo of Mary Lowell.	75
	Adolfo Novarrete.	April 3	Notice of the execution of the preceding order.	75
	Do.....	April 2	Copy of the report of Domingo de Castro, commanding the Guadiana, dated February 25, 1869.	75
	Do.....	April 2	Copy of the report of Rufino G. Olivares, commanding the schooner Africa, dated March 23, 1869.	77
	Do.....	April 2	Copy of the reports of Adolfo Robion, commanding the Blasco de Garay, dated March 1 and March 9, 1869, so far as they relate to the Mary Lowell.	78
	Do.....	April 2	Copy of the report of the commander of the Blasco de Garay, dated March 11, 1869, previous to the capture of the Mary Lowell.	80
	Captain General.	Mar. 27	Incloses to the commandant general of marine a copy of a communication, dated March 24, 1869, from the British consul general at Havana, relative to the capture of the Mary Lowell, and the reply of the Captain General, of March 27.	82
	Do.....	Mar. 30	Transmits to the Commandant de Marina a copy of a communication from the British consul general, dated March 27, which inclosed the depositions of W. I. Wilson, (British customs officer at Ragged Island,) and of George W. Wilson.	83
	Command't General de Marina.	April 6	Order to take the further testimony of the seamen of the Mary Lowell, then on board the Gerona.	85
	John Reynolds, seaman.		Testimony.....	85
	Louis Exton, seaman.		Testimony.....	86
	James Walsh, seaman.		Testimony.....	87
	John Shannon, seaman.		Testimony.....	88
	Command't General de Marina.	April 6	Order to release the crew of the Mary Lowell from solitary confinement on the Gerona.	88
	Do.....	April 7	Order to retain the proceedings in this case with the auditor of the naval station.	88
	Rafael de Aguilar, naval auditor.	April 12	Review of the case and decision that the Mary Lowell is a lawful prize.	89
	Junta Economica.	April 12	Confirmation of the decision of the naval auditor.	93
	Commander of the Andaluzá.	May 1	Requests permission to sell the cargo of the Mary Lowell.	95
	Commandant de Marina.	May 5	Order to examine condition of cargo of Mary Lowell.	94

1. THE MARY LOWELL—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
	British consul general.	1869. April 15	Acknowledges receipt of the decision in the Mary Lowell case. Repeats his protest as to the illegality of the capture.	96
	Do.....	April 22	Repeats his request for copy of the Andaluza's log-book.	97
	José Agasino.....	April 24	Inventory of the cargo of the Mary Lowell.	97
	Commander of the Andaluza.	May 8	Grants authority to Don José Rico y Cracedas to sell the cargo of the Mary Lowell under the direction of the marine court.	97
	Bernardino del Solar.	May 10	Report on the condition of the cargo of the Mary Lowell.	98
	Commandant of Marine.	May 12	Order for an appraisement of the cargo of the Mary Lowell.	99
	Miguel Bellon.	June 1	Reports appraised value of the cargo of the Mary Lowell.	99
	Commandant of Marine.	Aug. 6	Order to send the proceedings in the case to the minister of state.	102
	Commandant of Marine.	1870. Jan. 10	Proceedings returned to the naval auditor that notice may be given to parties interested in the cargo and vessel.	105
	Naval Auditor.	Jan. 18	Order to publish notice to parties interested.	107
	Prize Court.....	April 23	Confirmation of the decision that the Mary Lowell was a lawful prize.	109
	Commandant of Marine.	May 21	Order respecting the delivery of copies of the proceedings in the case to the United States.	112
43	Mr. Davis to Mr. Campbell.	July 8	Copies of proceedings in the case of the Mary Lowell have been received and translated. Asking whether he desires to make any response before further steps are taken by this government.	114

2. THE COLONEL LLOYD ASPINWALL.

1	Mr. Hall to Mr. Davis. (No. 51.)	1870. Feb. 9	The Aspinwall seized and brought into Havana.	114
2	Mr. Fish to Mr. Hall. (Telegram.)	Feb. 18	Order to report particulars.....	114
3	Mr. Hall to Mr. Davis. (No. 58.)	Feb. 18	Particulars of the seizure.....	115
4do..... (No. 62.)	Feb. 26	Further particulars of seizure, with a copy of the master's protest.	115
5	Mr. Biddle to Mr. Davis. (No. 10.)	Mar. 4	Inclosing copy of Mr. Hall's note of February 25, 1870, to the Captain General.	119
6	Mr. Fish to Mr. Lopez Roberts.	Mar. 5	Stating facts of the seizure, asking release of vessel, compensation to owners, and apology to United States government.	120
7	Mr. Fish to Gen. Sickles. (No. 34.)	Mar. 8	Inclosing copy of No. 6, ante.....	121

2. THE COLONEL LLOYD ASPINWALL—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1870.		
8	Mr. Davis to Mr. Biddle. (No. 16.)	Mar. 9	Acknowledging receipt of Mr. Hall's No. 62..	122
9	Mr. Fish to Mr. Sickles. (Telegram.)	April 6	Ask for answer about the Aspinwall and for her release; also, Mary Lowell papers.	122
10	Mr. Sickles to Mr. Fish. (Telegram.)	April 8	Orders to be sent forthwith for release. Indemnity to be promptly considered.	122
11	Same to Same. (No. 82.)	April 8	Details of interview with Spanish minister.	122
12 do	April 9	Orders sent yesterday for release.....	123
	(Telegram.)			
13	Same to Same. (No. 84.)	April 9	Details of the foregoing 12, <i>ante</i>	124
14	Mr. Fish to Mr. Biddle. (Telegram.)	April 9	Demand release and telegraph result.....	124
15	Mr. Davis to Mr. Biddle. (Telegram.)	April 11	Inquire whether vessel released, and report by cable.	125
16	Mr. Biddle to Mr. Fish. (Telegram.)	April 12	Acting Captain General says he has no power to release vessel.	125
17	Mr. Davis to Mr. Biddle. (No. 36.)	April 13	Hope the vessel will be released. The prolonged detention seriously threatens continuance of good relations.	125
18	Mr. Fish to Mr. Sickles. (Telegram.)	April 13	Recites telegram from Consul Biddle. Madrid authorities give assurances which cannot be carried out. Ask explanation, and that orders be sent by telegraph.	125
19	Mr. Sickles to Mr. Fish. (Telegram.)	April 14	Explanation of delay. Shall he (Sickles) make formal demand?	126
20	Same to Same. (No. 87.)	April 15	Full details of interview reported by telegraph in No. 19, <i>ante</i> .	126
21	Mr. Fish to Mr. Sickles. (Telegram.)	April 15	Make demand. Request orders for immediate release, to be sent by telegraph.	128
22	Mr. Sickles to Mr. Fish. (No. 88.)	April 16	Inclosing copy of note demanding release....	128
	(Telegram.)			
23	Same to Same. (Telegram.)	April 18	Understands that peremptory orders have been sent for release.	129
24	Mr. Davis to Mr. Biddle. (No. 42.)	April 20	Mr. Sickles has been instructed to demand release of the Aspinwall.	129
25	Mr. Sickles to Mr. Fish. (Telegram.)	April 22	Orders have been sent for release, based upon Mr. Fish's note to Mr. Lopez Roberts.	130
26	Same to Same. (No. 96.)	April 22	Inclosing copy of the note from the minister of state announcing that orders had been sent for the release.	130
27	Mr. Fish to Mr. Biddle. (Telegram.)	April 27	Has the Aspinwall been released? Reply by telegraph.	130
28	Mr. Biddle to Mr. Fish. (Telegram.)	April 27	Vessel has not been released.....	131
29	Mr. Fish to Mr. Lopez Roberts.	April 28	Asking why the orders of the Spanish government have not been carried out.	131

2. THE COLONEL LLOYD ASPINWALL—Continued.

No.	From whom and to whom.	Date.	Subject.	Page.
		1870.		
30	Mr. Fish to Mr. Biddle. (Telegram.)	April 28	Inquire cause of non-execution of orders, and telegraph reply.	131
31	Mr. Biddle to Mr. Fish. (Telegram.)	April 28	Vessel released at 3 p. m.	131
32	Mr. Davis to J. M. Requa & Co.	April 29	Informing them as owners of the release of the vessel.	132
33	Mr. Lopez Roberts to Mr. Fish.	April 29	Informing him of the release of the vessel....	132
34	Mr. Biddle to Mr. Fish. (Telegram.)	April 30	Shall he deliver vessel to Admiral Poor?	132
35	Mr. Davis to Mr. Biddle. (Telegram.)	April 30	Owners have given orders to receive vessel...	132
36	Mr. Biddle to Mr. Davis. (No. 88.)	April 30	Containing account of the transfer of the vessel.	133
37	Mr. Fish to Mr. Biddle. (Telegram.)	May 1	Does agent for owner receive vessel?	135
38	J. M. Requa & Co. to Mr. Fish.	May 6	Desire indemnity for capture. Are willing to submit case to referees.	135
39	Mr. Biddle to Mr. Davis. (No. 102.)	May 7	The agents have received the vessel. Survey has been made to ascertain amount of injury. Copy of report.	136
40	Same to same. (No. 109.)	May 12	Reports sailing of the Aspinwall.	138
41	Mr. Fish to Mr. Lopez Roberts.	May 25	Proposing arbitration to determine the amount of injury to the vessel.	139
42	Mr. Davis to Mr. Biddle. (Telegram.)	May 25	Inquire and report whether Green (cook of the Aspinwall) died in a dungeon.	139
43	Mr. Lopez Roberts to Mr. Fish.	May 30	Mr. Fish's proposition has been sent to Madrid by cable.	139
44	Mr. Biddle to Mr. Davis. (No. 141.)	June 1	The place where Green died is a high, dry room, looking on a spacious court-yard.	140
45	Mr. Lopez Roberts to Mr. Fish.	June 16	Asking as to the proposed arbitration.	149
46	Mr. Fish to Mr. Lopez Roberts.	June 17	Acknowledges his note of 16th June, informing Mr. Fish of agreement of Spanish government to an arbitration, and states that United States will name a referee.	141
46½	Same to same.	June 22	Desires to know if Mr. Roberts has appointed a referee.	141
47	Mr. Lopez Roberts to Mr. Fish.	June 23	Has appointed John M. Ceballos as referee on part of Spain.	141
48	Mr. Fish to Mr. Lopez Roberts.	June 23	Mr. John S. Williams, of the firm of Williams & Guion, appointed referee on part of United States.	142
49	Mr. Fish to Mr. Jno. S. Williams.	July 7	Instructions to Mr. Williams as referee.	142
50	Mr. Fish to Mr. J. M. Requa & Co.	July 7	Mr. John S. Williams is selected and instructed as referee.	143

3. THE CHAMPION.

No.	From whom and to whom.	Date.	Subject.	Page.
		1870.		
1	Mr. Biddle to Mr. Davis. (No. 8.)	Mar. 4	Inclosing two dispatches from Mr. Phillips and one from Mr. Parsons, at Santiago de Cuba, giving account of the seizure of the Champion.	143
2	Same to same. (No. 19.)	Mar. 10	Inclosing further dispatches from Mr. Phillips.	144
3	Mr. Davis to Mr. Biddle. (No. 20.)	Mar. 23	As to release of seamen of the Champion..	145
4	Same to same. (No. 28.)	April 1	No representations yet made to department.	145
5	Mr. Biddle to Mr. Davis. (No. 47.)	April 1	Has asked release of seamen. Copy of request. They will be discharged as soon as their depositions are taken.	146
6	Same to same. (No. 57.)	April 8	Further on same subject.....	146
7	Mr. Fish to Mr. Biddle. (Telegram.)	April 9	Ask for immediate release.....	147
8	Mr. Parsons to Mr. Davis. (No. 16.)	April 16	Crew released; on board the Severn.....	147
9	Mr. Davis to Mr. Biddle. (No. 38.)	April 18	Instructed to ask compensation	147
10	Same to same. (No. 42.)	April 20	No official account of the seizure of the Champion reached Madrid.	147
11	Mr. Sickles to Mr. Fish. (Telegram.)	April 21	Champion seized under suspicion of having been engaged in unlawful voyage.	148
12	Same to same. (No. 94.)	April 21	Transmitting Spanish official account of the seizure.	148
13	Mr. Biddle to Mr. Fish. (Telegram.)	April 27	Surrender of the crew.....	152
14	Mr. Biddle to Mr. Davis. (No. 130.)	May 27	Claim for damages and correspondence relating thereto.	152
15	Same to same. (No. 143.)	June 3	Spanish minister at Washington will be informed of the decision of the authorities.	155
16	Mr. Fish to General Sickles. (No. 60.)	June 9	Spanish explanations in General Sickles's No. 94, ante, deemed unsatisfactory.	155

4. THE SCHOONER LIZZIE MAJOR AND PASSENGERS.

The schooner Lizzie Major overhauled at sea, between Caibarien and New Orleans, and two passengers taken from her. They were carried to Remedios and imprisoned. Subsequently they were released and the act disavowed by the Spanish government. Page 156.

5. THE SLOOP FULTON.

The Fulton arriving at Havana from Key West, the captain's life was threatened by volunteers, for supposed complicity with the insurgents. The government furnished a convoy to take the vessel to sea. Page 156.

II.—LIST OF PERSONS SAID TO BE CITIZENS OF THE UNITED STATES AND TO HAVE BEEN EXECUTED WITHOUT PROPER TRIAL DURING THE HOSTILITIES IN CUBA, TOGETHER WITH THE CORRESPONDENCE SHOWING SOME OF THE STEPS TAKEN IN REFERENCE THERETO.

1. Charles Speakman and Albert Wyeth..... Page. 157

No.	From whom and to whom.	Date.	Subject.	Page.
		1869.		
	Mr. Plumb to Mr. Fish. (No. 49.)	June 24	Inclosing letter from Mr. Phillips, acting consul at Santiago de Cuba, giving information of the summary execution of Charles Speakman, a citizen of the United States.	157
	Mr. Phillips to Mr. Fish.	June 19	Same subject, inclosing the declaration of Speakman.	159
	Same to same.	June 25	Transmitting information about summary execution at Santiago de Cuba of Albert Wyeth, an American citizen, with Wyeth's statement about himself and Speakman.	161
	Mr. Plumb to Mr. Fish. (No. 57.)	June 29	Same subject	163
	Mr. Davis to Mr. Plumb. (No. 20.)	July 7	A vessel of war will proceed to Santiago de Cuba to investigate cases of Speakman and Wyeth.	164
	Mr. Fish to Gen. Sickles. (No. 9.)	Aug. 10	Instructing him to demand compensation for the families of Speakman and Wyeth; to require that citizens of the United States shall be invested with as broad rights as those of other countries; and to protest, in the name of the President, against longer carrying on war in this barbarous manner.	165
	Gen. Sickles to Mr. Fish. (No. 15.)	Sept. 8	Inclosing copy of his note to Mr. Becerra as to Speakman and Wyeth, &c., under instruction No. 9, (<i>ante</i> , No. 71.)	166
	Same to same. (No. 17.)	Sept. 14	Report has been called for in cases of Speakman and Wyeth. Reparation will be made, if facts are found as alleged.	168
	Same to same. (No. 29.)	Nov. 2	Inclosing copy of Mr. Silvela's note as to Speakman and Wyeth, and of his rejoinder. Spanish minister says Speakman was executed in conformity with law.	168
		1870.		
	Mr. Fish to Gen. Sickles. (No. 30.)	Feb. 18	Instructed to again call attention of the Spanish government to these cases, and to ask for early settlement.	174
	Same to same. (No. 35.)	Mar. 9	Inclosing affidavit of Edward Welch, master of Grapeshot. The department does not credit it.	175
	Gen. Sickles to Mr. Fish. (No. 69.)	Mar. 15	Inclosing copy of note to foreign minister renewing demand.	175
	Same to same. (No. 78.)	Mar. 27	Inclosing copy of reply of foreign minister rejecting the claim.	176
	Mr. Fish to Gen. Sickles. (No. 44.)	April 18	Department not disposed to modify its instructions.	178
	Mr. Lopez Roberts to Mr. Fish.	June 1	Transmitting affidavit of Welch, the master of the Grapeshot, and claiming that it establishes that Speakman and Wyeth knew of the object of the expedition, and formed part of it.	179

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2. George Bodel	182
3. Samuel Alexander Cohner	182
4. Vicente Dauni, (or Dawney)	182
5. Juan Francisco Portuondo	182
6. Charles J. Polhamus	183
7. Ernest Macarty	184

III.—LIST OF PERSONS SAID TO BE CITIZENS OF THE UNITED STATES WHOSE PROPERTIES ARE SAID TO HAVE BEEN CONFISCATED OR EMBARGOED DURING THE HOSTILITIES IN CUBA.

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2. Joaquin Garcia Angarica	185
3. Inocencio Casanova	187
4. José N. Casanova	187
5. Ramon Fernandez Criado y Gomez	188
6. Joaquin Delgado	189
7. Danford, Knowlton & Co.	189
8. Felix Govin y Pinto	189
9. José Govin y Pinto	190
10. Eusebio Guiteras	191
11. José de Jesus Hernandez y Macias	191
12. Cristobal Madan	192
13. Thomas J. Mora	193
14. Fausto Mora	193
15. Martin Mueses	194
16. Ramon Rivas y Lamar	195
17. John C. Rozas	195
18. Moses Taylor & Co.	196
19. Louis C. Madeira	197
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IV.—LIST OF PERSONS SAID TO BE CITIZENS OF THE UNITED STATES WHO ARE SAID TO HAVE BEEN UNLAWFULLY IMPRISONED AND HELD "INCOMUNICADO" DURING THE HOSTILITIES IN CUBA.

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6. Gabriel Suarez del Villar	201
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V.—LIST OF PERSONS SAID TO BE CITIZENS OF THE UNITED STATES WHO ARE SAID TO HAVE BEEN UNLAWFULLY IMPRISONED DURING THE HOSTILITIES IN CUBA, BUT NOT HELD "INCOMUNICADO."

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4. Henry Fritot	212
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VI.—LIST OF THE DECREES OF THE SPANISH AUTHORITIES IN CUBA (SO FAR AS KNOWN TO THIS DEPARTMENT) UNDER WHICH THEY CLAIM TO HAVE ACTED IN THE SEVERAL SEIZURES, ARRESTS, IMPRISONMENTS, EXECUTIONS, EMBARGOES, AND CONFISCATIONS REFERRED TO.

No.	Subject.	Page.
1	Crimes of "infiendencia" to be tried by court-martial.....	220
2	Definition of "infiendencia".....	220
3	Mr. Plumb's dispatch, No. 127, dated August 26, 1869, gives a summary of the several decrees of embargo, and incloses: 1. Decree of embargo of properties of Morales Lemus and fifteen others; 2. Further proceedings as to same; 3. Decree establishing mode of proceeding in such cases; 4. Creation of a court for embargoed property; 5. Administrative council ordered; 6. Further provisions as to sale of embargoed property; 7. Further provisions as to same.	221

VII.—ADDITIONAL CORRESPONDENCE, SHOWING STEPS TAKEN IN REFERENCE TO SUCH SEIZURES OF AMERICAN VESSELS, TO SUCH EMBARGOES OR CONFISCATIONS OF PROPERTY, AND TO SUCH IMPRISONMENT OF PERSONS CLAIMING TO BE CITIZENS OF THE UNITED STATES.

No.	From whom and to whom.	Date.	Subject.	Page.
1	Mr. Hall to Mr. Hunter. (No. 17.)	1869. Mar. 27	Transmitting decree of Captain General authorizing capture on the high seas of vessels carrying men, arms, munitions, or effects in aid of insurgents, and directing execution, as pirates, of persons so captured.	229
2	Mr. Fish to Mr. Lopez Roberts.	April 3	Calling attention to Captain General's decree of March 24th, and informing him that United States citizens have the right to carry on the high seas articles destined for the enemies of Spain, subject to seizure of such as may be contraband of war, or to capture for violation of a lawfully established blockade. Persistence in the decree will endanger friendly relations.	230

No.	From whom and to whom.	Date.	Subject.	Page.
		1869.		
3	Mr. Fish to Mr. Lopez Roberts.	April 30	The President has seen with regret the decree of April 1, forbidding alienation of property in Cuba. Desires that it may be modified so as not to be applicable to properties of citizens of the United States.	231
4	Same to same.	May 10	Protesting in the interests of civilization and humanity against Count Valmaseda's proclamation.	231
5	Mr. Fish to Mr. Hale.	May 11	Directing him to make representations to the Spanish government against Count Valmaseda's proclamation. Informing him of the proclamation as to vessels, and that it has been modified.	232
6	Mr. Plumb to Mr. Fish. (No. 66.)	July 8	Inclosing Captain General's decree of July 7, closing certain ports, declaring voyages with arms, ammunition, or crew for the insurgents, illegal, and directing cruisers on the high seas to exercise the rights stipulated for by the treaty of 1795 with the United States, and to bring into port vessels found enemies.	232
7	Mr. Fish to Mr. Lopez Roberts.	July 16	Calling attention to proclamation of Captain General of July 7, as to rights claimed over vessels of the United States on the high seas, under the treaty of 1795, &c. It assumes power over the commerce of the United States that can only be permitted in time of war. United States will not yield right to carry contraband of war in time of peace; will not permit their vessels to be interfered with on the high seas except in time of war. Treaty of 1795 confers no rights over vessels of the United States in time of peace. If Spain is at war it should be known, in order that notice be immediately given of the restrictions that such state entails upon the commerce of the United States. Mr. Fish asks whether Spain recognizes a state of war as existing, and states that a continuance of the decree or any attempt to enforce it will be regarded as a recognition by Spain of a state of war with Cuba.	233
8	Mr. Plumb to Mr. Fish. (No. 83.)	July 21	Transmitting modifications of Captain General's decree of July 7, as to search of vessels on the high seas.	236
9	Mr. Fish to Mr. Lopez Roberts.	Aug. 11	Asking whether Mr. Roberts has been authorized to adjust matters growing out of the intercourse with Cuba so as to avoid delay of reference to Madrid.	236
10	Mr. Lopez Roberts to Mr. Fish.	Aug. 12	He has authority to settle such cases by agreement with the Captain General of Cuba, except in certain cases named.	237
		1870.		
11	Mr. Fish to Mr. Lopez Roberts.	Jan. 21	As to modifications of the decree forbidding alienation of property.	237
12	Mr. Lopez Roberts to Mr. Fish.	Feb. 28	Defending the decree as one necessary for the maintenance of Spanish authority under the circumstances.	238
13	Mr. Fish to Mr. Lopez Roberts.	June 9	Concerning the embargoes of estates and the imprisonment of the persons of citizens of the United States in Cuba in execution of the arbitrary decrees of the Captain Gen-	239

No.	From whom and to whom.	Date.	Subject.	Page.
		1870.	eral, which had been previously protested against by the United States. Such embargoes and arrests are in violation of the rights guaranteed to citizens of the United States by the treaty of 1795. Incloses a list of complaints on these heads up to date, and asks Mr. Roberts, in the exercise of his plenary powers, to arrest these infractions, to cause the properties to be restored, and the persons arrested to be set free, or to be tried in the ordinary forms of law; or, if his powers have ceased, then to so notify Mr. Fish. The government of the United States reserves the right to make further claims of this kind.	
14	Mr. Davis to Mr. Lopez Roberts.	June 18	Asks to have the estates of Mr. Joseph Hernandez restored.	243
15	Mr. Lopez Roberts to Mr. Fish.	June 24	His powers did not authorize him to interfere in cases of arrest or imprisonment, and they have been revoked in consequence of the favorable condition of affairs in Cuba.	243
16	Mr. Fish to Gen. Sickles. (No. 66.)	June 24	Incloses a copy of the note of June 9th to Mr. Roberts. Mr. Roberts being without powers, General Sickles is instructed to bring the subject to the notice of the Spanish government.	244
17	Mr. Fish to Mr. Lopez Roberts.	June 30	Asking to have the estates of Mr. Eusebio Guiteras restored.	245
18	Mr. Fish to Gen. Sickles. (No. 67.)	July 1	Transmitting copy of Mr. Roberts's note of June 24th. Hoped that arrests and embargoes will cease and immediate reparation be made for those that have taken place.	245

CORRESPONDENCE.

I.—LIST OF AMERICAN VESSELS SEIZED BY THE SPANISH AUTHORITIES DURING THE HOSTILITIES IN CUBA, TOGETHER WITH THE CORRESPONDENCE SHOWING WHAT STEPS, IF ANY, HAVE BEEN TAKEN IN REFERENCE THERETO.

1.—THE MARY LOWELL.

No. 1.

Mr. Hall to Mr. Fish.

[Telegram.]

HAVANA, *March 23, 1869.*—(Received March 23.)

Information is received from our consul at Nassau, that the American brig Mary Lowell was captured at Ragged Island by a Spanish war steamer. I send full particulars to Admiral Hoff, now at Key West, and by steamer to New York to-morrow.

No. 2.

Mr. Hall to Mr. Hunter.

No. 12.] HAVANA, *March 23, 1869.*—(Received March 30.)

To-day I sent the department the following telegram: "Information is received from our consul at Nassau that the American brig Mary Lowell was captured at Ragged Island, the 15th, by a Spanish war steamer. I send full particulars to Admiral Hoff, now at Key West, and by steamer to New York to-morrow."

I have the honor to accompany herewith the following inclosures relating to the case:

No. 1. Letter from the United States consul at Nassau.

No. 2. Copy of an extra Nassau Herald of the 19th instant.

No. 3. Copies of communications, &c., sent to the British consul general at this port by the governor of the Bahamas.

It will be seen from the accompanying documents that the brig Mary Lowell was at Ragged Island, where she had been watched for a number of days by the Spanish war steamer Andaluza or Andalusia. That the master of the brig had left her some days previous, and had gone to New York via Nassau, leaving her in charge of Mr. Walter J. Wilson. That on the 15th instant, while Mr. Wilson was moving the brig from the man-of-war anchorage to the inner harbor, the commander of the Spanish gunboat took forcible possession of the brig, and soon afterwards sailed with her in tow in a southwesterly direction. It also appears that one of the Peruvian monitors made its appearance at the port at about the time of the capture of the brig. Copies of these inclo-

tures have been sent to Admiral Hoff, now at Key West, who has probably communicated to his department all of interest they may contain.

The above information has reached this port by the British gunboat *Cherub*, and the consul general of her Britannic Majesty has kindly permitted me to take copies of all the documents that have been sent to him by the governor of the Bahamas.

The whereabouts of the steamer and captured brig is not known; sufficient time has elapsed for them to have arrived at this port, but it is generally believed that they have gone to some eastern port of the island.

[Inclosure 1 in No. 2.]

Mr. Kirkpatrick to Mr. Hall.

NASSAU, N. P., *March 19, 1869.*

I have the honor to inform you that on the 15th instant, whilst lying in British waters, the American brig *Mary Lowell*, of New York, was captured by the Spanish war steamer *Andalusia*, and whilst under the charge of a British custom-house officer, in whose charge she had been left by her master, who had gone to New York for orders, his vessel having been detained there for some time by this Spanish steamer or steamers; the statement of the collector and other sworn statements sent to the British consul at Havana by the governor of the Bahamas, who has sent the British war steamer *Cherub* to Havana with dispatches to the consul.

I requested his excellency to ask the consul to show you the statements made, which he will doubtless do. It was the most dastardly and insulting offense ever committed, both upon the British and American governments, and will doubtless be fully avenged by both. It is expected that the steamer took her inglorious prize to Havana. She was captured at a place called Ragged Island, one of the Bahama Islands, and within three-quarters of a mile of the entrance of the inner harbor, to which place she was about entering for greater safety from the elements, and the Spanish steamer had also a pilot on board, to go in likewise, all of which you will find on perusal of the papers sent to the British consul by the governor of the Bahamas.

I need not suggest what is proper to be done. I think in all probability the admiral may be with you, and having the advantage of the telegraph to get instructions if you should deem them necessary, (an advantage we have not,) will enable you to see your way clear to vindicate our national honor.

N. B.—I inclose you copy of the *Nassau Herald*, containing a brief account of the transaction.

[Inclosure 2 in No. 2.]

[From the *Nassau Herald*, extra, Friday, March 19, 1869.]

GREAT INSULT TO THE BRITISH AND AMERICAN FLAGS BY A SPANISH MAN-OF-WAR—
CAPTURE OF THE AMERICAN BRIG MARY LOWELL IN AN ENGLISH PORT OF ENTRY—
GREAT EXCITEMENT AT RAGGED ISLAND.

By the arrival of the schooner *Margaret* from Ragged Island, which port she left on the 16th instant, we have been put in possession of the following startling intelligence by Mr. Walter Wilson, the custom-house officer, stationed at the above port, who states that he was on board of and in charge of the American brig *Mary Lowell* in the capacities of pilot and custom-house officer, and that he had been so for a period of eighteen days, and that he had the hatchways sealed down with the seal of her Majesty's customs. On the afternoon of the 15th, about 20 minutes past 4 o'clock p. m., I was in the act removing the brig *Mary Lowell* from man-of-war anchorage to a safer place known as the "harbor," when I was ordered to heave to and lower my sails by the commander of the Spanish gunboat *Andalusia*, who finding that I did not do so at once, gave the order three times in a loud voice to fire into us. Upon this I immediately heave to, when a boat came alongside, containing fifteen men, well armed, under the command of two officers, one of whom demanded permission to come on board. I replied that he might do so as a private individual, but not in an official capacity, upon which he came on board. We had not, however, been in conversation more than a minute or so, when an order from the captain of the gunboat was given to the men in the boat to board the brig, which they accordingly did, and immediately took

formal possession of the vessel. I may here mention that the order, three times given, to fire into us was prevented from being carried into execution by an officer who placed his hand on the cap of the gun to prevent its being fired.

I remonstrated with the officer who boarded me (who, by the way, could speak English fluently) in as energetic a manner as was consistent with my duty, asking him whether he was aware of the illegality and gravity of the act which he was about to commit, and whether he knew that the brig *Mary Lowell* under my charge was an American vessel, and that she was in British waters and under British protection, and, moreover, that I was an officer in the employ of her Majesty's government of the Bahamas, to which he replied, "that he was only obeying the orders of his superior officer." He then ordered me to get in the boat and go on board the gunboat, as the commander wanted to see me. I then, with the six men that were with me in the brig, four of which belonged to her, and two whom I had brought from the shore, got into the boat and proceeded to the Spanish man-of-war. On going on board I asked the captain what his intentions were and what he wanted with me, to which he simply replied that I must at once go on shore; to enable me to do so he gave me the boat belonging to *Mary Lowell*, in which my brother, George W. Wilson, who was on board the man-of-war, together with myself, and the two men from the shore, reached the land. The other four men belonging to the brig, who were all British subjects, were detained as prisoners on board the Spanish gunboat. During the entire of the above proceedings, as narrated by me, the American flag was flying from the main peak of the brig until I was obliged to lower my sails, when it was carried to the side of the vessel and spread over the rail. On our leaving the *Mary Lowell* the American flag was removed, and almost immediately afterwards the brig was made fast to the gunboat and proceeded with to sea, in a southwesterly direction. Such is the plain and simple statement of an officer in her Majesty's customs, of as gross an insult as ever was offered to the British flag—an outrage so wanton and unpardonable in its nature as to immediately demand that the most prompt and vigorous measures be at once adopted by our government to vindicate the honor and integrity of the British Empire.

The good people of Ragged Island are represented to be in a high state of excitement in consequence of this insult to their flag, and were even desirous of proceeding to extremities in consequence of some threats which were made from time to time by the commander of the Spanish war vessel *Andalusia*.

[Inclosure 3 in No. 2.]

Mr. Dremsey to Mr. Strahan.

RECEIVER GENERAL'S OFFICE, *March 19, 1869.*

I have the honor to transmit for the information of his excellency, the governor, the accompanying letters and inclosures, just received from the collector of revenue at Ragged Island, reporting the capture of the American brig *Mary Lowell* within three-quarters of a mile from the shore by the Spanish war steamer *Andaluza*.

[Inclosure 4 in No. 2.]

Mr. Hollar to Receiver General.

PORT OF RAGGED ISLAND,
Revenue Office, March 15, 1869.

I have the honor to report my arrival on the 8th instant, and visited the Spanish war steamer *Andalusia* and the American brig *Mary Lowell*, which has been reported in distress; they were lying at anchor at the south end of the island, about a mile and a half from the shore; the steamer is within a quarter of a mile from the brig.

Mr. G. W. Wilson, who acted in my absence, went on board with me, reported the brig and cargo to be the same as when she left the harbor. Having found the store-room open, where four cases of merchandise were, I sealed up the same. I found the hatches locked: the keys were delivered to me.

Mr. Walter Wilson, who is in charge of the brig *Mary Lowell*, by a letter from the captain, who had to leave this port for New York by way of Nassau, before my arrival, reported her to be leaking, and for fear of further damage he will bring her into harbor. I expect she will come in this evening. The captain of the war steamer

Andalusia tells me if the brig comes into the harbor that he will bring the steamer also. I tell him he may come or remain where he is as long as he did not interfere with the rules of the port.

[Inclosure 5 in No. 2.]

Mr. Hollar to Receiver General.

REVENUE OFFICE, *March 15, 1869.*

I have to report that on Wednesday the 10th instant, about 3 o'clock p. m., the Spanish war steamer *África* arrived off the south end of the island and anchored near the war steamer *Andalusia*; the weather was rough. I could not board her, but learned she came from Cuba with stores for the war steamer *Andalusia*; she left the next morning for Cuba.

Please let me know if these war steamers are allowed to transfer stores from one vessel to another without paying duty.

P. S.—Since the above was written another steamer hove in sight off the south end of the island.

[Inclosure 6 in No. 2.]

Mr. Hollar to Receiver General.

REVENUE OFFICE, *March 16, 1869.*

I have the honor to report, for his excellency the governor's information, that the American brig *Mary Lowell*, which I have reported in letter 23 of the 15th instant, was unlawfully taken away by the captain of the Spanish war steamer *Andalusia*, on her way to the harbor, by Mr. Walter J. Wilson, who was in charge of the brig on the evening of the 15th instant.

I have inclosed two statements; one from Mr. Walter J. Wilson, who was in charge of the brig; another from Mr. Geo. W. Wilson, who acted as pilot on board of the Spanish war steamer *Andalusia*, for your information.

[Inclosure 7 in No. 2.]

BAHAMA ISLANDS.

By his excellency James Walker, esquire, companion of the most honorable order of the bath, administrator of the government of the Bahama Islands.

To all to whom these presents shall come, greeting :

These are to certify that George Grey Wilson, before whom the annexed affidavits purport to have been sworn to at Ragged Island, one of the said Bahama Islands, on the 16th day of March instant, and who has subscribed the jurats thereto as G. G. Wilson, J. P., was, at the date thereof, and now is, one of her Majesty's justices assigned to keep the peace in and for the district of Ragged Island aforesaid, within the said Bahama Islands, and that all due faith and credit are to be given to all acts and attestations of the said George Grey Wilson as such justice of the peace as aforesaid.

Given under my hand and the seal of the Bahama Islands, at the city of Nassau, the nineteenth day of March, A. D. 1869.

[SEAL.]

JAS. WALKER.

By his excellency's command :

GEO. C. STRAHAN,
Colonial Secretary.

[Inclosure 8 in No. 2.]

Deposition of Walter J. Wilson.

BAHAMAS, RAGGED ISLAND, *March 15, 1869.*

I, Walter J. Wilson, a native of this island, having been left in charge of the American brig *Mary Lowell* by Captain F. A. Bonneau, of the United States of America, and while bringing said brig, in accordance to orders, and with the knowledge of the collector of this port, from man-of-war anchorage, in this island, to the harbor, do hereby certify, that after getting under way, I was followed by the Spanish war

steamer Andalusia, which kept quite near me until I was on the last tack to weather the island, when a boat was lowered from said war steamer.

Finding the boat could not come up to me, the schooner quickened her speed and ranged up on my port quarter, and ordered me to lower my sails; at the same time I saw her guns run out, and the men stationed at them, ready to fire into us. I then lowered my sails, and the boat came alongside and asked permission to come on board, as he could not communicate with me from the boat, owing to the heavy sea that was running.

I told him I would allow him to come on board alone, as a gentleman, to which he answered, certainly. He then came up, and we were not talking more than a minute or two when a command was given from the commander of the steamer, (which was within speaking distance,) and at once all the men, amounting to about fifteen, crowded on my deck, armed with guns, revolvers, and cutlasses, and took charge of the brig.

I then asked one of the officers if he was aware that it was an American vessel, with an English officer on board. His reply was that he was obeying the commands of his superior officer; and ordered me into the boat with the rest of my crew, and sent on board of the steamer. On arriving there the crew of the vessel, four in number, were at once taken into custody. I was then ordered ashore in the brig's boat, together with two shoremen and my brother, George W. Wilson, who was acting as pilot on board said steamer.

The American flag was flying at the peak of the brig when her sails were ordered to be lowered by the Spanish commander. It was then taken in with the sails and placed on her rail when the Spaniards boarded me.

The brig was taken possession of about three-fourths of a mile south of the south-east point of Little Ragged Island.

WALTER J. WILSON.

Sworn to before me this 16th day of March, 1869.

G. G. WILSON, J. P.

[Inclosure 9 in No. 2.]

Deposition of George W. Wilson.

BAHAMAS, RAGGED ISLAND, *March 15, 1869.*

I, George W. Wilson, a native of this island, having been called on board of the Spanish war steamer Andalusia, as pilot, to bring her into harbor, do hereby certify that on the morning of this day I got the said steamer under way and stood after the American brig Mary Lowell, who was then on her way for the harbor of this island. When the said brig was about three miles from Little Ragged Island, I saw suspicious movements on board of said steamer, viz., clearing decks for action.

I asked the commander what were his intentions. He said to take the brig if she went six miles from the land. I told him that he would be violating the law of nations if he did so within three miles of the Bahama bank. His reply was, he did not care; he would take her when she was six miles off, and land me and my brother, Walter J. Wilson, who was then in charge of said brig.

Before he could get near enough to board her the brig tacked and stood in shore. He then followed in her wake until the brig made her last tack to clear the southeast point of Little Ragged Island. About this time a Peruvian monitor hove in sight with a signal for a pilot. The captain of the steamer then ordered the boat to be lowered and manned with about fifteen men, armed with guns, revolvers, and cutlasses.

Finding that the boat could not come up with the brig, he ordered full speed, and ranged up on the brig's port quarter and ordered her to lower her sails or he would fire into her. I told him he did not dare to fire into an American vessel in British waters, with a British officer on board. He said he did not care for English or American; he would fire into her immediately if she did not lower her sails.

His order not being immediately complied with, gave the word to fire. The order was stopped by one of the officers. He then repeated the order, when it was countermanded by the Spanish pilot. The said pilot begged me to tell them on board the brig to lower her sails. I then called to my brother, Walter J. Wilson, to do so, when the Spanish captain ordered them to fire again. Then another officer, seeing the lowering of the sails on board the brig, countermanded the order. The boat by this time boarded her and took charge of the brig, being then about three-fourths of a mile south of the southeast point of Little Ragged Island.

The American flag was over her side when they boarded her, it being taken from her peak in the taking in of the mainsail.

GEORGE W. WILSON.

Sworn before me this 16th day of March, 1869.

G. G. WILSON, J. P.

[Inclosure 10 in No. 2.]

*Mr. Hollar to Receiver General.*REVENUE OFFICE, PORT OF RAGGED ISLAND,
March 16, 1869.

I have the honor to report the arrival of the Peruvian monitor *Manco Capao*, two guns; one hundred and fifty men, Captain Camelo N. Corrello, from Key West, on the evening of the 15th instant, she reports being out of coal, and lying in the harbor.

I beg to inclose the register of the American brig *Mary Lowell*, which was deposited in my office by the captain of the said brig with Mr. George W. Wilson, who acted in my absence, on leave, and other papers.

No. 3.

Mr. Hall to Mr. Fish.

[Telegram.]

HAVANA, March 25, 1869.—(Received March 25.)

Brig *Mary Lowell*, towed by Spanish steamer arrived last evening. Cargo reported, arms and munitions.

No. 4.

Mr. Hall to Mr. Hunter.

No. 14.] HAVANA, March 26, 1869.—(Received April 2.)

With reference to my communication No. 12, of 23d instant, and my telegram of yesterday announcing the arrival of the brig *Mary Lowell* at this port on the 25th, I have now to accompany copies of letters and documents from the United States consular agent at Nuevitas, relative to the same case.

Up to the present I have received no communication from the authorities, and until instructed by the department I shall not enter into any correspondence with them in regard to this vessel.

From the British consul general at this port, I learn that he had an informal interview with General Dulcé yesterday, that the latter ridiculed the idea of the affair becoming an international question between Great Britain and Spain, and expressed the opinion that it was a matter to be settled only between these two governments.

From the statement of Mr. Gibbs it appears that the four seamen taken away with the brig had been transferred at Ragged Island from the steamer *Henry Borden*, which left Jacksonville, Florida, ostensibly for Nassau, having forty-seven passengers on board, but really for Ragged Island, where she landed the passengers and transferred the four men referred to.

I will keep the department advised of all that comes to my knowledge relating to this case.

MARCH 27.

Her Britannic Majesty's consul general at this port has kindly furnished me with a copy of his communication to the governor general, relative to the case of the *Mary Lowell*, which I have the honor to accompany herewith.

[Inclosure 1 in No. 4.]

*Mr. Gibbs to Mr. Hall.*NUEVITAS, *March 20, 1869.*

On the morning of the 16th instant, the Spanish gunboat Andalusia entered the harbor, having a brig in tow as a prize.

It was reported around the town immediately that it was an American brig loaded with arms, and had been lying for some time past at Ragged Island.

At 2 p. m. the same day I received an official communication from the commander of marines, copy of which I inclose, marked A; also an addenda, B, immediately answered, as per copy C; received no further communication until this day at 1 p. m., when I received communication D.

At the time appointed I went to the commander of marines' office, where I found the seamen, all American citizens, James Walsh, John Reynolds, John Shannon, natives of Ireland, and Lewis Exton, of England. Their testimony was read over to them in my presence, and signed by them. I conversed with them. They had no complaints to make in the way of treatment; only were deprived of their liberty. According to their statement they are part of the crew of the steamer Henry Borden. They left Jacksonville, Florida, for Nassau, having forty-seven passengers on board; that the captain did not go to Nassau, as agreed to, but changed his course and went to Brown Key. They (the crew) objected to it. The steamer went to Ragged Island; transferred there four men to the brig Mary Lowell; leaving the passengers ashore, and left for Nassau.

On the 15th the pilot came aboard in the morning with two negroes to assist to change the anchorage of the brig. The Spanish war steamer which had been lying near for some days got up steam and followed us. The brig was tacking and beating toward the island when the steamer lowered a boat to board the vessel, but did not overtake the brig. The steamer then ranged up close; brought a gun to bear on the brig. They hoisted to, and were boarded and taken possession of, then about two miles from the island.

The pilot, Mr. Wilson, and two negroes were sent off. The crew were transferred to the steamer, put in irons, and kept there some fifteen or twenty minutes, and the steamer left, towing the brig as a prize. One of the crew says he put the American ensign on the gangway. They knew nothing of the brig or her cargo. They were transferred from the steamer to brig by captain of the steamer, to take care of her and to obey the orders of the collector of revenue at Ragged Island, who had taken partly possession of the vessel and had sealed the hatches.

I have given you a slight sketch of what I could learn of this affair, and the seamen desired me to acquaint you of the fact, so that they may be protected on their arrival at Havana.

Nothing to communicate of movements here; all remain as in my letter of the 4th. No news from the interior.

[Inclosure 2 in No. 4.]

A.

Señor Herrera to Mr. Gibbs.

[Translation.]

COMMANDANCY OF MARINE OF THE PROVINCE OF NUEVITAS,
Nuevitas, March 16, 1869.

This morning the war schooner Andalusia arrived at this port, conducting an hermaphrodite brig, which, under the American flag and manned with four men, was seized out of the jurisdiction waters of the British Salt Cay, on account of suspicious movements, and her cargo found to consist of arms and munitions of war. After examination, it appears said vessel is called the Mary Lowell, of which notice was had that she was soon to arrive to the coast of this island with the aforesaid cargo. In consequence thereof, she remains henceforward under the vigilance of this naval station, the formation of the competent judicial proceedings being now commenced by me, which I now manifest to you for your information.

[Inclosure 3 in No. 4.]

B.

Señor Herrera to Mr. Gibbs.

[Translation.]

COMMANDANCY OF MARINE OF THE PROVINCE OF NUEVITAS,
Nuevitas, March 17, 1869.

As a continuation to my letter of yesterday, I have the pleasure of informing you that there is quite a number of Cubans at Ragged Island, and that in the waters of said port there had been sighted by the war steamer Andalusia a steamer under the Peruvian flag.

[Inclosure 4 in No. 4.]

C.

Mr. Gibbs to Señor Herrera.

NUEVITAS, *March 18, 1869.*

I have received your communication of this date, wherein you inform me of the arrival this morning of the war schooner Audalusia, bringing as a prize an American brig called Mary Lowell, with four of crew taken outside of the waters of Salt Cay, English territory; and that said vessel was loaded with arms and munitions of war, and that said vessel would remain under the vigilance of this naval station. All of which due note has been taken.

As consular agent of the United States of America at this port, I desire to see and communicate with the crew of said vessel as soon as convenient; and, also, will expect to be present at their trial, or when they are examined.

[Inclosure 5 in No. 4.]

D.

Señor Herrera to Mr. Gibbs.

[Translation.]

NUEVITAS, *March 20, 1869.*

According to your expressed wishes, this afternoon at 5 o'clock the crew of the brig Mary Lowell will come on shore for the purpose of ratifying and signing their declarations; which act you may present, should it please you to attend.

[Inclosure 6 in No. 4.]

Her Britannic Majesty's consul to the Governor General.

EXCELLENCY: I have the honor to state to your excellency that her Majesty's gunboat Cherub has arrived here from Nassau, bringing me dispatches from the government of the Bahama Islands. His excellency reports to me as follows:

"A gross outrage has been perpetrated by a Spanish ship of war, the Andalusia, in seizing illegally an American schooner, the Mary Lowell, which schooner was, at the time, in charge of a British revenue officer, and within a short distance of the shore while changing her anchorage. The transaction is of so serious and unwarrantable a nature that I have ordered the Cherub to proceed at once to Havana with this communication," &c.

Referring your excellency to the preceding statement, I may add that more affidavits are in my hands satisfactorily proving that the Andalusia seized the Mary Lowell far within British jurisdiction, and that I believe such affidavits to be true, and will certainly hesitate to credit any assertion to the contrary. I am informed that the Mary Lowell has been brought to Havana this afternoon.

Under these circumstances I confine myself, at present, to laying the facts before your excellency, and to stating, most respectfully, that being aware of your excellency's great experience in dealing with all such cases, and your perfect acquaintance with international law, it is not for me to presume to indicate to your excellency the only course which is clear, as regards such cases, now remains to be taken in this very painful eventuality.

No. 5.

Admiral Porter to Mr. Fish.

WASHINGTON, April 2, 1869.—(Received April 3.)

I have the honor to submit herewith, for your information, dispatch No. 36, with its several inclosures, from Rear-Admiral H. K. Hoff, commanding the North Atlantic Squadron, relative to the seizure of the American brig Mary Lowell, at Ragged Island, by the Spanish war steamer Andalusia.

After having availed yourself of the contents of these papers, I will thank you for their return.

[Inclosure 1 in No. 5.]

Admiral Hoff to Mr. Borie.

No. 36.]

NORTH ATLANTIC SQUADRON,
UNITED STATES FLAG-SHIP CONTOOCOOK, (2d rate),
Key West, March 26, 1869.

I had the honor to telegraph to the department on the 25th instant, reporting the capture of the American brig Mary Lowell, of New York, by the Spanish war steamer Andalusia, at Ragged Island, (one of the Bahamas.)

The brig, at the time she was ordered to lower her sails, was three quarters of a mile south of the southeast point of Little Ragged Island, in British waters, with an English revenue officer and pilot on board, and she was engaged in shifting her berth from the man-of-war to the inner anchorage for greater safety in the event of bad weather.

The particulars of this unjustifiable seizure, brought to Havana by her Britannic Majesty's ship Cherub, are contained in the following enumerated inclosures, viz :

Inclosure No. 1.—Letter from Mr. Thomas Kilpatrick, United States consul at Nassau, (copy.)

Inclosure No. 2.—Extracts from the Nassau Herald of 19th instant.

Inclosure No. 3.—Copies of communications, &c., sent to her Britannic Majesty's consul general at Havana, by the governor of the Bahamas.

Inclosure No. 4.—Copy of letter from Mr. Hall, United States consul at Havana.

Inclosure No. 5.—Copy of report of Commander Fillebrown, of the Narragansett.

I have received information from Havana that, when the English consul general called upon the Spanish authorities upon the subject, he was told that nothing was known officially of the affair, but, if the facts were as above stated the commander of the Andalusia had acted without instructions.

(For inclosure 2, see inclosure 1 in No. 2.)

(For inclosure 3, see inclosure 2 in No. 2.)

(For inclosure 4, see inclosures 3, 4, 5, 6, 7, 8, 9, and 10 in No. 2.)

[Inclosure 5 in No. 5.]

Mr. Hall to Rear Admiral Hoff.

[Extract.]

HAVANA, March 23, 1869.

I have the honor to accompany herewith the following inclosures relating to the capture of the American brig Mary Lowell, of New York, at Ragged Island, by the Spanish gunboat Andalusia, the news of which has been brought here by the British war steamer Cherub.

No. 1. Letter from Mr. Thomas Kilpatrick, United States consul at Nassau.

No. 2. Extracts from the Nassau Herald of 19th instant.

No. 3. Copies of communication, &c., sent to her Britannic Majesty's consul general at this port by the governor of the Bahamas.

The substance of all appears to be that the brig *Mary Lowell* was at Ragged Island, and had been watched for a number of days by the Spanish war steamer *Andaluza*, or *Andaluza*; that the master of the brig had left here and returned to New York for instructions, leaving the vessel in charge of Mr. Thomas Wilson, custom-house officer at that port.

That on the 15th, while Mr. Wilson, in his double capacity of pilot and custom-house officer, was moving the brig from the man-of-war anchorage to the inner harbor, the commander of the Spanish gunboat, with few preliminaries, took possession of the brig, and soon afterwards sailed in a south-westerly direction, having her in tow.

It also appears that one of the Peruvian monitors made its appearance at the port at about the time of the capture of the brig.

I send you the above information for your guidance, you being where you can communicate to the government by telegraph *ad libitum*.

It appears, however, to be a matter that interests the British government more particularly than our own.

* * * * *

[Inclosure 6 in No. 5.]

Commander Fillebrown to Admiral Hoff.

UNITED STATES STEAMER NARRAGANSETT, (3d rate.)

Havana, Cuba, March 23, 1869.

Her Majesty's steamer *Cherub* arrived here last night with important dispatches to the British consul general, and also to our consul general, Mr. Hall, to the effect that the Spanish gunboat *Andaluza*, had captured the American brig *Mary Lowell*, at Ragged Island, on the 15th instant, while within one-half to three-quarters of a mile from the shore; said brig being at the time in charge of a British revenue officer.

I called to see Mr. Dunlap this a. m., who submitted all his dispatches for my perusal, and kindly allowed such as were desired to be copied for your information, and for transmittal to the Hon. Secretary of State. Mr. Hall's letter will, however, inform you of his action in the matter.

Deeming the matter of sufficient importance, I telegraphed it to you and Mr. Hall, having, at the same time, sent a message to the honorable Secretary of State at Washington.

The commander of the *Cherub* informed me that the *Andaluza* would probably take her prize to Matanzas. You will also perceive by the *Nassau Herald Extra*, inclosed to you by Mr. Hall, that one of the Peruvian monitors, lately at Key West, is now at Ragged Island, having run into and sunk the steamer towing her; the whereabouts of the other monitor is not given.

While at Key West, I was informed by the commander of the Peruvian that after leaving there her first stopping place would be at Crooked Island, for coals.

No. 6.

Mr. Kirkpatrick to Mr. Fish.

No. 310.]

UNITED STATES CONSULATE, NASSAU,

April 2, 1869.—(Received April 10.)

I have the honor to transmit to you information of the capture of the American brig *Mary Lowell*, of New York, by the Spanish war steamer *Andaluza*, on the 15th ultimo. I forwarded information of it to the consul general of the United States at Havana on the day the information reached Nassau, being on 19th March, copy of which is inclosed, marked No. 1. I need not further comment on the outrage. It was in violation not only of international law, but of positive personal pledge that he would in no way interfere with the vessel while the authorities should be getting her into the inner harbor, which they were in the act of doing when captured, as will fully appear by the inclosed depositions. On hearing of this capture on the morning of the 19th of March, I called

upon the governor at his request, and he showed me the evidence that he had received. I afterwards addressed him a letter asking for copies of such information as was in his possession in regard to her capture. (See inclosure marked No. 2.) I received his answer on the 24th, together with copy of deposition of George W. Wilson, who acted as collector, and Walter J. Wilson, who was a custom-house officer, and on board of and in charge of the brig. These will be found inclosed, marked Nos. 3, 4, and 5. I transmit, also, copy of Nassau Herald and Guardian newspapers, commenting on the transaction. They will be found marked 6 and 7 respectively. I also inclose you a deposition of James K. Norris, a gentleman sojourning for the time at Ragged Island, and who acted as interpreter between the Spanish commander and collector, (he understanding and speaking Spanish fluently.) You will perceive by his affidavit that the commander of the Spanish war vessel informed him, among other things, that he had dispatches from Mr. Seward and the governor of the Bahamas in relation to the character of this brig. As far as the first named is concerned it could not be true, and I have as little doubt in regard to the latter of its falsity. This is inclosed, marked No. 8. I sent my dispatch to Havana by the kindness of the governor, through him to our consul by her Majesty's ship of war Cherub. She returned on the 1st instant, but I have heard nothing from the United States consul in answer to it.

Information reached here some time prior to her capture that the Spanish war vessel was keeping a strict watch over the brig, and that the commander had requested permission from the deputy collector to search her, and it was generally expected that the governor would send down an English ship of war then in this harbor to protect her, but for some reasons she was not sent. We have had no vessel bound to the United States since my dispatch to Havana, (which I suppose was forwarded to you,) or I should have communicated promptly what had occurred.

(For inclosure 1, see inclosure 1 in No. 2.)

[Inclosure 2 in No. 6.]

Mr. Kirkpatrick to Governor Walker.

NASSAU, March 19, 1869.

I have the honor to request your excellency to furnish me with copies of any communications in your possession relating to the capture of the American brig *Mary Lowell*, of New York, at or near the harbor of Ragged Island, on the 15th instant, by the Spanish war steamer *Andaluza*, while in British waters.

[Inclosure 3 in No. 6.]

Governor Walker to Mr. Kirkpatrick.

GOVERNMENT HOUSE, NASSAU, March 20, 1869.

The governor presents his compliments to the consul for the United States, and in compliance with the request contained in Mr. Kirkpatrick's letter of yesterday has the honor to inclose copies of two depositions—the one of the revenue officer in charge of the brigantine, and the other of the pilot of the Spanish war steamer, relative to the capture of the *Mary Lowell* in the waters of Ragged Island.

The originals of these two depositions, with the ship's register and other documents, have been forwarded to her Majesty's consul general at Havana.

(For inclosure 4, see inclosure 8 in No. 2.)

(For inclosure 5, see inclosure 9 in No. 2.)

[Inclosure 6 in No. 6.]

Deposition of James R. Norris.

CONSULATE OF THE UNITED STATES OF AMERICA,
Nassau, New Providence, March 31, 1869.

On this day, before me, the undersigned, consul of the United States of America for Nassau, New Providence, and the dependencies thereof, personally appeared James R. Norris, and being by me duly sworn, doth depose and say: That I am a native citizen of the United States of America, and having been temporarily sojourning on Ragged Island, Bahamas; that while sojourning there the American brig Mary Lowell, of New York, arrived, and anchored first inside of what is called the harbor. About four days afterwards she was removed to what is called "man-of-war anchorage," on the south side of the island, about one mile from shore. She remained there about fifteen days, the greater portion of this time closely watched by the Spanish war ship Andaluza. Another Spanish war steamer, the Africa, came there twice during the time. I was present when the commander and another officer of the Andaluza met the collector on the road and requested the acting collector to allow him to search the brig Mary Lowell, as they had information that she had arms and ammunition on board for the insurrectionists in Cuba. This the acting collector refused to do, and stated that she was in an unseaworthy condition, unable to prosecute her voyage, and that the master and part of the crew had gone to New York to confer with the owners, and that the vessel was under his charge and protection; that her papers were deposited in the custom-house, and her hatches were under seal, and a British custom-house officer on board in charge of her. The acting collector was George W. Wilson. About eight or ten days after the brig had been in charge of the custom-house authorities, Mr. Luke C. Hollar, the collector, who had been absent at Nassau, returned to Ragged Island. The day after his arrival he, myself, and the former acting collector, Wilson, went on board the Spanish war steamer Andaluza for the purpose of treating with the captain. He (Hollar) told the commander, through me as interpreter, that he had been away, and had just arrived, and had come to say to him that this vessel, the Mary Lowell, was under his charge, with a custom-house officer on board, and that for greater security he intended to move her into the inner harbor, which the captain of the Spanish war steamer agreed he might do, but that he would follow her in. The collector then told him through me that he (the commander of the war steamer) must be aware that he could not trouble her either while at anchor or in removing her into the inner harbor. The commander said he was aware of that, and had no intention of doing so. The commander expressed a wish to Mr. Hollar, the collector, that if the brig was to be taken into the inner harbor, that he (the collector) would send him a pilot on board his vessel to take him in also. The collector complied with his wishes, and sent the deputy collector on board the war vessel to act as pilot. He also stated to me that he had information from Secretary Seward and the governor of Nassau of the character of this vessel, and that he had dispatches from them. That on the 15th of March the custom-house officer on board the Mary Lowell (Walter J. Wilson) undertook to bring her into the harbor of Ragged Island, and when about to double the southeast point of Little Ragged Island, she was boarded by a crew from the war steamer Andaluza and captured, when at a distance from the southeast point of Little Ragged Island of about three-quarters of a mile. She was at no time, while getting her in, three miles from the shore, and was captured in violation of a sacred agreement made between the captain of the Spanish war steamer and the collector, as well as in clear violation of the law of nations.

J. R. NORRIS.

Subscribed and sworn to before me this 31st day of March, 1869.

THOMAS KIRKPATRICK,
United States Consul.

[Inclosure 7 in No. 6.]

[From the Nassau Herald, Saturday, March 20, 1869.]

In our last impression we published a letter from the Spanish consul in this city, denying some statements which we published from our correspondent at Ragged Island concerning the insulting conduct of the commander of the Spanish gunboats. Our readers, however, will now perceive that the statements advanced by our correspondent were not only in the main correct, but altogether fell short of the reality.

We have now in our possession indisputable proof of the wantonly insulting manner in which the captain of the Andaluza behaved, so much so as not only to cause the most intense excitement at Ragged Island, but also to almost induce the quiet inhabit-

ants of that settlement to rise in arms and expel the Spaniards altogether from their coast, and we have been informed that had they had the necessary means, or had the Spaniards been on shore, they would undoubtedly have done so.

There can be no question that this act on the part of the commander of the Spanish gunboat was, in every sense, unwarrantable and illegal, and a most flagrant insult to the British flag, and there can be equally as little doubt that it will be resented with that prompt energy which is so peculiar to the British nation, and which also is so well understood and feared by all foreigners.

This outrage came upon us so suddenly and unexpectedly that at first we were disposed to discredit it, and were it not that our information is derived from the most authentic source, we still should have some hesitation in giving it *full* credence, if for no other reason than this simple one, that it is difficult to believe that the agents of a despised and despotic government, already prostrated by internal revolution, would have dared to insult in the flagrant manner described two such powers as Great Britain and the United States at once, the most powerful nations on the face of the earth. However, the act has been committed, and when the reckoning comes to be paid, the aggressor may depend upon it that they will find the settlement both expensive and humiliating. Bearding the lion in his den will not turn out either so amusing or profitable an occupation as our friends the Spaniards seem to imagine.

(For inclosure 8 see inclosure 2 in No. 2.)

No. 7.

Mr. Fish to Mr. Johnson.

No. 97.]

WASHINGTON, April 5, 1869.

I transmit a copy of *despatch No. 12, of the 23d ultimo, addressed to this department by Mr. Henry C. Hall, acting consul general of the United States at Havana, and of the accompanying papers; and also a copy of a †letter from the Secretary of the Navy with the report of Rear-Admiral Hoff to him, all relating to the seizure of the American brig *Mary Lowell*, at Ragged Island, by the Spanish war steamer *Andaluza*. As this seizure not only took place within British jurisdiction, but at a time when the vessel was in charge of a colonial custom-house officer, it is presumed that her Majesty's government will not hesitate to hold the Spanish authorities accountable for the proceedings. This government will look to the British government for indemnification for the losses and injuries which citizens of the United States, owners of the *Mary Lowell* and her cargo, may sustain in consequence of her illegal seizure.

No. 8.

Mr. Hall to Mr. Fish.

No. 32.]

HAVANA, April 21, 1869.—(Received April 27.)

I have the honor to acknowledge the receipt of dispatches Nos. 134 to 136, inclusive, and also circular No. 71.

With reference to my Nos. 12, 14, and 26, I have now to inform the department that the four seamen of the brig *Mary Lowell* were released on the 13th instant, on which day the vessel was declared by the marine court to be a lawful prize.

Against this decision the British consul general has protested, and the case will now undergo revision, and appeal to a higher court; in the

* See No. 2 and inclosures.

† See No. 5 and inclosures.

meanwhile, it is reported that the vessel has been discharged, and her cargo deposited at the government arsenal.

At my suggestion the British consul has taken the affidavits of the four seamen of the *Mary Lowell*, and I have now the honor to accompany herewith copies thereof, as per inclosure No. 1. Their statements before the consul do not confirm what they were reported to have stated to the Spanish prize court.

I further accompany, inclosure No. 2, copies of the affidavits of Messrs. James R. Norris, and John T. Tucker, who were witnesses to the capture of the *Mary Lowell*, all going to establish the fact beyond doubt, that the vessel was, at the time of her capture, far within British jurisdiction, besides being in charge of a British officer of customs, and her hatches under the seal of the custom-house at Ragged Island.

[Inclosure 1 in No. 8.]

Appeared before me, Alexander Graham Dunlop, esquire, her Britannic Majesty's consul general in Cuba, this 15th day of April, 1869, in the British consulate at Havana, John Reynolds, and James Welsh, seamen taken on board the American brigantine *Mary Lowell*, who being duly sworn, declared as follows:

On the 15th of March, 1869, we were on board the *Mary Lowell*, which weighed from man-of-war anchorage in charge of Mr. Walter Wilson, (British custom-house officer,) between 9 and 10 a. m., with the intention of working round the southeast point of Little Ragged Island, and going into Ragged Island harbor. The ship's hatches were all sealed, and had been sealed previous to our joining the vessel, which was on the 26th of February, 1869. At this time the Spanish war steamer *Andaluza* was anchored two or three cables from us. The steamer weighed immediately after we did. The wind was light from the eastward, and we made short tacks about every half hour, going about three knots. The steamer tacked whenever we did, and kept within the distance of half a mile to one mile from us, until about 2 p. m., when a vessel hove in sight to southward, which proved to be a monitor, and the *Andaluza* went out to reconnoiter her, and returned to her former position near us in about an hour, (say about 3 p. m.) We were then standing to the southward. The *Andaluza* then came within hail, and offered to tow us round the southeast point of Little Ragged Island. We declined, as we expected to weather it on the next tack. At the time she made this offer we were not more than one mile and a half from off the shore. We stood off to three miles, passing to windward of the Hobson breaker for the first time, and close to it, only just clearing it. At no time during the day had we gone off shore so far.

Shortly after 4 p. m. we tacked and stood in shore, with our American colors flying. In the meantime the *Andaluza* had lowered a cutter full of armed men, besides her crew, (upwards of twenty in all,) and they endeavored to come alongside after we tacked toward the shore, but were unable to get alongside. Seeing this, the *Andaluza* came up on our port beam and ordered us to lower away our sails, at the same time pointing a gun at us. As soon as we understood the order we obeyed it. We were then far to the northward of the Hobson breaker, and lay well up, so as to weather the southeast point of Little Ragged Island, distant about one mile. After the sails were lowered we drifted so close to the rocks that Mr. Wilson had the ship kept away southwest to prevent her striking. In a few minutes the boat came alongside—the port side. The officer in command of the Spanish boat noticed the flag, and asked permission of Mr. Wilson, who was in command, to come on board. Leave was given to come, himself, alone. As soon as he was on deck, some order was given from the steamer *Andaluza*, and the officer at once called the armed men on board out of the boat, and they took charge of the vessel, and ordered the crew of the *Mary Lowell* to go on board the *Andaluza*, which we did. We had scarcely any clothes, as they were left on shore at Ragged Island, the vessel having only weighed to shift her berth. As soon as we got on board we (four) were all put in irons down below; in about half an hour we were released, and on going on deck we found that the *Andaluza* had the *Mary Lowell* in tow, and was steaming away from the land (Ragged Island) at a rapid rate. On the 16th of March, 1869, we arrived at Nuevitas, and were subsequently examined there, before the Spanish authorities. We remained on board the *Andaluza*, prisoners at large, till the morning of the 21st day of March, when we were transferred on board the *Blasco de Garaye*, and left Nuevitas in her on the 22d of March, 1869, arriving at Havana harbor on the 24th of March. We remained about six days on the *Blasco Garaye*, and on one occasion, whilst she was coaling, we were put in irons for

one night. On the 30th of March, 1869, we were placed on board the *Gerona*, in Havana harbor, and remained prisoners between two guns (on her main deck) for about ten days. We were then allowed to go at large until the evening of the 13th of April, 1869, when we were set at liberty, and a boat from the *Gerona* landed us in the town of Havana. Since we have been at Havana we have each been examined once, before a judge on board the *Gerona*. And we hereby solemnly declare that both during that examination and also during the previous one at Nuevitas, the evidence we gave went to prove that the *Mary Lowell* was taken not further than one mile from the shore of Ragged Island, and concurs in every particular with this declaration.

With respect to the Spanish decision on the case of the *Mary Lowell*, written in the auditor's report in Spanish, and dated the 14th of April, 1869, and verbally translated to us by the English consul, in which we are represented to have said that, at the time of seizure of the *Mary Lowell* by the *Andaluza*: "One said that she was one mile and a half from the coast, but he could not affirm it; another, between three and four miles; another, at three miles, and another at one mile and a half from the island." We hereby declare that this alleged report of any portion of any evidence of ours is an entire mistake and error on the part of the Spanish judge, or interpreter, we don't know which, and we declare this solemnly, although we may have signed papers placed before us for signature by the Spanish officials, after having had them hastily read to us, (either in Spanish, or English, or both.) If anything was said by us about three miles or four miles, as being our distance off shore, we meant to reply to a query respecting Great Ragged Island, and not the distance from the shore of Little Ragged Island. Our remembrance of this is perfectly distinct, and we do not acknowledge as true the assertion in the Spanish report respecting any discrepancy in our several testimonies.

JOHN REYNOLDS.
JAMES WELSH.

Sworn to and signed before me, 15th April, 1869.

[SEAL.]

A. GRAHAM DUNLOP,
Her Majesty's Consul General in Cuba.

CONSULATE GENERAL OF THE UNITED STATES OF AMERICA IN HAVANA:

We, John Reynolds and James Welsh, do hereby solemnly swear that we have heard read to us the foregoing affidavit made by us before her Britannic Majesty's consul general at this port, and do hereby confirm and reaffirm all the statements made by us therein, and do declare them to be true in every respect. So help me God.

JOHN REYNOLDS.
JAMES WELSH.

Sworn to and subscribed before me, the undersigned, vice-consul general of the United States of America at Havana, the 21st day of April, A. D. 1869. Witness my hand and the seal of this consulate general.

[SEAL.]

HENRY C. HALL,
United States Vice-Consul General.

[Inclosure 2 in No. 8.]

Appeared before me, Alexander Graham Dunlop, esquire, her Britannic Majesty's consul general in Cuba, this 15th day of April, 1869, in the British consulate at Havana, Louis Exton, seaman, taken on board the American brigantine *Mary Lowell*; who, being duly sworn, declared as follows:

On the 15th of March, 1869, I was on board the *Mary Lowell*, which weighed from "man-of-war" anchorage, in charge of Mr. Walter Wilson, (British custom-house officer,) between 9 and 10 a. m., with the intention of working round the southeast point of Little Ragged Island, and going into Ragged Island harbor. The ship's hatches were all sealed, and had been sealed previous to my joining the vessel, which was on the 26th of February, 1869. At this time the Spanish war steamer *Andaluza* was anchored two or three cables from us. The steamer weighed immediately after we did. The wind was light from the eastward, and we made short tacks about every half hour, going about three knots. The steamer tacked whenever we did, and kept within the distance of half a mile to one mile from us until about 2 p. m., when a vessel hove in sight to southward, which proved to be a monitor, and the *Andaluza* went out to reconnoitre, and returned to her former position near us in about an hour, (say about 3 p. m.) We were then standing to the southward. The *Andaluza* then came within hail, and offered to tow us round the southeast point of Little Ragged Island. We declined, as we expected to weather it on the next tack. At the time she made this offer, we were not more than one mile and a half off the shore. We stood off to three miles, passing to windward of the Hobson breaker for the first time, and

close to it, only just clearing it; at no time during the day had we gone off the shore so far.

Shortly after 4 p. m. we tacked and stood in shore, with our American colors flying. In the meantime the Andaluza had lowered a cutter full of armed men, besides her crew, (upwards of twenty in all,) and they endeavored to come alongside after we tacked toward the shore, but were unable to get alongside. Seeing this, the Andaluza came up on our port beam, and ordered us to lower away our sails, at the same time pointing a gun at us. As soon as we understood the order we obeyed it. We were then far to the northward of the Hobson breaker, and lay well up, so as to weather the southeast point of Little Ragged Island, distant about one mile. After the sails were lowered, we drifted so close to the rocks that Mr. Wilson had the ship kept away southwest to prevent her striking. In a few minutes the boat came alongside—the port-side. When the mainsail was lowered, I took the American ensign, (which had come down with the halliards,) and laid it over the port gangway. The officer in command of the Spanish boat noticed the flag, and asked permission of Mr. Wilson, who was in command, to come on board. Leave was given to come, himself, alone. As soon as he was on our deck, some order was given from the steamer Andaluza, and the officer at once called the armed men on board, out of the boat, and they took charge of the vessel, and ordered the crew of the Mary Lowell to go on board the Andaluza, which we did. We had scarcely any clothes, as they were left on shore at Ragged Island, the vessel having only weighed to shift her berth. As soon as we got on board we (four) were all put in irons down below; in about half an hour we were released, and on going on deck we found that the Andaluza had the Mary Lowell in tow, and was steaming away from the land (Ragged Island) at a rapid rate.

On the 16th of March, 1869, we arrived at Nuevitas, and were subsequently examined there before the Spanish authorities. We remained on board the Andaluza, prisoners at large, until the morning of the 21st of March, when we were transferred on board the Blasco Garaye, and left Nuevitas in her on the 22d of March, 1869, arriving in Havana harbor on the 24th of March. We remained about six days on the Blasco de Garaye, and on one occasion, while she was coaling, we were put in irons for one night. On the 13th of March, 1869, we were placed on board the Gerona, in Havana harbor, and remained prisoners, between two guns, (on her main deck,) for about ten days. We were then allowed to go at large until the evening of the 13th of April, 1869, when we were set at liberty, and a boat from the Gerona landed us in the town of Havana. Since we have been in Havana we have been each examined once, before a judge on board the Gerona. And I hereby solemnly declare that both during that examination, and also during the previous one at Nuevitas, the evidence I gave went to prove that the Mary Lowell was taken not further than one mile from the shore of Ragged Island, and concurs in every particular with this declaration; and with respect to the Spanish decision in the case of the Mary Lowell, written in the auditor's report in Spanish, and dated the 14th of April, 1869, and verbally translated to me by the English consul, in which we are represented to have said that, at the time of seizure of the Mary Lowell by the Andaluza: "One said that she was one mile and a half from the coast, but he could not affirm it; another between three and four miles; another, at three miles; and another at one mile and a half from the island." I hereby declare that this alleged report of any evidence of mine is an entire mistake and error on the part of the Spanish judge, or interpreter, I don't know which, and I declare this solemnly, although I may have signed papers placed before me for signature by the Spanish officials after having had them hastily read to us, (either in Spanish or English, or both.) If anything was said by me about "three miles," or "four miles," as being our distance off shore, I meant to reply to a query respecting Great Ragged Island, and not the distance from the shore of Little Ragged Island. My remembrance of this is perfectly distinct, and I do not acknowledge as true the assertion in the Spanish report respecting any discrepancies in our several testimonies.

LOUIS EXTON.

Sworn to and signed before me 15th April, 1869.

[SEAL.]

A. GRAHAM DUNLOP,
Her Majesty's Consul General in Cuba.

CONSULATE GENERAL OF THE UNITED STATES OF AMERICA AT HAVANA.

I, Louis Exton, do solemnly, truly, and sincerely swear that I have heard read the foregoing copy of an affidavit made by me before the British consul general at this port, and do hereby confirm and reaffirm all the statements therein made by me, and do declare them to be true in every particular: so help me God.

LOUIS EXTON.

Sworn to and subscribed before me, the undersigned, vice-consul general of the United States of America at Havana, the 21st day of April, A. D. 1869. Witness my hand and the seal of this consulate general.

[SEAL.]

HENRY C. HALL,
United States Vice-Consul General.

[Inclosure 3 in No. 8.]

Appeared before me, Alexander Graham Dunlop, esq., her Britannic Majesty's consul general in Cuba, this 15th day of April, 1869, in the British consulate at Havana, John Shannon, seaman, taken on board the American brigantine *Mary Lowell*, who, being duly sworn, declared as follows, to wit: On the 15th day of March, 1869, I was on board the *Mary Lowell*, which weighed from "man-of-war anchorage," in charge of Mr. Walter Wilson (British custom-house officer) between 9 and 10 a. m., with the intention of working round the southeast point of Little Ragged Island, and going into Ragged Island harbor. The ship's hatches were all sealed, and had been sealed previous to my joining the vessel, which was on the 26th of February, 1869. At this time the Spanish war steamer *Andalusia* was anchored two or three cables from us. The steamer weighed immediately after we did. The wind was light from the eastward, and we made short tacks about every half hour, going about three knots. The steamer tacked whenever we did, and kept within the distance of half a mile to one mile from us, until about 2 p. m., when a vessel hove in sight to southward, which proved to be a monitor, and the *Andalusia* went out to reconnoiter her, and returned to her former position near us, in about an hour, (say about 3 p. m.) We were then standing to the southward. The *Andalusia* then came within hail, and offered to tow us round the southeast point of Little Ragged Island. We declined, as we expected to weather it on the next tack. At the time she made this offer, we were not more than one mile and a half off the shore. We stood off to three miles, passing to windward of the Hobson breaker for the first time, and close to it, only just clearing it; at no time during the day had we gone off shore so far. Shortly after 4 p. m. we tacked and stood in shore with our American colors flying. In the meantime the *Andalusia* had lowered a cutter full of armed men, besides her crew, (upwards of twenty in all,) and they endeavored to come alongside after we tacked toward the shore, but were unable to get alongside. Seeing this the *Andalusia* came up on our port beam, and ordered us to lower away our sails, at the same time pointing a gun at us. As soon as we understood the order we obeyed it. We were then far to the northward of the Hobson breaker, and lay well up, so as to weather the southeast point of Little Ragged Island, distant about one mile. After the sails were lowered we drifted so close to the rocks that Mr. Wilson had the ship kept away southwest to prevent her striking. In a few minutes the boat came alongside—the port side. The officer in command of the Spanish boat noticed the flag, and asked permission of Mr. Wilson, who was in command, to come on board. Leave was given to come, himself, alone. As soon as he was on our deck some order was given from the steamer *Andalusia*, and the officer at once called the armed men on board out of the boat, and they took charge of the vessel, and ordered the crew of the *Mary Lowell* to go on board the *Andalusia*, which we did. We had scarcely any clothes, as they were left on shore at Ragged Island, the vessel having only weighed to shift her berth. As soon as we got on board we (four) were all put in irons down below. In about half an hour we were released, and on going on deck we found that the *Andalusia* had the *Mary Lowell* in tow, and was steaming away from the land (Ragged Island) at a rapid rate. On the 16th of March, 1869, we arrived at Nuevitas, and were subsequently examined there before the Spanish authorities. We remained on board the *Andalusia* prisoners at large till the morning of the 21st of March, when we were transferred on board the *Blasco Garaye*, and left Nuevitas in her on the 22d of March, 1869, arriving in Havana harbor on the 24th of March. We remained about six days in the *Blasco Garaye*, and on one occasion, while she was coaling, we were put in irons for one night. On the 30th of March, 1869, we were placed on board the *Gerona* in Havana harbor, and remained prisoners between two guns (on her main deck) for about ten days. We were then allowed to go at large until the evening of the 13th of April, 1869, when we were set at liberty, and a boat from the *Gerona* landed us in the town of Havana. Since we have been at Havana we have each been examined once, before a judge on board the *Gerona*. And I hereby solemnly declare that, both during that examination and also during the previous one at Nuevitas, the evidence I gave went to prove that the *Mary Lowell* was taken not further than one mile, or one mile and a half from the shore of Ragged Island, and concurs in every particular with this declaration. And with respect to the Spanish decision on the case of the *Mary Lowell*, written in the auditor's report in Spanish, and dated the 14th of April, 1869, and verbally translated to me by the English consul, in which we are represented to have said that, at the time of seizure of the *Mary Lowell* by the *Andalusia*: "One said she was one mile and a half from the coast, but he could not affirm it; another between three and four miles; another at three miles; and another at one mile and a half from the island;" I hereby declare that the alleged report of any evidence of mine is an entire mistake and error on the part of the Spanish judge or interpreter, I don't know which; and I declare this solemnly, although I may have signed papers placed before me for signature by the Spanish officials, after having had them hastily read to us, (either in Spanish or English, or both.) If anything was said by me about "three miles" or "four miles," as being our distance off shore, I meant to

reply to a query respecting Great Ragged Island, and not the distance from the shore of Little Ragged Island. My remembrance of this is perfectly distinct, and I do not acknowledge as true the assertion in the Spanish report respecting any discrepancy in our several testimonies.

JOHN SHANNON.

Sworn to and signed before me, 15th April, 1869.

[SEAL.]

A. GRAHAM DUNLOP,
Her Majesty's Consul General in Cuba.

CONSULATE GENERAL OF THE UNITED STATES OF AMERICA IN HAVANA.

I, John Shannon, do solemnly, truly, and sincerely swear that I have heard read the foregoing affidavit, made by me before the British consul general at this port, and do hereby confirm and reaffirm all the statements therein made by me, and do declare them to be true in every particular: so help me God.

JOHN SHANNON.

Sworn to and subscribed before me, the undersigned, vice-consul general of the United States of America at Havana, the 21st day of April, 1869. Witness my hand and the seal of this consulate general.

[SEAL.]

HENRY C. HALL,
United States Vice-Consul General.

[Inclosure 4 in No. 8.]

NASSAU, NEW PROVIDENCE, BAHAMAS, *April 3, 1869.*

On this day, before me, the Honorable Edward Barrett Anderson Taylor, police magistrate in and for the Island of New Providence, personally appeared James R. Norris, and being by me duly sworn, doth depose and say: That I am a native citizen of the United States of America, and having been temporarily sojourning on Ragged Island, Bahamas; that whilst sojourning there the American brig *Mary Lowell*, of New York, arrived and anchored first inside of what is called the harbor; about four days afterwards she was removed to what is called the "man-of-war anchorage," on the south side of the island, about one mile from shore; she remained there about fifteen days, the greater portion of this time closely watched by the Spanish war ship *Andalusia*. Another Spanish war steamer, the *Africa*, came there twice during the time. I was present when the commander and another officer of the *Andalusia* met the collector on the road, and requested the acting collector to allow him to search the brig *Mary Lowell*, as they had information that she had arms and ammunition on board for the insurgents in Cuba. This the acting collector refused to do, and stated that she was in an unseaworthy condition, unable to prosecute her voyage, and that the master and part of the crew had gone to New York to confer with the owners, and that the vessel was under his charge and protection; that her papers were deposited in the custom-house, and her hatches were under seal, and a British custom-house officer on board in charge of her. The acting collector was George W. Wilson. About eight or ten days after the brig had been in charge of the custom-house authorities, Mr. Luke C. Hollar, the collector, who had been absent at Nassau, returned to Ragged Island. The day after his arrival he, myself, and the former acting collector Wilson, went on board the Spanish war steamer *Andalusia* for the purpose of conferring with the captain. He, Hollar, told the commander, through me as interpreter, that he had been away and had just arrived, and had come to say to him that this vessel, the *Mary Lowell*, was under his charge with a custom-house officer on board, and that for the greater security he intended to remove her into the inner harbor, which the captain of the Spanish war steamer agreed to do, but that he would follow her in. The collector then told him, through me, that he, the commander of the war steamer, must beware—that he could not trouble her either while at anchor or in removing her into the inner harbor. The commander said he was aware of that and had no intention of doing so. The commander expressed a wish to Mr. Hollar, the collector, "that if the brig was to be taken into the harbor that he, the collector, would send him a pilot on board to take him in also. The collector complied with his wishes and sent the deputy collector on board the war vessel to act as pilot. He also stated to me that he had information from Secretary Seward and the governor of Nassau of the character of this vessel, and that he had dispatches from them. That on the 15th of March the custom-house officer on board the *Mary Lowell* (Walter J. Wilson) undertook to bring her into the harbor of Ragged Island, and when about to double the southeast point of Little Ragged Island, she was boarded by a crew from the war steamer *Andalusia* and captured, when at a distance from the southeast point of Little Ragged Island of about three-quarters of a mile. She was at no time, whilst getting her in, three miles from the shore, and was

captured in violation of a sacred agreement made between the captain of the Spanish war steamer and the collector, as well as in clear violation of the law of nations. The Spanish war steamer *Africa* arrived at Ragged Island between 6 and 7 o'clock of the evening before the capture, and left again at midnight, after communicating with the Andalusia.

J. R. NORRIS.

Taken on oath at Nassau, in the said island, the day and year first within written, before me—

E. B. A. TAYLOR,
Police Magistrate.

[Inclosure 5 in No. 8.]

SATURDAY, *April 3, 1869.*

John T. Tucker, being sworn, saith: I was ashore at Ragged Island on the day of the occurrence of the *Mary Lowell* having been taken in tow by the Spanish war steamer *Andalusia*. The brig was then lying three-quarters of a mile from the south-east point of Little Ragged Island. In three-quarters of an hour afterwards, Mr. Walter Wilson, the tide-waiter of the port, came ashore; he had been in charge of the *Mary Lowell*.

JOHN T. TUCKER.

Taken on oath at Nassau, in the said island, the day and year first above written.

E. B. A. TAYLOR,
Police Magistrate, New Providence.

No. 9.

Mr. Johnson to Mr. Fish.

No. 160.]

LONDON, *April 24, 1869.*—(Received May 5.)

In virtue of your dispatch No. 97, of the 5th instant, the receipt of which I acknowledged in my dispatch No. 154, of the 17th, I addressed a note to Lord Clarendon, dated the 19th of this month, calling his attention to the outrage committed by a Spanish vessel of war in the seizure of the American brig *Mary Lowell*, while lying off Little Ragged Island, and within British waters, and while she was in charge of a British custom-house officer, and advising his lordship that her Majesty's government would be looked to to indemnify the owners, citizens of the United States, for the losses consequent on such seizure. I have this moment received a reply from his lordship, dated yesterday, which will inform you of the present state of the matter as far as it is known to this government. I inclose a copy.

● Deeming it important to give you the earliest information on the subject, I have but time to say this much before the mail closes.

I transmit a copy of my letter to Lord Clarendon of the 19th instant.

[Inclosure 1 in No. 9.]

Mr. Johnson to the Earl of Clarendon.

LONDON, *April 19, 1869.*

On the 15th of March last, when lying three-quarters of a mile from Ragged Island—one of the Bahamas—and in British waters, subject to the exclusive jurisdiction of her Majesty's government, the American brig *Mary Lowell* was captured by the Spanish war steamer *Andaluzá*, or *Andalusia*, and carried off. What has been done with her or her cargo does not appear. At the time of the capture she was under the charge of a British pilot and custom-house officer, her captain having placed him in charge,

he having gone to New York for orders; and her hatches were sealed down with the seal of her Majesty's customs.

It is difficult to imagine a grosser outrage upon both our governments. That upon her Majesty's was a palpable disregard of her authority, and one which I am sure her government will not submit to. That my government has also been insulted and its rights violated is equally clear; and that Spain is responsible for all the consequences is also clear. But, as the *Mary Lowell* was, at the time of her capture, under the protection of her Majesty's government, my government has a right to expect that her government will take immediate steps to enforce as against Spain a proper indemnity.

The subject has been brought to my attention by a dispatch from my government, dated the 5th instant, which, after stating the facts, thus concludes: "As this seizure not only took place within British jurisdiction, but at the time when the vessel was in charge of a colonial custom-house officer, it is presumed that her Majesty's government will not hesitate to hold the Spanish authorities accountable for the proceeding. This government will look to the British government for indemnification for the losses and injuries which citizens of the United States, owners of the *Mary Lowell* and her cargo, may sustain in consequence of her illegal seizure."

You have with this* copies of all the papers which accompanied the dispatch referred to.

Not doubting that her Majesty's government will concur in the views taken by my own, and soliciting as early a reply as your lordship can conveniently give, I remain, &c.

[Inclosure 2 in No. 9.]

The Earl of Clarendon to Mr. Johnson.

FOREIGN OFFICE, *April 23, 1869.*

I have the honor to acknowledge the receipt of your note of the 19th instant, stating that you had been instructed to bring to the notice of her Majesty's government the circumstances connected with the capture, on the 15th ultimo, off Ragged Island, one of the Bahamas, and within British jurisdiction, of an American brig called the *Mary Lowell*, by a Spanish steamer of war, and that your government have desired you to inform me that they will look to her Majesty's government for indemnification for any losses and injuries which citizens of the United States may have sustained in consequence of the illegal seizure and condemnation of this vessel and her cargo by the Spanish authorities.

In reply, I beg to acquaint you that the attention of her Majesty's government has already been called to the matter, the serious nature of which they fully acknowledge. It appears, however, by a telegram which I have received from her Majesty's consul general, at the Havana, that the *Mary Lowell* has been condemned as a prize taken upon the high seas.

Her Majesty's government thinks, therefore, that the proceeding of the prize court must be awaited, as well as a report of the facts of the case from the governor of the Bahamas. When these are received, the case will be gone into immediately by her Majesty's government.

In the meanwhile I have the honor to inclose to you, for your information, a copy of a telegram which I sent to her Majesty's minister at Madrid, on the 17th instant, instructing him to call the immediate attention of the Spanish government to the order issued by the Captain General of Cuba, on the 24th ultimo, declaring that vessels captured in Spanish waters or on the open seas bordering on the island, with cargoes of men, arms, ammunition, or articles which contribute to promote or encourage the insurrection in Cuba, will be treated as pirates.

[Inclosure 3 in No. 9.]

[Telegram.]

Call immediate attention of Spanish government to an order issued by the Captain General of Cuba, on the 24th March, declaring that vessels captured in Spanish waters or in open seas bordering on the Island, with cargo of men, arms, and ammunition, or articles which can in any way contribute to promote or encourage the insurrection in Cuba, whatever may be their place of departure or their destination, and after exami-

* For inclosures, see Nos. 2 and 5, together with their accompaniments.

nation of their papers and registers, shall be considered *de facto* as enemies of the integrity of the Spanish territory, and treated as pirates, according to the ordinances of the navy; and persons found on board such vessels shall be immediately shot. You will say that it will be a glaring violation of the law of nations if such vessels are captured on the high seas and their crews treated as pirates, and you will protest against the enforcement of the decree against British vessels captured on the high seas; and you will say that her Majesty's government will regard with the deepest concern the enforcement of the decree against the crew of any British vessel captured within Spanish waters, when the crew has had no warning of its promulgation.

No. 10.

Mr. Hall to Mr. Fish.

No. 47] HAVANA, May 6, 1869.—[Received May 14.]

With reference to my communications Nos. 12, 14, 26, and 32, relative to the case of the brig *Mary Lowell*, I have now the honor to accompany herewith two copies of the paper "*Vos de Cuba*," of this date, which contains an article said to express the views of the Spanish government in regard to the capture of that vessel, and entirely approving the proceedings of the commander of the Spanish gunboat *Andaluza*.

[Inclosure in No. 10.]

[From *La Voz de Cuba*, Havana, May 6, 1869.]

THE MARY LOWELL QUESTION.

Although it causes us grief and pain to confess it, we must admit that greater importance is attributed abroad to the capture of the American brig whose name appears at the head of this article than has been attributed by us Spaniards to a deed which, to say nothing of the glory which it reflects upon our navy, has done more, as we have said on another occasion, to put an end to the insurrection in Cuba than twenty battles, in which, as usual, thousands of traitors had bitten the dust.

The *Voz de Cuba*, which was the first journal in which true details of the capture appeared; which soon after was the first to give the news that the *Mary Lowell* had been declared a lawful prize, and which published, long before its cotemporaries, the inventory of the arms and munitions of war found on board of the filibuster brig, is not going to remain silent amid the clamor raised by foreign journals, especially those of the United States, in order to provoke an international conflict with Spain, on account of a capture which took place, as they persist in maintaining, in violation of all truth and of all right, in British waters, some even depicting it as an act of piracy committed by the gallant and talented commander of our war schooner, the *Andaluza*.

We will not undertake, however, to answer their assertions, nor to show the incorrectness of illustrations in which, as in those of Frank Leslie, the Spanish vessel is represented in the act of firing upon the *Mary Lowell*, whereas not a single gun (cannon) was fired, and we do not do so, because the question under consideration is simply one of fact and right, and we think it should only be examined in these two points of view.

In order to be able to do this with all the data necessary to the writer who desires to perform his task accurately and faithfully, without leading his readers into error, we have thought proper to commence with an examination of the official report of the capture, and since we have been so fortunate as to obtain an exact copy of the document, we will give it in full, although, in doing so, we may stop to print some of the remarks which its perusal may suggest.

It is written with the plainness characteristic of a sailor who is averse to all exaggeration and vain display, and rhetorical flourishes must not be looked for in it, which frequently only serve to conceal and disguise the truth of the facts of which an exact account is desired. It is the unvarnished statement which, in the performance of his duty, an officer makes to his superior, when he could even imagine that his conduct was going to give rise to any discussion, and everything, even his very frankness, plainly shows the conviction that he entertained of having faithfully fulfilled his duties as a representative of Spain on the ocean, and between two foreign flags.

The communication addressed by the commander of the schooner *Andaluza*, on the 16th of March, to the commander of the steamer *Blasco de Garaye*, begins as follows:

"I have the honor to inform you that yesterday, at 4 o'clock in the afternoon, I captured the American brig *Mary Lowell*, six miles to the southwest of Ragged Island, and consequently outside of British waters. This vessel, without documents of any kind, appears without captain or mates; she is manned by four American sailors, and is loaded with all kinds of arms and munitions of war, intended, as is known, for the insurgents of this island. I put a crew on board of her, as required by law, and, in obedience to my instructions, I brought her to this port."

Here, strictly speaking, the official report may have been considered as ended, if a simple capture were concerned, but the matter is one of such magnitude, and so important were its antecedents and concomitants, that, in the discharge of his duty, the commander of the *Andalusia* could not keep silent concerning them, on account of the interest which they might possess for Spanish cruisers among the Antilles. Taking this view of the case, he continues thus:

"On the very day of my arrival at that island, I was informed by the then acting collector, that it had been decided to remove the brig to the northwest bay, because there was too much water at the southern anchorage. As I stated in my communication of the 3d, the collector, in giving me this information, added that the brig would go where I could not follow her; he was then ignorant of the draught of this vessel, which is nearly equal to that of the brig."

It is proper to take note of this statement of the collector, and the *animus* which his words revealed, since, as will hereafter be seen, the same functionary was subsequently the pilot who was directing the movements of the *Andalusia* when the capture took place. But let us proceed:

"Days passed, and she did not move. On the 6th, the collector of Nassau came and repeated to me that the brig would change her station as soon as the strong breeze then blowing would slacken; nevertheless, the weather was calm on the 11th and for several days following, and the departure for the other side, so often announced, did not take place; the men on board only busied themselves with examining the ship's tackle, hauling taut the ropes, taking in a considerable supply of water, and anxiously watching the horizon. While I watched her day and night, because it had come to my ears that an escape was contemplated, I was enabled to acquire the important information which I imparted to you in my dispatch of the 10th, together with some other information which I omitted, since its very importance caused it to appear improbable. I had been told that the Cubans residing there were relying upon two monitors which were to come and put an end to the forced detention of the brig, and although I had some confidence in the channel through which I obtained my information, I supposed that these monitors only existed in the minds of those who hoped for their arrival. Yesterday morning an Englishman came to tell me that the brig was going to change her anchorage, and that as I had told the collector to get me a pilot to take me also, he came to offer his services as such. This individual had been the acting collector. At 10 o'clock the brig set sail, with a fresh breeze from the east, and I followed. She tacked to the larboard, with the design of getting to the windward, and going round the island at its extreme south. She seemed to me to be leaving British waters, but she gradually turned, and put an end to my suspicions. At a convenient distance from land she tacked again, and the same thing happened as before; she tacked again, and it was evident that she was not going at all to the windward. At about 1 o'clock, two masts were seen on the horizon, and with my spy-glass I thought I could distinguish a bulky body between them. I was wondering, with several officers, what that strange thing could be, when the Englishman who was acting as my pilot said, with arrogant security, 'A two hundred and fifty iron-clad.'"

This unexpected intelligence must have been, and in fact was, a ray of light for the commander of the *Andalusia*. Everything was at once explained: the tranquil sojourn of the brig at Ragged Island; the absence of all fear among the crew, and the anxiety with which they constantly watched the horizon; the preparations for putting to sea; the boldness with which she made her tacks, without caring whether in so doing she left the waters which had thus far afforded her an asylum—all, we repeat, was perfectly explained.

The vessel which appeared in the distance, was a two hundred and fifty iron-clad, which is the name given by English pilots to the monitors; it was the auxiliary which the filibusters were awaiting with so much anxiety; it was this that was to protect their flight, and favor their landing on the Spanish coasts.

From that moment the *Andalusia* could no longer treat the brig with the same consideration as hitherto, and if she should again leave British jurisdiction, it was not the duty of the *Andalusia's* commander to tell the pilot, as he had done before, to notify the fugitive brig, because he was resolved to take her.

The point in question no longer was to give chase for a greater or less space of time, with the certainty that the brig would be captured at last. The situation was clearly defined, and either would the schooner capture the brig as soon as the latter should be

outside of British waters, or the brig, being under the protection of the monitor, would laugh at all pursuit, and render all the means hitherto used for her capture of no effect.

Let us see what was done by that gallant commander, whose conduct must be recorded on the most glorious pages of our navy's history, because all alone, lost in the immense extent of the ocean, with no one to give him any aid, no one to give him any advice, he was able to find, in that moment of breathless suspense, not bravery, because this, by reason of being common to all the sons of Spain, has ceased to be a quality, but the prudence, the tact, the intelligence necessary to take the *Mary Lowell* at the very moment when he was able to do so legally. Before this, he would have violated international law; afterwards, the capture would have been impossible, because the brig being by the side of the monitor, even though the latter might not be hostile, its commander might visit the brig and give the Spaniard his word as a guarantee that she carried nothing contraband of war for the insurgents of this island. What course then remained for the commander of the *Andalusia* to take? Was he to trust that guarantee? This would have rendered it a matter of certainty that, before many days, the traitors of Cuba would have arms wherewith to murder loyal men. To refuse to consider it as sufficient, and to insist on visiting the *Mary Lowell* in person, at all hazards, would have been more than temerity—it would have been madness, and a simple movement of the monitor would have been sufficient to sink his vessel, and to cause all on board to perish, without glory and without any benefit to Spain.

What did he do? Let us read:

"I was very desirous to crowd sail so as to go and examine the object in question, but I feared to get too far from the brig which I had been ordered to watch; the breeze was fresh, and it was very likely that she might attempt to escape. The monitor kept on approaching, and I soon recognized its true character. The brig must have recognized it also, and, directing her course outwards, seemed to be going to meet it, unfurling the American flag, and likewise the gallant sail and jib, which, until then, had been furled. The monitor came still nearer and raised a flag at the foremast; as soon as the Englishman saw this he said, 'She is calling me; she wants a pilot.' I was at that time between the brig, which seemed to be sailing towards the monitor, and the latter, which was undoubtedly steering towards us. Raising a large flag at my prow in order to ask what was her nationality, I ordered the drum to beat the signal for the deck to be cleared for action; when I raised the flag of Spain the monitor raised that of Peru. When I saw this my surprise was the greater, inasmuch as I could not account for the presence of a Peruvian monitor in those waters. I collected the official news which I had received concerning the two which were to leave New Orleans, but those must have sailed for the Pacific at the close of the year 1868, and I supposed that they were probably at Cape Horn. No information received by me, either official or non-official, led me to believe that they might still be in these seas in March. Moreover, what could a Peruvian monitor want at Ragged Island, where there is neither coal, provisions, nor supplies of any kind? Her very course increased my confusion, since she ought to have entered that locality with her prow to the northeast. Besides, was it not a very significant coincidence that she appeared on the very day and at the very moment of the brig's sailing? Thus, in a maze of wonderment, I sometimes even doubted concerning her real nationality. We were side by side and within easy cannon shot of each other. The monitor sailed slowly, perhaps because she had no pilot; the brig meanwhile kept on toward the south. In this state of things, the monitor raised three flags at her foremast, and the brig lowered and raised her flag twice. Encouraged by the presence of that powerful sea-monster, which carried a very large crew, it seemed as if she cared very little whether she got out of English waters or not; but, as a zealous defender of the Spanish flag, I suspected that she might make a successful effort to escape, and that the arms on board of the brig might yet be applied to the iniquitous purpose for which they were designed; and as soon as I saw her in neutral waters, according to the landmarks in the neighborhood, and to the opinion of all the officers and experienced persons on board, sailing up to her at full speed I summoned her to surrender, directing the Englishman to tell the brig to lower her sails, since he had told me that a brother of his was on board as pilot; but instead of translating my order properly, he loudly cried to her to crowd sail. It was now late; she saw me on her lee side with my artillery ready to sink her if she went any farther, and then lowered her sails. A boat's crew then boarded her in order to examine her as required by law. It was not necessary to open the hatches; numerous arms in the cabin and gun-carriages on deck gave evidence of her guilt. I put a crew on board of her, as before stated, and proceeded to take her in tow; when her crew came on board of my vessel they were accompanied by two negroes and the pilot, a brother of my pilot. I am satisfied that they were British subjects, belonging on Ragged Island, and although by good rights they ought to have shared the fortunes of the crew, as I desired to act with the impartiality and good faith which characterize every good cause, I gave them the brig's boat that they might go ashore. These things took place with such rapidity that the monitor, which first stopped and then went on, sailing a little more to the larboard, must have been surprised to see me

towing the brig when a few moments before we had been some distance apart. I took especial care to observe the sea-marks thereabouts at the moment of stopping the brig, and the situation of these as laid down in the chart clearly shows that she was in neutral waters at the time. I have the pleasure of sending you the chart herewith, together with a statement of the observations made, and likewise the inventory of what was found above the hatches, and a sealed packet with the books and papers found on board the brig.

"I think I have now stated the most essential part of the affair, though I may, at some future time, amplify my statement with some details concerning the object and designs of this abortive attempt. I do not expect the slightest complication with either of the two nations who indirectly figure in this report, but if any should arise, I am confident of being able to adjust them, supported by the triple lever of reason, justice, and right. May God preserve your excellency many years.

"JACOBO ALEMAN.

"NUEVITAS, March 16, 1869.

"To the COMMANDER of the Steamer *Blasco de Garaye*."

We have copied the foregoing uninterruptedly in order not to make this article too long, and because we believe that its perusal will be sufficient to convince any one that the commander of the *Andalusia* strictly fulfilled his duty, covering his own name and that of Spain, at the same time, with unfading glory.

We envy him at least as much as we admire his conduct; and if, as must be the case, a truly Spanish heart beats in his breast, he will never cease to remember with noble pride that moment when, with a coast by no means friendly and not at all hospitable on one side, and a sea monster on the other which was able to sink him at any moment, he proudly passed between them, carrying the cause of the Cuban insurgents tied to his vessel's stern.

Frail was his bark, but what mattered that, so long as the ensign of Spain waved at his masthead? Imminent was the danger, but what Spaniard is intimidated by any such consideration, when he has before his eyes the glory and the eternal gratitude of his country?

Don Jacobo Aleman has shown that he is, like his companions, a sailor to whom may be intrusted the honor of the flag of Castile. Will his country show herself duly grateful to him? We are sure that she will; but, even if she should not, we repeat that we envy him, for there is and can be nothing sweeter than the conviction that one has rendered a great service to his country.

"Dulce et decorum est pro patria mori."

No. 11.

Mr. Hale to Mr. Fish.

[Extract.]

No. 170.]

MADRID, May 26, 1869.—(Received June 9.)

* * * * *

I have also had an informal interview with Sir John Crampton in reference to the affairs of the *Mary Lowell*, and he told me that he had made a representation, as instructed by his government, to the Spanish government on that matter; but that he had received no answer from them, except a merely formal one acknowledging the receipt of his communication, so that he had no information to impart on the subject.

* * * * *

No. 12.

The Earl of Clarendon to Mr. Thornton.

[Communicated by the British Legation, November 19, 1869.]

FOREIGN OFFICE, November 4, 1869.

With reference to your dispatch of the 17th of May last, and to previous correspondence upon the case of the *Mary Lowell*, I have to

state that her Majesty's government have now received further reports upon this subject from the British naval and colonial offices in the West Indies, and after a full consideration of these reports, in communication with the law officers of the Crown, her Majesty's government are of opinion that they are now in possession of sufficient information to enable them to determine on the course which they should pursue in the matter.

As regards the statement that the *Mary Lowell* was, at the time of her capture, in charge of a British custom-house officer, her Majesty's government are of opinion that nothing turns upon that point, inasmuch as it appears that Mr. Wilson, who was in charge of the vessel, had, for the time, ceased to have any connection with her Majesty's customs, and was in fact acting master of her.

It appears to her Majesty's government the question is purely one of territorial right on their part to protect the *Mary Lowell* from capture, and that the question of right depends entirely upon the place where the capture of the *Mary Lowell* was effected. Her Majesty's government, however, consider that the claim of territory must be made out by clear and unimpeached evidence, and that therefore, if any doubt should exist upon the subject, it would not be proper for them, on the strength of that doubt, to insist upon the *Mary Lowell* being released.

The conflicting nature of the evidence upon this point which has been laid before her Majesty's government renders it very difficult for them to decide with confidence thereon; some of that evidence tending to prove that the capture took place clearly within British waters, while other parts of it support the conclusion that the capture, or rather the act which her Majesty's government think is to be considered a capture, did not so take place. It is therefore impossible to say, without going further, that there is no doubt, doubt that is of a reasonable character, thrown upon the former conclusion.

Her Majesty's government are unable, therefore, on the best consideration to say that the capture is satisfactorily made out to have taken place within British territory, so as to entitle Great Britain to claim the restoration of the vessel.

You will read this despatch to Mr. Fish, and you will leave a copy of it in his hands.

No. 13.

Mr. Davis to Mr. Plumb.

No. 71.]

WASHINGTON, November 24, 1869.

The British government, after some investigation of the circumstances attending the capture, near Ragged Island, of the American brig *Mary Lowell*, by the Spanish war steamer *Andaluza*, have declared itself unable to say that the capture is satisfactorily made out to have taken place within British territory.

With a view to the further elucidation of the question of locality, as well as for our information upon other points involved in the case, you are requested to obtain from the proper authorities of Cuba authentic transcripts of the evidence and of the judgments, or other judicial proceedings, in the case of that vessel before the Spanish courts.

No. 14.

*Mr. Plumb to Mr. Davis.*No. 241.] HAVANA, *November 30, 1869.*—(Received December 10.)

I have the honor to acknowledge the receipt this day of your dispatch No. 71, of the 24th instant, relating to the procurement of transcripts of the evidence and judgments, or other judicial proceedings, in the case of the American brig *Mary Lowell*.

This dispatch having reached me on the last day of my incumbency of this office, I am compelled to leave the same for the attention of my successor, Mr. Hale, who enters to-morrow upon the charge of this consulate general.

I believe this is the only dispatch from the department, of all that I have received, that is left pending.

No. 15.

*Mr. Hall to Mr. Davis.*No. 17.] HAVANA, *December 24, 1869.*—(Received December 30.)

With reference to your dispatch No. 71, addressed to Mr. Plumb, and to his Nos. 240 and 241, I have to inform the department that several days ago I applied to the political secretary of the superior government for a copy of the process of the marine court of this port, in the case of the brig *Mary Lowell*.

To-day the secretary informs me that all the original documents in the case referred to have been sent to Spain, having been demanded by the Madrid government.

No. 16.

*Mr. Fish to Mr. Sickles.*No. 21.] WASHINGTON, *January 4, 1870.*

On the 24th of November last, Mr. Plumb, the United States consul general at Havana, was instructed to obtain if possible, from the proper authorities of Cuba, a duly authenticated copy of the proceedings of the marine court of Havana, in the case of the *Mary Lowell*, an American brig captured by the Spanish war steamer *Andaluza*, near Ragged Island. A communication has subsequently been received from Mr. Hall, the vice-consul general at Havana, from which it appears that all the original documents in the case referred to have been sent to Madrid in compliance with a demand from the Spanish government.

I will consequently thank you to make known the wish of this department to the minister for foreign affairs, and to forward hither at your earliest convenience the desired documents, should you be able to procure the same.

No. 17.

*Mr. Sickles to Mr. Fish.*No. 51.] MADRID, *January 27, 1870.*—(Received February 17.)

In compliance with your instructions No. 21, I addressed, on the 21st of this month, a note to the minister of foreign affairs, asking for a copy of the proceedings in the case of the Mary Lowell.

In reply, I have received the note of which I inclose a translation.

[Inclosure in No. 17.]

Mr. Sagasta to Mr. Sickles.

[Translation.]

MINISTRY OF STATE, *Madrid, January 24, 1870.*

MY DEAR SIR: In reply to your excellency's note of the 21st instant, in which you inform me that you have received instructions from the government of the United States to request from that of the regent of the kingdom a copy of the proceedings had in the prize court of the Havana, in the matter of the vessel Mary Lowell, captured by the man-of-war Andaluza, I hasten to inform your excellency that as these documents do not exist in this ministry, I have directed that they be requested from the ministry of marine, and as soon as the copies are made I will have the honor to transmit them to you.

I improve this occasion to renew to your excellency the assurances of my most distinguished consideration.

No. 18.

Mr. Fish to Mr. Biddle.

[Telegram.]

WASHINGTON, *March 1, 1870.*

Minister of state at Madrid answers General Sickles that Mary Lowell papers have been returned to Havana. Ask for copies and forward as soon as received.

No. 19..

*Mr. Biddle to Mr. Fish.*No. 16.] HAVANA, *March 8, 1870.*—(Received March 17.)

With reference to the case of the Mary Lowell I have the honor to state that I received the following verbal communication this morning from the political secretary: That the papers in the aforesaid case were transmitted hither by the Spanish government for a special purpose, viz, for certain additions necessary to establish facts; that, therefore, the authorities of the island, after consultation, do not feel authorized to act in the premises, without instructions; that for these they have telegraphed to Madrid, and that they will communicate the result when known.

No. 20.

Mr. Fish to Mr. Sickles.

[Telegram.]

WASHINGTON, *March 17, 1870.*

Cuban authorities decline to give copies of *Mary Lowell* papers without instructions from Madrid. Represent to foreign minister that we expect our reasonable request for these copies to be complied with without further delay.

No. 21.

*Mr. Sickles to Mr. Fish.*No. 72.] MADRID, *March 19, 1870.*—(Received April 5.)

I have the honor to acknowledge the receipt of your telegraphic dispatch of the 17th instant, in regard to the papers in the case of the *Mary Lowell*, and to transmit herewith inclosed the note which, in compliance with your instructions, I have this day addressed to the minister of state.

[Inclosure in No. 72.]

*Mr. Sickles to the Minister of State.*MADRID, *March 19, 1870.*

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, had the honor to transmit to his government a copy of the note of his excellency the minister of state, dated the 10th of February last, in reply to the request of the undersigned for a duly authenticated copy of the proceedings of the marine court of the Havana in the case of the *Mary Lowell*, an American brig, captured by the Spanish war steamer *Andaluza*, near Ragged Island. It appearing that the papers had been returned to the Havana, application has again been made there for a transcript of the record, which the authorities decline to give, without instructions from Madrid. When the request was first made to the authorities in Cuba for these documents it was answered that they had been transmitted to Madrid. Subsequently, when the undersigned applied here for them, he was informed they had been returned to Cuba. And now, another application having been made there, it is refused upon a ground which, it is hoped, the competent authority in Spain will at once remove.

In bringing the matter again to the notice of his excellency, the undersigned is instructed to represent that his government expects that the reasonable request it has made for copies of the papers in this case will be complied with without further delay.

The undersigned avails himself of this opportunity to renew to his excellency the minister of state the assurance of his most distinguished consideration.

No. 22.

Mr. Sickles to Mr. Fish.

[Telegram.]

MADRID, *March 24, 1870.*—(Received March 25.)

In answer to my note of 19th instant, written in conformity with your instructions, minister of state replies that he has requested minister

of marine to send orders to the apostadero of Havana to furnish copy of the papers in the Mary Lowell case, if certain pending proceedings ordered by the navy department for the completion of the record offer no obstacle.

No. 23.

Mr. Davis to Mr. Biddle.

[Telegram.]

WASHINGTON, *March 25, 1870.*

Sickles telegraphs that orders have gone to Cuba to furnish copies of Mary Lowell papers. Renew your application. Telegraph result.

No. 24.

Mr. Biddle to Mr. Davis.

[Telegram.]

HAVANA, *March 25, 1870.*—(Received March 26.)

Telegram received. Captain General absent for fifteen days. Vice-governor says must have orders from him about Mary Lowell papers, but will write him and communicate information.

No. 25.

Mr. Biddle to Mr. Davis.

No. 42.] HAVANA, *March 25, 1870.*—(Received March 31.)

Your telegram of this date, directing me to renew the application for the papers in the case of the Mary Lowell, has been received.

My dispatch No. 29 has informed you of the temporary absence of the Captain General.

I at once presented the application to the segundo cabo, or vice-governor, accompanying it with a written memorandum, hereto annexed.

He informed me verbally that he would do all he could in the case, but that without instructions from his superior he could not deliver the copies requested; that he feared the absence of the Captain General might yet be for ten or fifteen days; that he would communicate with him in writing upon the subject, and inform me of the result when authorized, and that in the meantime he would acquaint me whether orders had arrived in Cuba to furnish the desired copies, when he had been informed by the proper department.

I urged prompt attention to the case, and took my leave, to telegraph to you immediately the result, as per copy annexed.

[Inclosure 1 in No. 42.]

Mr. Biddle to the Superior Political Governor ad interim.

HAVANA, March 25, 1870.

I am instructed by the honorable the Secretary of State of the United States to renew the application for a copy of the proceedings of the marine court of this port in the case of the seizure and condemnation of the American brig *Mary Lowell*. I respectfully request your excellency will be pleased to order that such copy may be furnished at the earliest opportunity, to enable me to transmit the same without delay to Washington.

(For inclosure 2, see No. 24.)

No. 26.

Mr. Sickles to Mr. Fish.

No. 77.] MADRID, March 27, 1870.—(Received April 13.)

I have the honor to forward, herewith inclosed, a translation of the reply of the minister of state to my note of the 19th instant, requesting that instructions be sent to the authorities in Havana to furnish copies of the papers in the case of the *Mary Lowell*.

[Inclosure in No. 776.]

Señor Sagasta to Mr. Sickles.

[Translation.]

MADRID, March 24, 1870.

In answer to your excellency's note dated the 19th instant, respecting the copy of the proceedings instituted in relation to the capture of the American brigantine *Mary Lowell*, which was applied for in this department on the 21st of January last, I have to state to your excellency that, as I had the honor to declare in my note of the 10th of February to your legation, the said record, which was begun in the apostadero of the Havana, was sent to Madrid to the minister of marine, who returned it to the apostadero of the Havana, in order that certain proceedings might be completed therein and that the council of state might be consulted about the validity of the capture.

There is nothing in this which does not conform to the practice constantly followed in the transmission of this class of documents.

With regard to the authorities of Cuba having denied the copy solicited by the government of the United States, although your excellency does not state whether it was after the communication of my note of February 10, to which your excellency was pleased to reply on the 19th instant, I hasten to state that the Spanish government, having no other concern in the matter than to accede to the simple wish indicated by your excellency in your note of the 21st January, to acquaint yourself with the said proceedings, I have to-day requested from the minister of marine proper orders to the apostadero of the Havana to give facilities for obtaining the desired copy, if the circumstance of certain proceedings being executed by order of that department should offer no obstacle.

No. 27.

Mr. Biddle to Mr. Davis.

No. 49.] HAVANA, April 2, 1870.—(Received April 9.)

I have the honor to transmit herewith, for your information, a copy and translation of a communication received from the segundo cabo,

or lieutenant governor, in the absence from the city of the Captain General, in relation to the withheld papers of the Mary Lowell.

The return to Havana of General De Rodas is uncertain as to time, as he is supposed to be vigorously prosecuting the war in the few weeks remaining for the campaign, but immediately upon his arrival I will renew the application for the aforesaid papers.

[Inclosure in No. 49.]

Señor Carbó to Mr. Biddle.

[Translation.]

HAVANA, *March 30, 1870.*

I have received your communication of the 25th instant, in which you renew, by instruction of the Secretary of State of the United States, the application for a copy of the proceedings in the case of the seizure and condemnation of the American brig Mary Lowell.

I regret to have to inform you that it is not possible for me to comply in this case with the request of the government of the United States. The matter being in course of judicial procedure and consequently *sub judice*, and being without instructions from the supreme government of the nation, to whom they have been applied for, I am not able to furnish the copy which you solicit. Besides, his excellency the Captain General being absent from this capital it would be impossible for me to determine a matter the importance of which renders it one of his exclusive decisions.

No. 28.

Mr. Fish to Mr. Sickles.

[Telegram.]

WASHINGTON, *April 6, 1870.*

Spanish authorities at Havana still hold American steamer Lloyd Aspinwall, seized on high seas, without reply to our demand for release. Represent this to Spanish government and ask for answer and release. Also, renew request for Mary Lowell papers, which are not yet furnished. President not satisfied with these prolonged delays.

No. 29.

Mr. Sickles to Mr. Fish.

[Extract.]

No. 82.] MADRID, *April 8, 1870.*—(Received April 26.)

* * * * *
I then, in accordance with your instructions, renewed my request for copies of the papers in the Mary Lowell case, and was informed that the orders sent by the minister of state to the Havana had probably not arrived at the date of your instruction, and would doubtless be found sufficient for the purpose.

S. Ex. Doc. 108—4

No. 30.

Mr. Sickles to Mr. Fish.

[Telegram.—Extract.]

MADRID, *April 8, 1870.*—(Received April 9.)

* * * * *

About Mary Lowell papers, minister said the instructions to apostadero of Havana, reported in my telegram of March 24, had been sent by mail and would be sufficient when received.

No. 31.

Mr. Fish to Mr. Biddle.

[Telegram.]

WASHINGTON, *April 9, 1870.*

Telegram from Minister Sickles received to day. Says minister of state promised that orders should be sent yesterday to Captain General of Cuba to release forthwith the steamer Lloyd Aspinwall. Make demand for release, and telegraph the result forthwith. Minister of state also told Sickles that instructions about Mary Lowell papers had been sent by mail, March 24, and would be sufficient. Renew the request and advise by cable of answer.

Your dispatches 47 and 49 received to day. Ask for the immediate release of the crew of the Champion.

No. 32.

Mr. Biddle to Mr. Fish.

[Telegram.]

HAVANA, *April 12, 1870.*—(Received April 12.)

Telegrams received. Captain General absent; communicated with his representative. He has just replied as to release of Lloyd Aspinwall: had no power, but would ask instructions from the Captain General at Nuevitas. As to papers of the Mary Lowell, he declines, saying, no instructions from Madrid, but will consult through telegraph as to case of Champion, that it is undergoing investigation, and cannot answer until advices from Santiago; particulars by mail.

No. 33.

Mr. Fish to Mr. Sickles.

[Telegram.]

WASHINGTON, *April 13, 1870.*

Telegram last evening from Biddle states Captain General absent. His representative declines to surrender the Aspinwall, saying he has

no power. He also declines giving the papers of the Mary Lowell. He also evades answering in the matter of the Champion.

It seems that the Madrid government gives assurances which the authorities in Cuba refuse to fulfill. Ask explanations of these evasions, and the immediate execution of the promises made to you with reference to the above matters.

If it be alleged that the orders of which they have given you notice have been sent by mail, request that they be sent immediately by telegraph.

No. 34.

Mr. Davis to Mr. Biddle.

No. 36.]

WASHINGTON, April 13, 1870.

Your telegram is received informing the department of the continued delay in releasing the Lloyd Aspinwall and in furnishing the copies of the record in the case of the Mary Lowell, and instructions have been sent to General Sickles on both these subjects, which it is hoped will effect a compliance with the just wishes of the United States. It is also hoped that before the receipt of this you will have communicated by telegraph information of the release of the Aspinwall, whose prolonged illegal detention seriously threatens the continuance of our present cordial relations with the Spanish government.

General Sickles to Mr. Fish.

[Extract from telegram.]

APRIL 14.—(Received April 15.)

About Mary Lowell case he said, report had been received stating that rule of court prohibited giving copies of papers while cause was pending. Therefore court had refused. He had yesterday sent telegram overruling objection and ordering copies to be given. Minister of colonies present, and promised to facilitate prompt action.

SICKLES.

No. 35.

Mr. Sickles to Mr. Fish.

[No. 107.]

MADRID, May 11, 1870.—(Received June 1.)

I have the honor to inclose a translation of a note just received from the minister of state, transmitting a copy of a report made by the council of state on the 16th of November, 1869, in the case of the Mary Lowell.

[Inclosure 1 in No. 107.]

Señor Sagasta to Mr. Sickles.

MADRID, May 9, 1870.

I have the honor to inform you that, in a communication of the 27th ultimo, the minister of marine announces to me that the proper orders have been given to the commander of the apostadero of the Havana to exhibit the documents in the capture

of the *Mary Lowell* to the United States consul in that capital, and to permit him to take the copies he may require.

This resolution has been taken by the minister of marine in virtue of the report made on the 18th ultimo by the council of state, in conformity with the admiralty, both these advisory bodies having concluded that in the present state of the *Mary Lowell* case there is no objection to the proceedings being made public, as there would have been during the preliminary inquiries.

The minister of marine requests me to inform you at the same time, that if by any accident the documents should be sent back to Madrid before the orders arrive at the Havana, the proceedings having been completed, for which they were sent to Cuba, you will be furnished the copies you desire by the ministry of marine.

Meanwhile, I transmit to you a copy of the report made by the council of state, on the 16th of last November, for your information.

I improve this occasion to renew the assurances of my most distinguished consideration.

[Inclosure 2 in No. 35.—Translation.]

MINISTRY OF STATE, COUNCIL OF STATE.

MOST EXCELLENT SIR: The council has examined the papers relating to the capture of the American brig *Mary Lowell*, which was taken by the Spanish war schooner *Andaluza* on the 15th day of May last, and in compliance with what was stated by your excellency in your order of the 27th of September last, with which the said papers were remitted, it proceeds to inform your excellency of the determination which, in its judgment, it is proper to make.

It appears from the antecedents that the naval authorities of the Island of Cuba having received information that a project was on foot to land on the coasts a quantity of arms and munitions of war for the insurgents, the commanders of the steamer *Blasco de Garay* and of the schooner *Africa* having been duly authorized for the purpose, went to *Ragged Island*, and there learned that the brig *Henry Burden*, laden with Cubans, and the brig *Mary Lowell*, laden with arms and munitions of war, had reached this port; that, in consequence of this, the schooner *Andaluza* was sent to said point for the purpose of capturing the *Mary Lowell* as soon as she should be out of English waters; that this vessel having left the port at 10 o'clock in the morning of the 15th of May aforesaid, under pretext of changing her anchorage, the schooner *Andaluza* followed her, and at 1 o'clock p. m., although a Peruvian monitor had appeared on the horizon, and the pursued brig was directing her course outwards, sailing to meet it, and was already entering neutral waters, the *Andaluza* summoned her to surrender, boarded and captured her, finding many arms in the cabin, and gun-carriages on deck.

A preliminary investigation having been held according to law, it appears that the captured brig carried neither captain nor papers showing her true nationality, although previous to the capture she had hoisted the American flag; that according to the declarations of the commander, officers, and crew of the schooner *Andaluza*, and according to the entries made in the log-book, the capture took place more than six miles from the coast; that the seamen of the *Mary Lowell*, who also made declarations at the investigation, differ as to the distance, two of them deposing that they were only a mile and a half from the coast, another that they were three miles, and still another that they were from three to four; that on the deck was found a cockade (folio 21) of the kind worn by the insurgents in Cuba, and, according to the said sailors, several of the Cuban passengers wore them on their hats; that according to the inventory of the effects found on board, the *Mary Lowell* only had charts for sailing to the Island of Cuba and Florida, (folio 60;) and, finally, that her cargo consisted (folio 118) of articles and munitions of war, such as projectiles, guns, and sabers in considerable numbers, leather gear, three cannons, and five gun-carriages.

The preliminary investigation having been completed, and without the captured parties having been summoned or heard in their own defense, the junta del apostadero (naval board) of Havana, having first heard the opinion of the auditor, declared the aforesaid vessel and cargo to be a lawful prize, deciding that the seamen should be set at liberty, no complicity having been discovered on their part which rendered them deserving of punishment.

The above is a succinct review of the antecedents; and although, since no documents were found on board of the *Mary Lowell*, it cannot be exactly known who is the owner of this vessel and cargo, and although, for the same reason, it cannot be determined who was her captain, (although, with regard to this latter point, there is an indication in the papers relating to the case,) it is still none the less certain that the proceeding is defective, since it was the duty of the junta del apostadero to summon those who considered that they had a right to the vessel and cargo aforesaid, granting them sufficient time to appear and prepare their defense.

This step is so essential that its omission would constitute a defect in form, sufficient

to render the proceedings null and void; and so indispensable inasmuch as, for the same reason that the nation taking the prize has the right, in the exercise of its sovereignty, to judge and decide with regard to the legality of prizes of war, it is more strictly obliged to observe pre-established forms, especially those relating to the defense, in order to collect the data best calculated to throw light upon the case, and to the end that the final decision may carry with it the best guarantees of impartiality and correctness. If it be considered, moreover, that the failure to comply with this requisite might give rise to well-founded international claims, this will be an additional reason for proceeding in this case as in others of a similar nature, in which great care has been taken to summon the parties captured, and to grant them time to prepare their defense.

In view of the above the council cannot now anticipate its opinion touching the legality of the prize in question, reserving to itself to declare the same as soon as the case shall be in a complete state of readiness.

Meanwhile, it is of the opinion that the papers relating to the case should be returned to the commandant general of the apostadero of Havana, in order that the prize court [or board] (junta de presas) may decide to summon the parties interested, by means of notices inserted in the Gazette of the superior civil government of the Island of Cuba, granting, in order that they may appear and inform themselves with regard to the case, such term as may be considered necessary therefor; and that, they having presented themselves and having been heard, it should form a new decision, to be submitted to the approval of his Highness, the Regent of the kingdom, with the advice and consent of the council, as provided by law. Your excellency, however, will decide as is best.

MADRID, *November 13, 1869.*

Most excellent sir, the president,

ANTONIO DE LOS RIOS Y ROSAS.

The acting secretary general,

ANTONIO ALCANTARA.

To his excellency the MINISTER OF MARINE.

A copy.

BERANGER.

A correct copy.

[Rubric of the minister of state.]

A true copy.

D. V. S.

No. 36.

Mr. Sickles to Mr. Fish.

[Telegram.]

• MADRID, *May 15, 1870.*—(Received May 16.)

Minister of state informs me that orders have been sent by navy department to apostadero of Havana to exhibit Mary Lowell papers to consul, and allow him to take copies.

No. 37.

Mr. Davis to Mr. Biddle.

[Telegram.]

WASHINGTON, *June 2, 1870.*

We have not yet received the papers in the Mary Lowell case. We do not understand the delay. Inquire and report by telegraph.

No. 38.

Mr. Biddle to Mr. Davis.

[Telegram.]

HAVANA, June 3, 1870.—(Received June 3.)

The Captain General *ad interim* states that the Spanish minister at Washington is informed that the Mary Lowell papers have been sent to Spain, and that General Sickles will receive a copy.

No. 39.

Mr. Fish to Mr. Sickles.

[Telegram.]

WASHINGTON, June 4, 1870.

Consul Biddle telegraphs that Mary Lowell papers have been sent to Spain, and that you will receive a copy. You telegraphed the 15th May, that the papers would be shown Consul Biddle at Havana, and he be allowed to take copies. The President does not understand this continued misunderstanding between the authorities at Madrid and those in Havana, and instructs you to ask for an explanation as well as for a copy of all the papers, to be forwarded by the earliest opportunity.

No. 40.

Señor Lopez to Mr. Fish.

WASHINGTON, June 6, 1870.—(Received June 7.)

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to inform the honorable Secretary of State that, according to a telegram received from the Governor General of the Island of Cuba, the papers relating to the matter of the capture of the vessel Mary Lowell are in the naval commandancia general of that apostadero, to which office the United States consul general at Havana may go in order to obtain copies of them.

The undersigned avails himself of this occasion to reiterate to the honorable Secretary of State the assurances of his highest consideration.

MAURICIO LOPEZ ROBERTS.

Hon. SECRETARY OF STATE of *the United States.*

No. 41.

Mr. Biddle to Mr. Davis.

[Telegram.]

HAVANA, June 12, 1870.—(Received June 13.)

Papers Mary Lowell forwarded by Morro Castle.

No. 42.

Mr. Biddle to Mr. Davis.

No. 156.]

HAVANA, June 10, 1870.—(Received June 16.)

I have the honor to acknowledge receipt of your telegraphic dispatch, dated the 2d instant, instructing me to inquire and report the delay in the reception of the Mary Lowell papers.

Without delay I personally presented to his excellency the segundo cabo, the inclosure dated the 2d instant, and requested his prompt reply.

On the 4th instant, the promised answer arrived, after the mails had departed, of which I append a copy and translation. I then thus telegraphed to you: "Acting governor refers me to the admiral here, who, he says, has the papers of the Mary Lowell. Will see admiral Monday morning."

Having made an ineffectual attempt for an interview with Admiral Malcampo on Sunday, I presented myself on Monday, with a written dispatch, as per inclosure, to which I thus embodied the result of the interview by telegram:

HAVANA, June 6, 1870.

Admiral refuses to give copies of papers of Mary Lowell, but will allow me to make copies. Says it will take twenty days fast writing. Particulars by mail. I await instructions.

On the 7th of June I received the written reply from the admiral as per inclosure, and on the evening of the 7th instant the telegraphic message from the department, instructing me to put as large a force on copies of Mary Lowell papers as can possibly be employed at one time; charge cost in next account.

I have now the satisfaction to transmit to you the inclosed copy of the papers in the aforesaid case, duly certified under the seal of the commandant general de la marina of the station.

CONSULATE GENERAL OF THE UNITED STATES AT HAVANA,

June 2, 1870.

YOUR EXCELLENCY: I have honor to inform you that I have received from the government of the United States a telegraphic dispatch, stating that it has not yet received the papers in the Mary Lowell case, and that, as it does not understand the delay, I am instructed to make inquiry of your excellency, and report by telegraph the result. I shall, therefore, be extremely indebted if your excellency will supply the desired information at as early a period as may be convenient.

I have the honor to be, your excellency's very obedient servant,

THOMAS BIDDLE, *Consul.*

His excellency the SUPERIOR POLITICAL GOVERNOR of the Island.

[Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE ISLAND OF CUBA, SECRETARY'S OFFICE,
POLITICAL AFFAIRS.

Wrongly informed yesterday when I stated to you that the proceedings in the case of the Mary Lowell had been sent to Spain, I am enabled to rectify that statement to-day, in view of later information, and to state to you that the proceedings exist in the office of the secretary of the commandantcy general of marine at this naval station, where you may apply, when convenient, for the copy solicited by your government. God guard you many years.

HAVANA, June 4, 1870.

BUENAVENTURA CARBÓ.

The CONSUL GENERAL of the United States at this city.

CONSULATE GENERAL OF THE UNITED STATES,
Havana, June 6, 1870.

YOUR EXCELLENCY: Having been instructed by the government of the United States to ascertain and report the reason for delay in the transmission of copies of the papers in the case of the *Mary Lowell*, which have repeatedly been requested, I addressed a communication on the subject to his excellency the superior governor of the island *ad interim*, who informed me that the papers aforesaid are within your department, and refers me to your excellency for the desired copies. I therefore have the honor to invite the attention of your excellency to the long lapse of time since the request has been reiterated, and to say that I shall esteem it a favor to be informed definitely as to the prospects of obtaining them, that I may categorically comply with my instructions as aforesaid.

I have the honor to be, your excellency's very obedient servant,
THOMAS BIDDLE,
Consul General of the United States.

His excellency the COMMANDANTE GENERAL DE MARINA.

[Translation.]

COMMANDANCY GENERAL OF MARINE OF THE NAVAL STATION OF HAVANA.

I have received your communication of the date of yesterday, in which you state that a definite result has not yet been reached regarding the request of your government for a copy of the papers in the case of the *Mary Lowell*. The delay in question cannot be attributed to me, for in this, as in other cases of an international character, it is necessary to submit them to judicial courses and consultation which cannot be dispensed with. As regards the manner in which the aforesaid copies are to be obtained, the government has authorized me to exhibit to you, or to your delegate appointed for the purpose, the papers of the *Mary Lowell* at the office of the secretary of this commandancy general, who will make the copy at said office in the presence of the secretary of the prize court, chief officer of that department.

I would also call to your attention, that should you have an interest in the speedy obtention of the copies above referred to, this commandancy general would also have that same interest, as all delay on the procedures, by whatever motive produced, would redound in prejudice to the more prompt administration of justice.

The Rear-admiral JOSÉ MALCAMPO.

The CONSUL GENERAL of the United States at this city.

[Translation of inclosure in Mr. Biddle's No. 156.]

Copy of all the documents relating to proceedings instituted in the case of the capture of the American brig Mary Lowell, whose originals are on file in the archives of the general high court of Havana.

NAVAL STATION OF NUEVITAS.

The commander of the schooner *Andaluza*, officially, and with date of to-day, tells me the following, which I copy: I have the honor to inform you that yesterday afternoon, at 4½ o'clock, I captured the American brig *Mary Lowell*, at a point six miles southwest of Ragged Island, and consequently outside of the English waters. This vessel appears without captain or pilot; manned by four American sailors, and loaded with all kinds of arms and munitions of war, destined, as conclusively appeared, for the insurrectionists in Cuba. I manned her according to law, and fulfilling my instructions, have brought her to this port. This occurrence was accompanied by incidents of such magnitude that I doubt not they will surprise you. It was announced to me on the very day of my arrival at that island, by the collector *ad interim*, that it had been determined to move the brig to the northwest bay, on account of there being too much water in the south anchorage, as I have already stated in my official of the 3d. At the time of making it known to me, the collector added, that the brig would go where I could not follow, he not then knowing the draught of this vessel. However, two days passed without her being moved. On the 8th, the proper collector arrived from Nassau, who came to see me on the 9th, and repeated the idea of removing the brig, as soon as the strong breeze which was then blowing should sufficiently subside. The weather remained calm on the 11th and 12th, but no change was made; the time being solely occupied in overhauling the gear, setting up the rigging, taking in water in

plentiful quantities, and watching the horizon anxiously. Meanwhile I watched the brig closely, so as not to give her a chance to get away. I could go on adding the important intelligence which I communicated to you officially on the 10th, and other information which I omitted; its very importance rendering it improbable. I had been informed by the Cubans there, that two monitors were coming to solve the question of the forced detention of the brig; and, although I had some confidence in the means of which I had availed myself to acquire information, I supposed the monitors to exist only in the minds of those who were expecting them. Yesterday, an Englishman came to me, saying that the brig was going to change her anchorage; and that he had come as pilot, in conformity with the wish which I had expressed to the collector, that he should furnish me with one. This individual had been the collector *ad interim*. At 10 o'clock, the brig got under way with a fresh breeze, I following in her wake, and she sailing more to the larboard with the object of getting to windward, and running by the head of the island at its extreme south. She appeared to have gone out of the territorial waters, and to be sailing very much to the leeward; she soon tacked ahead, however, and my suspicions vanished. At a convenient distance she again tacked, and there happened the same thing as before. She altered her course again, but did not get any to windward. About this time two masts were seen in the horizon, having something large and bulky between them. While I was commenting on what could be the meaning of such a confused apparition, with some of the officers, the Englishman, taking hold of some side-bolts, said with arrogant security, "A 250 iron-clad." This exclamation, at a time when no one on board, not even in the top with a large glass could make out anything definite, caused me to reflect seriously on the many rumors which I had heard, however much or little reliance might be placed on them. I anxiously desired to force the engines in order to investigate the object in question, but was afraid of giving the brig a chance to escape should I go too far away. Had I been a long distance from her, it would have been practicable for her to attempt flight, as the wind was blowing freshly at the time. The before-mentioned monitor kept narrowing the distance in the direction of the island, and later was recognized by myself as well as the brig. The latter now tacked prematurely seaward, and advancing to meet her, unfurled the American flag, gallant and flying-jib sails, which until now had been furled. The monitor drew near and hoisted at the mizzen-mast a flag; although this was as yet unseen by the Englishman, he said to me, "She signals for a pilot to me." I then found myself between the two vessels, the brig seemed to be sailing toward the monitor, which latter was undoubtedly heading toward us. I hoisted a large flag to the peak, asking her nationality, and ordered the decks to be cleared for action. The Spanish flag was answered by the Peruvian. My surprise was greater because I could not explain to myself the reason why a Peruvian monitor should be cruising in those waters. I remembered the official notices which I had received in regard to the two monitors which were to leave New Orleans, but those should have sailed for the Pacific toward the close of the year, and I supposed them to be off Cape Horn. I had received no official nor private notice which induced me to believe that they would even be in these seas in March. What could a Peruvian monitor be in search of at Ragged Island, where there are neither coals, provisions, nor necessaries of any kind? The very course which she was sailing increased my suspicions, because she should have run northeast. Was it not, besides, a very significant coincidence, that she should have appeared the same day and at the same time that the brig got under way? Plunged into a sea of confusion, I began to doubt even her nationality. We lay broadside to broadside and within short cannon range. The monitor sailed slowly, perhaps for want of a pilot, the brig following the track toward the south. At this juncture the monitor displayed three flags at the foremast, while the brig twice lowered and hoisted her own. Encouraged at the sight of such a portentous naval phenomenon, and carrying so large a crew, she seemed to be indifferent about going without or staying within the inviolable boundaries of the English waters. But I, being zealous to defend the Spanish flag, suspected her to be playing with me, and that she possibly might be successful in the landing of her arms, thereby accomplishing her wicked designs; in consideration of which, as soon as she came into our waters in which she then was, according to observations, and the opinion of all the officers on board, I bore down toward her as fast as the power of the machinery would allow, and ordered her to surrender; at the same time, indicating to the Englishman, who had previously told me that his brother was pilot of the brig, that he should tell them to haul down her sails; but instead of translating it as I had ordered, he told them to hoist more sail so as to make her sail faster. But it was now too late; I was already under her lee side, with the artillery arranged so as to sink her in case she made any attempt to proceed further, and she now hauled down her sails. I now went on board of her in a boat in order to inspect her according to law. It was not necessary to open the hatchways, numerous arms being in the cabin, and gun-carriages on the deck, which were sufficient proofs of her guilt. I manned her as has been stated, and proceeded to take her in tow. At the time of going on board I found her crew to be accompanied by two negroes and the pilot, who was a brother of the person who had acted as my pilot. They told me

that they were English subjects and natives of Ragged Island. I being desirous to act with that impartiality and good faith which should characterize every good cause, gave them the brig's boat with which to go on shore; although, rightfully, they should have shared the fortunes of the crew. These events transpired so rapidly that the monitor, which at first had stopped her engines but afterward continued to sail a little more to the larboard, must have been surprised to see me with the brig in tow, as only a few moments before we had been separated by a considerable distance. I was especially careful to take observations at the moment of capturing the brig, and found her, according to the chart, to be in neutral waters. Inclosed, I have the pleasure of sending the chart to you, with the situations and observations; and also an inventory of what was found outside of the hatches, together with a sealed package of books and papers found in the brig. I believe that I have exposed the most essential things connected with the subject, but should it be necessary, I still reserve the right to enlarge on it in my declarations, by giving some details on the object and aspirations of this formidable but abortive expedition. In no manner do I expect the least complications with either of the two nations which indirectly figure in these proceedings, but should they arise, I trust to be able to remove them aided by the triple lever of reason, justice, and right. I transmit to you an account of the proceedings in the primary investigation held for the purpose; the inventory of what was found on the deck and in the cabins of the brig Mary Lowell; a sealed package containing two books, and various papers, together with a sealed draft, all of which I judge are opportune, and to the purpose. God preserve you many years.

NUEVITAS, March 16, 1869.

ADOLFO RABIORI.

COM. OF MARINE in this province.

SCHOONER ANDALUZA, 1869.

Primary investigation in the matter of the capture of the American brig Mary Lowell.

Fiscal attorney: Marine Ensign Francisco Lazaga.

Notary: Gunner's Mate Antonio Bagallo.

The undersigned officer reports to the commander, that commissioned by you to go on board the American brig Mary Lowell, for the purpose of inspecting her, he embarked in the boat with the naval ensign of the crew of this ship, Don Eduardo Albacete, who was in charge of the marines going on board of the suspected vessel; after leaving this ship we soon found ourselves at the side of the brig. This latter neglecting to take notice of the boat, or affecting not to understand our object, kept on her course and left us astern notwithstanding the efforts which we were making to overtake her. We arrived alongside as the schooner came up with her, and made her take in her sail. The little attention which she paid to us was the more noticeable from the fact, that they would not give us a ladder or a rope's end, although, we had previously requested them to do so. About this time Mr. Wilson, brother of our pilot, and with whom I was acquainted, looked over the rail and helped me on board. I asked for the captain and papers belonging to her, but received the answer that neither were on board. Seeing this, I inspected the vessel, found the hatchways closed, and some boxes on deck containing munitions of war. I made these circumstances known to the senior officer Don Eduardo Albacete, who decided to occupy the brig, and ordered all the crew into our boat, myself accompanying them aboard the schooner. In accordance with my duty, I have the honor to bring this to your superior notice. God preserve you many years.

AT SEA, March 15, 1869.

EMILIO FIOL.

The ensign of the navy, belonging to this crew, Don Francisco Lazaga, will proceed to make the full primary investigation in connection with the acts to which the foregoing report refers.

AT SEA, date as above.

JACOBO ALEMAN.

Appointment of notary.

DON FRANCISCO LAZAGA Y HURTADO DE MENDOZA, ensign of the navy, and belonging to the crew of the schooner Andaluza:

In order to carry out, according to law, the primary investigation which I am going to make, relative to the capture of the American brig Mary Lowell by this vessel off the Bahama Banks, on the 15th day of the month named in the date, I appoint Antonio Bagallo Fuerte, gunner's mate of this ship, as such notary; who having been informed relative to the obligations which such office imposes, accepts, promises, and swears to

maintain inviolable secrecy and fidelity in relation to what is done. In consideration of which he signs with me.

AT SEA, March 15, 1869.

FRANCISCO LAZAGA.
ANTONIO BAGALLO.

Ratification of report.

On the same day, month, and year, personally appeared before the attorney of the government, the naval ensign belonging to this ship, Don Emilio Fiol, who, being sworn according to law, promises to tell the truth in regard to what may be asked of him, and having been asked his name, age, and occupation, said: My name is Don Emilio Fiol; now belong to the schooner Andaluza in the capacity of ensign of the navy; and am twenty-four years of age.

After having been shown the reports found on folios one and one of this investigation, and having been asked if they are the same which he gave to the commander of this ship on the 15th of this month; and if they are in his own handwriting; also, if the signature at the bottom is his, and if he swears to it, said: That the documents which were shown to him are the same concerning which he is asked; that they are in his own handwriting; and that the signature at the bottom is his own, that he swears to it, without taking anything therefrom, or adding anything thereto; and that it is all true as sworn to. Signed in connection with the government attorney, the notary being present.

FRANCISCO LAZAGA.
ANTONIO BAGALLO.

Declaration of the first mate, John Reynolds.

In the Bay of Nuevitas, on the 16th day of the said month and year, appeared before the attorney of the government John Reynolds, a seaman belonging to the brig, in company with the government and health interpreter, Don Hipolito Mier; and, after having been sworn according to law, promised, first, to tell the truth relative to anything which he might be asked; second, to literally translate every thing that might be said to him, and, having been asked first his name, age, religion, and occupation, said: My name is John Reynolds, was born in Laetram, Ireland; am twenty-five years of age, and of the Roman Catholic religion.

Having been asked in what capacity he was on board of the brig at the time of her capture, and having been directed to tell all he knew or had seen since leaving Ragged Island until his capture and transfer aboard this vessel, said: That he was first mate of the brig; that at 10 o'clock on the morning of the 15th of the present month the pilot of that port, Mr. Wilson, came on board, and ordered him to raise the anchor in order to move the ship to the northwest port in the same island; that he hoisted sail, but having a headwind, was obliged to run by tacks; that about an hour afterward they saw a small mast carrying a flag, which they could not recognize; that about two or three hours afterward they saw a boat at a certain distance containing armed men, which, as appeared to all on board, was coming toward the brig; that afterward the Spanish ship of war approached and spoke to them, but that they could not understand them; that Mr. Wilson was the one who answered them; that he could not understand Wilson; and that his attention was occupied in taking in sail, having received the order to do so from Wilson after he had asked him the meaning of the conversation; that afterward a boat came alongside from the Spanish steamer, containing armed men; that he does not know anything more than that he was taken aboard the Spanish vessel in the boat already spoken of.

Having been asked if the captain was aboard, or if the brig had clearances, and what kind of cargo she had aboard, he said: That the captain was not aboard, and that he had said he was going to the United States to get a steamer in which to put the brig's cargo, as she was leaking; that he knows nothing concerning the brig's papers or cargo; that he had declared what he knew by means of the interpreter, and that there was nothing more to add to or take from it; that the aforesaid is true, being signed and sworn to. Signed in connection with the attorney for the government, the notary being present.

FRANCISCO LAZAGA.
JOHN REYNOLDS.

Before me,

ANTONIO BAGALLO.

Certificate of the interpreter.

I certify that the foregoing declaration, signed by the first mate, Mr. John Reynolds, of the American brig Mary Lowell, is a faithful and literal translation of what he has said.

HIPOLITO MIER,
Provisional Interpreter.

Declaration of Louis Exton, cook.

In the same day, month, and year, appeared before the government attorney Louis Exton, seaman, belonging to the American brig Mary Lowell, who, being sworn according to law, promised to tell the truth regarding all that may be asked of him.

Having been asked his name, age, country, occupation, and religion, he said: My name is Louis Exton, born in London, but an American citizen; am twenty-four years of age; by religion a Catholic; and was cook aboard the brig.

Having been directed to explain what he knew from the time of leaving Ragged Island until the capture of the brig, and also until the time of coming aboard this ship, he said: That according to his belief, they raised the anchor at the before mentioned place between 9 and 10 o'clock a. m. of the 15th of the present month, and after Mr. Wilson, the pilot, had come on board; that afterward they steered for the port of Great Ragged Island, but the wind being contrary they were obliged to keep tacking until about 4 o'clock in the afternoon; that when they were in such a position as induced them to believe they could make the port, he saw an armed boat leave the side of the Spanish war steamer and come toward the brig; seeing that the boat could not overtake them, the steamer came up on the lee side, and ordered them to take in sail; that just at the time the order had been obeyed the aforesaid armed boat came alongside; that an officer asked the permission of Mr. Wilson, the pilot, who was in charge of her, to come on board, which permission Mr. Wilson granted to him; that the captain was not aboard, nor had he ever seen him, except a few times, when others had pointed him out; that he had heard others speak of him sometimes; that after the officer had come on board, the commander spoke to him from the Spanish steamer, saying something which he could not understand; that after this the officer looked over the rail, and gave what witness conceived to be orders to the boat's crew to come aboard; that they immediately came on deck, and took possession of the brig; that they then asked the officer what he had to do with the brig, to which he replied that he had orders from the commander to take them aboard the steamer, and that he so fulfilled the order; put us in irons down in the hold, but released us from prison after the lapse of about fifteen minutes; but before this last-mentioned incident occurred, and at about 2 o'clock, he saw two masts, which appeared to belong to a ship lost on the reefs of the Dos Hermanos; that at half past 3, he saw that it was a monitor, and coming, as he judged, toward the port.

Having been asked if he knew whether or not the ship had her clearances, or what cargo she had aboard, said: That he knew nothing of the papers or cargo, and that his declaration having been given by means of the interpreter, he had nothing more to add thereto or to take therefrom; that the above is true. Sworn to and signed with the attorney in presence of the notary.

FRANCISCO LAZAGA.
LOUIS EXTON.

Before me,

ANTONIO BAGALLO.

Certificate of the interpreter.

I certify that the foregoing declaration, given by Louis Exton, cook of the American brig Mary Lowell, is literal and true.

HIPOLITO MIER,
Provisional Interpreter.

Declaration of James Well, seaman.

In the same day, month, and year, appeared before the attorney (fiscal) James Well, seaman, belonging to the American brig Mary Lowell, who, having been duly sworn according to law, promised to tell the truth in relation to all that might be asked of him.

Having been asked his name, age, country, religion, and occupation, said: My name is James Well; twenty-seven years of age, and a native of Kildare, Ireland, but an American citizen; a Roman Catholic, and seaman aboard the brig Mary Lowell.

Having been directed to tell what he knew and had seen since the moment of the departure from Great Ragged Island until the capture of the brig and removal to this ship, he said: That between 9 and 10 o'clock in the morning they raised anchor and got underway; that he believes they were about four hours trying to make the port in said island; and tacking about on account of a headwind; that between 2 and 3 in the afternoon, he saw, at a certain distance, what appeared to be two masts of a ship, but that he did not know what it was; that between 4 and 5 o'clock p. m. the Spanish war steamer approached on the lee side; that she had previously sent a boat containing armed men; that they went aboard, manned the

brig, and took him and his companions aboard the steamer without his knowing the cause of their so doing.

Having been asked whether the brig had her clearances, what cargo she carried, and if the captain was aboard, he said: That, respecting the papers and cargo, he knew nothing, and that the captain was not aboard, nor did he know him; that his declaration having been given by means of the interpreter, he had nothing to add thereto, or take therefrom, the same being true as sworn to, and signed with the attorney, in the presence of the notary.

FRANCISCO LAZAGA.
JAMES WELL.

Before me,

ANTONIO BAGALLO.

Certificate of the interpreter.

I certify that the foregoing declaration, given by James Well, seaman, belonging to the American brig Mary Lowell, is literal and true.

HIPOLITO MIER,
Provisional Interpreter.

Declaration of the third boatswain, Diego Belmonte.

On the same day, month, and year, appeared before the attorney the third boatswain, Diego Belmonte, who, having been sworn according to law, promised to tell the truth in regard to all that might be inquired of him.

Having been asked his name, age, and occupation, said: I am called as already stated; by occupation, third boatswain, and now serving aboard the schooner Andaluza; am also twenty-five years of age.

Having been asked to explain all he knew about the capture of the American brig Mary Lowell, he said: That on the 15th day of the present month, between 9 and 10 a. m., this ship left her anchorage and proceeded to follow in the wake of a brig, which latter was making several tacks off the land; that, coming on the outside tack about 4½ p. m., he heard the command to stop the engines, and lower a boat, into which he was ordered, there having embarked already an officer and some seamen, all of whom were armed, for the reason that they had not been ordered to disperse since receiving the order to "Clear the decks for action;" that the boat went toward the brig, which latter kept on her course; that he observed that the steamer was nearing the brig; and that then she took in her sails, for which reason the boat was enabled to come alongside; that immediately after Don Emilio Fiol, the naval ensign, went on board and spoke to the crew, but afterward looked over the rail and ordered the witness, with the boat's crew, to go on board the brig; that then the order was given to get the rigging ready, and the brig's boat was put into the water and sent off to the schooner; that he saw the brig's crew embark in one of the aforesaid schooner's boats; that they gave two towing lines to the brig, in which there remained Don Eduardo Albarcete, gunner's mate of this ship, the witness, and twelve sailors, all of whom were towed in by the schooner; that his declaration has been given by means of the interpreter; that he has nothing more to add thereto, or take therefrom, and that the foregoing statement is true as sworn to under oath, and subscribed with the attorney, in presence of the notary.

FRANCISCO LAZAGA.
DIEGO BELMONTE.

Before me,

ANTONIO BAGALLO.

Declaration of the head seaman, Ramon Chenlo.

On the same day, month, and year, appeared before the attorney Ramon Chenlo, seaman, who having been sworn according to law, promised to tell the truth in regard to whatever he might be asked.

Having been asked his name, occupation, and age, he said: My name is Ramon Chenlo, head seaman of the crew of this ship, and I am twenty-four years of age.

And having been asked what he knew and has seen of the capture of the American brig Mary Lowell, he said: That between the hours of 9 and 10 a. m. the schooner left her anchorage, (the name of which he does not know,) following the course of a brig, which latter made several land-tacks; and that about 4½ p. m., while running on the outside tack, he heard the order to stop the engines, and lower a boat, in which he was ordered to go as coxswain; that some sailors also got into the boat, accompanied by one boatswain and two officers; that they were ordered to follow the brig, which lat-

ter still kept on her course; that they now saw the schooner come up on the lee side of the brig, which latter then took in her sail, which, a few moments after, enabled the boat to come up alongside; that then Don Emilio Fiol, naval ensign, boarded the brig, and spoke to the crew, after which he ordered the men who were in the boat to go aboard, Don Eduardo Albacete, naval ensign, also accompanying them; that immediately after going aboard they were ordered by the officers to get the gear ready, and lower the boat into the water, which was sent to the schooner; that he saw the crew of the brig embark in a boat belonging to the aforesaid schooner, which latter took the brig in tow, and so brought her to this port.

Asked how he found the hatchways of the brig and what he saw on her deck, he said: That he saw on her deck two large boxes, and all the hatches sealed and closed, with the exception of the main; that having made his declaration, he had nothing more to add thereto, or take therefrom; and that the same is true as sworn to, and subscribed with the attorney, in presence of the notary.

FRANCISCO LAZAGA.
RAMON CHENLO.

Before me,

ANTONIO BAGALLO.

Declaration of the marine corporal, José Inqua.

On the same day, month, and year, appeared before the attorney the marine corporal, José Inqua, who having been duly sworn, promised to tell the truth in relation to all that should be asked of him; and having been asked his name, age, and occupation, he said: His name was José Yuma y Fernandez, twenty-five years of age; by occupation corporal of marines, belonging to the crew of this ship; that between the hours of 9 and 10 a. m. of the 15th of the present month, the schooner in which he was left her anchorage, the name of which he does not know, to follow the wake of a brig which had been anchored in the same place; that the aforesaid brig took several tacks off the land, the schooner always keeping within sight; that about 4½ in the afternoon, and when she was on the outside turn, he heard the order to stop the engines, and lower a boat, into which he was ordered to embark, in company with the two naval ensigns, Don Emilio Fiol and Don Eduardo Albacete, one boatswain, and some seamen; that they started in the direction of the brig, which kept on her course; that he then saw the schooner coming up to her on the lee side, but that he does not know what passed between the two vessels, on account of being too far away; that shortly after he saw the brig take in her sail, which enabled the boat to overtake her, and come close up alongside; that the said brig did not give them a rope's end, nor anything to enable the boat to keep alongside, which gave them a great deal of trouble; that afterwards the naval ensign, Don Emilio Fiol, went on board; witness saw him speak to the crew of the brig; he then ordered the men to leave the boat, come on deck, get the gear ready, and lower the brig's boat into the water, which went off to the schooner; that the crew of the brig embarked in a boat belonging to the said schooner; that this schooner took the brig in tow and brought her to this port.

When asked what he saw on the deck, and how he found the hatches on board said brig, he said: That there were two large boxes on the deck, but he did not know what they contained; and that all the hatchways were closed except the main one; and that he saw some sabers and parcels of arms in the cabin. He said: That his, this declaration, was true, being sworn to according to law, and that he had nothing to add thereto or take therefrom. Signed with the attorney, in the presence of the notary.

FRANCISCO LAZAGA.
JOSÉ INQUA.

Before me,

ANTONIO BAGALLO.

Declaration of Charles Shaw, seaman.

On the same day, month, and year, appeared before the notary Charles Shaw, American seaman, belonging to the brig, who, having been sworn according to law, promised to tell the truth respecting all that might be inquired of him.

Having been asked his name, age, country, occupation, and religion, he said: I am called John Shaw; am thirty years of age; a native of Ireland, but a citizen of the United States; by religion a Catholic, and am a seaman on board the Mary Lowell.

Having been directed to explain all he knew and had seen since the moment of leaving Great Ragged Island until the capture of the brig, he said: That between 9 and 10 o'clock on the 15th of the present month they raised the anchor and got under way in the direction of the port of the island, according to the pilot's orders. The

wind being contrary they were obliged to keep tacking while the Spanish war steamer followed in their wake. That about 2 o'clock he saw what was said to be a Peruvian monitor, coming towards the port; that it might be between 3 and 4 o'clock in the afternoon when the war steamer came alongside, soon after a boat came towards them, which a short time previously had been lowered into the water, and according to what he saw, the men in the boat ordered the brig's crew to haul down her sails; that an officer with the boat's crew manned the brig, and sent the brig's crew in one of the boats belonging to the war steamer to that vessel.

Having been asked if the captain was aboard, or if he knew anything of the ship's papers, or of the cargo she carried, he said: That the captain was not aboard, nor did he know him, but that he had heard people say that the ship's papers were ashore, and that he knew nothing about the cargo. That having given his declaration by means of the interpreter he said: that he had nothing more to add thereto, or take therefrom, and that the same was true as sworn to, and subscribed with the attorney, in the presence of the notary.

FRANCISCO LAZAGA.
JOHN SHAW.

Before me,

ANTONIO BAGALLO.

Certificate of the interpreter.

I certify that the foregoing declaration given by John Shaw, seaman, is literally and truly translated.

HIPOLITO MIER,
Provisional Interpreter.

Delivery of declarations.

On the same day, month, and year, the attorney proposed to deliver these first declarations connected with the capture of the brig Mary Lowell to the commander of this ship, having finished them already, in compliance with his orders; to effect this, he went to the cabin of said gentleman, accompanied by me, the notary making the delivery of this investigation, which contains ten leaves, or folios, without counting the covers; and, in order that it may be valid as a procedure, I order the present record of the delivery to be made as signed by said attorney, and sworn to by me, the notary.

LAZAGA.

Before me,

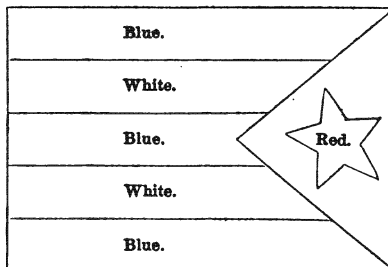
ANTONIO BAGALLO.

[Official.]

SCHOONER ANDALUZA.

Inclosed I remit to you the Cuban cockade which I found on the deck of the brig Mary Lowell, in order that you may use it as proving the destination of the arms in the investigation which you are projecting. God preserve you many years.
Aboard, Nuevitas, March 16, 1869.

JACOBO ALEMAN,
Naval Commander of this Port.



Appointment of notary.

Don Pedro Diaz de Herrero, frigate captain of the fleet, military commander of the naval and registered forces of the province of Nuevitas, and captain of its port, having to appoint a notary according to law so as to act in the summary proceedings which I am about to form, and also in the enlargement of the preceding investigations, I

appoint and elect Don Benigno Aldez to the second-class notaryship of this command, who, having been informed relative to the obligations which such office imposes, promises to maintain secrecy and fidelity respecting all that he may do; and, in order that this may be valid, he signed it with me in Nuevitas on the 17th of March, 1869.

PEDRO DIAZ DE HERRERO.
BENIGNO ALDEZ.

Declaration of Don Jacobo Aleman, commander of the schooner Andaluza.

On the same day, month, and year, being present the attorney and notary, aboard the schooner Andaluza, appeared the commander of said vessel, who, being duly sworn according to law, promised to tell the truth in relation to all that might be asked of him, and being asked his name, age, and occupation, said: That his name is Don Jacobo Aleman; that he is first-class lieutenant of the national fleet, and actual commander of the schooner Andaluza; and is thirty-six years of age.

Asked: That being the officer who commenced the proceedings which the chief of the station has sent to me, that you say if it is the same, and if you recognize it as the same which you delivered to the chief commander of the station, as also the situation delineated in the chart and shown in the manifest. Said: That it is the same which he gave to the commander of the station, and that the descriptions of the distances and place where he encountered the brig at the time of capturing her, together with the signature at the bottom, are all recognized by him.

Asked: That you show the enlargement or details which you proposed to do in your official at the time of giving your declarations, with the object of throwing more light on this affair. Said: That in his official he had indicated that he should prove that the brig was changing her anchorage, for the reason that the collector of said island had so stated to him; that he offered no opposition nor passed no observations on that account; and that a vessel going on her course would naturally do so by keeping within the English waters. That, even allowing a mile for the coast, there still remained five in which to get the necessary sea-room to come to the point south; that she not only did not do so, but came out of said waters three different times, and at last augmented her speed; that he had informed the pilot who was aboard of the schooner, the brother of the one in the brig, the first time she came outside of the English waters, that if she repeated the crossing of the marine jurisdictional line he would be obliged to do something, which is a satisfactory proof of the good faith in which he was acting, and makes the right more justifiable of taking her on the third time of passing the line, which was when he captured her; and that he added in the conclusion of his declaration there remained a large number of Cubans in said island who were interested, and formed part of the expedition of the brig.

Asked: If he had anything to add or take from his declaration? Said: That he had nothing to add thereto or take therefrom; that what he had stated relative to what occurred was the truth, and he signed and swears to it in connection with the attorney, and in the presence of the notary.

PEDRO DIAZ DE HERRERO.
JACOBO ALEMAN.

Before me,

BENIGNO ALDEZ.

Declaration of the naval ensign, Don Emilio Fiol.

Afterward appeared before the attorney and present notary the naval ensign whose name is in the margin, who, being duly sworn according to law, promised to tell the truth relative to what might be asked of him.

Asked: His name, age, and occupation, said: My name is Don Emilio Fiol de Montaner, naval ensign of the fleet, and embarked with the crew of the schooner of war Andaluza, and am twenty-four years of age.

Asked: That you declare concerning the report which your commander states, and which forms the commencement of this investigation; that you state if you ratify it, and if it be the same, and that if you have anything to add thereto or take therefrom. Said: That it is the same, and that he recognizes his signature at the bottom; That he has nothing to add thereto or take therefrom.

Asked: If, at the time of making the investigations relative to the vessel, they asked to make the corresponding observations as they are prepared in the ten folios, or budget; and that he state at what distance from the English possession of Ragged Island, they encountered said brig? That if, on entering the brig, she had her flag hoisted. Said: That after having taken the brig, he asked them for the log-book, but, which they could not deliver, because there was none, for which reason they could not note the distance from Ragged Island, but, which was at seven miles from the coast; that

before making fast to the brig she had the American flag masted, but which they saw taken down on going aboard.

Asked: If they observed any movement indicative of running away at the time of the pursuit; if they hoisted more sail; and that if, in his judgment, there was any necessity, in her changing of anchorage, to go outside of the jurisdictional waters to accomplish it. Said: That at the time when the boat first started to make the reconnaissance, she did not make any movement indicative of flight, but on the schooner approaching she hoisted the fore-top-gallantsail, and made no exertions to stop, finding herself already outside of the English waters; that respecting the last part of the question, said: that there being six miles within jurisdictional line, it was sufficient space for her to have gained her destination, without tacking outside of it, or without impeding her progress; that he called attention to the fact, that, at the commencement of her movements seaward, she carried only her main-topsail and jib, which was sufficient evidence that she was in no great hurry to arrive at the port anchorage, but instead of which, she only waited for a favorable opportunity to hoist the other sails, which she had in readiness, including the staysails, which latter she hoisted at the time of making the last tack, when she came without the jurisdictional lines.

Asked: If he had anything to add or take away, from this his declaration. Said: that he has nothing more to say, and, that the foregoing is true, which he ratifies and signs under oath, with the attorney.

PEDRO DIAZ DE HERRERO.
EMILIO FIOL.

Before me,

BENIGNO ALDEZ.

Declaration of the naval ensign, Don Eduardo Albacete.

In continuation, appeared before the attorney and present notary the individual whose name is in the margin, who, being duly sworn according to law, was asked the following questions:

Asked: His name, occupation, and age.—Said: I am called Don Eduardo Albacete de Fuster, naval ensign of the national fleet, but in the actual second command of the schooner Andaluza; twenty-three years of age.

Asked: That he manifest all the occurrences connected with the capture and bringing to this port of the American brig Mary Lowell.—Said: That it might have been about ten o'clock in the morning of the 15th of the present month when the brig raised her anchor and took the outside tack, with an easterly wind, being under her fore-topsail, jib, and boomsail. That shortly after we got under way, and followed in her wake. That during the morning she was tacking under said sails, without going any to windward, and during which time we were waiting within a short distance of her. That a little after midday we saw a vessel in nearly a S. S. (?) direction, which we could not make out on account of the long distance which separated us. That the brig commenced to lengthen her tacks, each time making them longer. That they were ordered to clear the decks for action, and give all the force to the engines, in order to see what the object was. That a short time after we were enabled to see that she was a monitor, and sailing in a crosswise direction, toward the island. That a short time after they were enabled to make her out by the blue flag which she carried at the fore peak to be a Peruvian ship of war, and that about this time the brig hoisted the American flag. Seeing this, the monitor unfurled three flags on the fore mast, when the brig began to spread more sail and run toward her, we following and embarking in the second boat with the naval ensign, Don Emilio Fiol, the witness, one officer, and eighteen armed seamen. That the brig, seeing that we were following her, hoisted her maintopsail and kept on the outside tack, but the schooner coming alongside she took in her sail. That shortly after we came alongside with the boat, and Don Emilio Fiol, the naval ensign, went on board to inspect her, who shortly after told me that the result of his inspection was that the vessel had no papers, and that on her deck she carried warlike stores, for which reason he conformed to the orders which he had received from the commander of this ship, to the effect that he should man her in case she should prove to be suspicious. That I then embarked her crew in my boat, with the before-mentioned naval ensign, sent it aboard, and prepared myself to receive the towline, which the schooner gave me a short time after. That we now started toward Nuevitas, where we arrived on the morning of the 16th.

Asked: That you manifest the situation of the brig respecting the English possession called Ragged Island at the time of her capture; and if this ship had a log-book, as is stated in the investigations; and if the witness, on his own part, had noted, in his sailing diary and chart, as also in the log-book, the situation of the brig, in order to know the distance at which she was found from land.—Said: That she was boarded at about six and a half or seven miles from said island. That he could not note the situation of the brig in her log, because she had no papers of any kind on board, but that he did so take note of it in his navigating diary, charts, and log-book of the ship.

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Asked: If at the time of the inspection there was a captain, pilot, or any other person aboard who had charge of her.—Said: That they only found one English pilot, and four sailors who obeyed the former, and whom he sent aboard the schooner with the rest of the crew.

Asked: If he had anything to add to or take from his declaration.—Said: That he has nothing more to add thereto or take therefrom. That the foregoing is true, and that he ratifies, signs, and swears to it, with the attorney.

PEDRO DIAZ DE HERRERO.
EDUARDO ALBACETE.

Before me,

BENIGNO ALDEZ.

Declaration of the naval ensign, Don Francisco Lazaga.

On the same day, month, and year, appeared before the attorney, the notary being present, the naval ensign, whose name is in the margin, of whom they asked his name, age, and occupation. He said: I am called Don Francisco Lazaga y Hurtado, naval ensign of the fleet, and embarked on board of the schooner Andaluza, and am twenty-three years of age.

Asked: That you manifest all that occurred respecting the capture of the American brig Mary Lowell, since the time she got under way until she was conducted to this port.—Said: That on the morning of the 15th of the present month the brig Mary Lowell, which was at anchor close by the side of the schooner, got under way about 10 o'clock in the morning; that shortly after we also commenced to move, and followed in the wake of the brig, having the wind fresh from the east; that in making the tack seaward she ran a great distance, when she turned again toward the shore, and so continued tacking; about 1 o'clock in the afternoon, the witness being on deck, he saw at a long distance a ship whose class he was unable to make out, nor could any of the others who were with him; that he asked the English pilot if he could tell what kind of a vessel she was, but that he could not comprehend what the pilot answered, for the reason that he was not conversant with the language in which he answered; that shortly after they sailed toward the unknown vessel, and the decks were ordered to be cleared for action, when he had to go to his post, and therefore does not know any more of what happened, until about a quarter of an hour after, when he called the commander of this ship to the deck, to see if he could distinguish the colors of the monitor's flag, which were then to be seen; that the flag was recognized as the Peruvian, and that in the top of the foremast there was another blue flag; that when the monitor had begun to draw nearer to this ship they turned to follow the brig, which latter had now her flag hoisted, and which before they had not seen, nor had it before been hoisted; that they now saw three flags in the monitor's foretop; that when this happened it was about half-past four, and when the brig was running on the outside tack; that about this time a boat was ordered to be lowered, they being then six miles and a few cables' length from land; that two officers and one boatswain embarked in the boat, which they directed toward the brig, with the flag flying; that the brig kept on her course, when the schooner bore down toward her, and came alongside to the leeward; that the brig was ordered to haul down her sails, but that she did not obey until they brought to bear on her the center swivel gun; that the boat came back shortly after this, bringing an Englishman with whom the witness was acquainted and knew as a pilot, named Wilson, two negroes, whom he also knew, because they lived on shore, and four sailors; that the pilot and the two negroes were sent ashore in the brig's boat; that they took the brig in tow, and came to this port, where they anchored yesterday morning.

Asked: If at the time of coming alongside of the captured vessel they took any situations or observations whereby to know the distance at which the brig was captured, and if the same were entered in the diary and log-book of the ship; if, in his judgment, the brig had any necessity, on account of the wind, to have gone outside of the jurisdictional lines in order to come to the northwest anchorage.—Said: That at the same time they made two observations at the extremes of the island, showing the situation as it is delineated in the plan; that the witness, by virtue of his office as guard officer at the time, has noted it in the log-book and also in his diary of navigation; that he does not believe the brig was under any necessity of going outside of the jurisdictional lines, having, as she did, five miles of a radius to move in.

Asked: If he has anything to add to, or take from, his declaration?—Said: That he had to state further that at the time the schooner came alongside of the brig, and outside of the jurisdictional lines, this latter tried to increase her speed by hoisting her topsail and staysail. Having heard this read, he signed with the attorney, and present notary.

[SEAL.]

PEDRO DIAZ DE HERRERO.
FRANCISCO LAZAGA.

Before me,

BENIGNO ALDEZ.

Declaration of the second officer of the administrative body, Dr. José de Urdanio de Luz, paymaster of this ship.

In the before-mentioned month and year appeared before the attorney and present notary the individual named in the margin, who, being duly sworn according to law, promised to tell the truth respecting all that might be required of him.

Asked: His name, age and occupation.—Said: I am called José Urdanio de Luz, and am actual paymaster aboard the gunboat Andaluza, and am thirty-four years of age.

Asked: If the folio documents and books, which are placed before him for identification, are the same he delivered to the commander; that he explain also from whom he received them.—Said: That they are the same which he delivered to the commander, and that he received them from no one; that when he solicited the ship's documents, he was informed that there were none; and that he took those which he delivered to the commander from a state-room in the same ship's cabin; that in the said state-room were two cavalry sabres, having engraved on the blade, in Castilian, the motto "Liberty or death;" that having finished the investigation he sealed, as has already been stated, which act neither the captain nor any one representing him on board witnessed. Said: That the foregoing is true, as sworn to under oath, and signed with the attorney and present notary.

PEDRO DIAZ DE HERRERO.
 JOSÉ URDANIO DE LUZ.

Before me.

BENIGNO ALDEZ.

Declaration of the third boatswain, Antonio Perez.

NUEVITAS, March 18, 1869.

The attorney made to appear before him and the present notary the individual whose name is in the margin, who, being duly sworn according to law, promised to tell the truth in regard to all that might be inquired of him.

Asked: His name, age, and occupation.—Said: I am called Antonio Perez, third boatswain of the crew of the schooner Andaluza, and am twenty-six years of age.

Asked: That you manifest all that occurred respecting the capture of the American brig Mary Lowell, which was conducted to this port by the ship in which you are employed.—Said: That about nine or half-past nine on the morning of the 15th an Englishman came aboard, who appeared to be a pilot, and shortly after he observed that the brig which lay close at their side began to raise something which looked like an anchor-chain, hoisted her main foretopsails and jibs, braced them aback in order to fall to starboard, and while in that situation finished raising her anchors, fell to starboard, and got under way on the seaward tack; that at this time the commander of the gunboat ordered the schooner to be got under way and follow in the wake of the brig, which was now about two miles off, and running further on that tack than she ought to have done. The commander now forced the engines and hoisted all sail and started in pursuit. Seeing this, the brig tacked and ran toward the land, and so continued to take short tacks without getting to windward. When she was on her third tack he saw on the horizon toward the south what appeared to be two masts, but could not identify the object, until the commander ordered a reconnoissance of the same. An hour later they saw a blue flag on the foremast, and soon recognized her as a monitor; that they continued going toward her until within eight or ten cables' length, when they hoisted the national flag to the peak, and the decks were ordered to be cleared for action; that at this time the monitor hoisted the Peruvian flag to the mainpeak, while we run prow on to her broadside until within cannon shot, the monitor making no movement against us; that we now observed the brig to be a long distance from the coast, on the outside tack; that at this time a boat was lowered in which embarked two officers, one boatswain, and eight armed sailors, directing their course toward the brig; that about this time the monitor hauled down her blue flag from the peak and hoisted three more instead, the colors of which could not be distinguished, and which, in his opinion, was a sign, communication, or salute; that the brig made no effort to wait for the boat, and that the commander ordered to bear down toward her, which he accomplished by coming up on her leeward side; that the commander, through the medium of the pilot, ordered her to haul down her sails, but the brig not complying with the mandate the commander was forced to bring the center swivel gun to bear upon her, which the brig saw and took in her sail, and the investigation was made by the boat, which now had arrived, but which, until now, had been a long distance astern; that the officer, after making the inspection, explained to the commander that the brig carried arms and munitions of war, for which reason the said commander ordered her to be taken in tow, leaving the said officer to lower the brig's boat into the water for the purpose of taking ashore the English pilots who were in both vessels, which was accordingly done; that the brig was now taken in tow and

brought to Nuevitas; that the monitor now made for the land, and appeared to be going to the anchorage north.

Asked: At what distance from the coast was the brig captured?—Said: That he should calculate it to have been six or seven miles, but more probably the latter than the former.

Asked: If he had anything more to add or take from this declaration.—Said: That he had nothing to add thereto or take therefrom, and that the foregoing is the truth, to which he testifies. This declaration was read to him, when he signed it with the attorney. Sworn to.

PEDRO DIAZ HERRERO.
ANTONIO PEREZ.

Before me,

BENIGNO ALDEZ.

Declaration of the pilot, Miguel Loza.

On the same day, month, and year appeared before the attorney and present notary the individual whose name is in the margin, who, being duly sworn according to law, promised to tell the truth respecting whatever might be asked of him.

Asked: His name, age, and occupation.—Said: I am called Miguel Loza; forty-one years of age, and employed in the schooner Andaluza.

Asked: That you explain what you know relating to the capture of the American brig Mary Lowell, which was conducted to this port by the gunboat in which you are employed.—Said: That at nine or half-past nine, an English pilot came aboard, and that shortly after he observed that the brig, which was lying at anchor alongside, began to raise anchor, having already hoisted the main and topsails; that in this situation she finished raising her anchor, when, hoisting the jibs, she got under way on the seaward tack; that after she had gone about two miles the gunboat got under way, and followed in her wake, but observing that the brig kept on the seaward tack, and was already six or seven miles from the coast, he forced the engines and hoisted all the sails. Seeing this the brig turned toward the land, and continued making short tacks, but without getting any to windward; that about three o'clock in the afternoon the brig being then on her third tack, he discovered on the horizon toward the south two masts coming toward them, but could not identify the object until the commander gave the order to make an investigation of it, which was accomplished about an hour afterward; that, at first, he distinguished a blue flag on the foremast, and, nearer, recognized her as a monitor, and continued running toward her until within eight or nine cables' length, when we hoisted the national flag to the peak, and proceeded to clear the decks for action. The monitor now hoisted the Peruvian flag to the peak of the mainmast, and kept on her course until coming near, we putting ourselves on her same course, and so continuing for about twenty minutes without observing any movement against us, during which time the brig had been running off the seaward tack, and was now some distance from the coast. The commander now followed her course and lowered a boat, in which embarked two officers, one boatswain, and eighteen armed sailors, who directed themselves toward the brig. At this time the monitor hauled down the blue flag from the foremast, and hoisted in its stead three others, the colors of which could not be distinguished, the brig, at the same time, hoisting her national flag, but which she afterward hauled down, and made no effort to await the boat which had been dispatched toward her. The commander now commenced to run down to her, and came up on her leeward side. In this situation the commander, through the English pilot, forced her detention, and ordered her to take in her sail. The brig not showing a disposition to comply with this request, the commander ordered the center swivel gun to be loosed and pointed at the said brig; seeing which she accordingly took in her sail, and awaited the inspection, which was accomplished by the boat sent, which arrived alongside shortly afterward, having been at a considerable distance astern; that after the officer had made the inspection of the brig he explained to the commander that she carried arms and munitions of war, for which reason the commander ordered her to be taken in tow, and the brig's boat to be lowered, with the object of conducting the English pilots of both ships to land, which was accordingly done. Immediately after the brig was taken in tow, and brought to this port of Nuevitas, the monitor at the same time making the land and proceeding to the north anchorage.

Asked: At what distance from land they were at the time of giving the order to surrender to the brig.—Said: That, according to his calculation they were about six or seven miles from the land; that the wind was blowing freshly at the time the schooner bore down toward the brig; and that at this time she hoisted the gallant and staysails, and run on the seaward tack.

Asked: If he has anything more to add or take from this declaration.—Said: That he had nothing more to add thereto or take therefrom, and that the foregoing is true, to

which he swears. This having been read to him, he signed by making a cross, on account of not knowing how to write his name. Signed by the attorney and present notary.

PEDRO DIAZ DE HERRERO.

Before me,

BENIGNO ALDEZ.

Declaration of the gunner's mate, Antonio Bugallo.

Next appeared before the attorney and present notary the individual whose name is in the margin, who, being duly sworn according to law, promised to tell the truth.

Asked : His name, age, and occupation.—Said : I am called Antonio Bugallo, gunner's mate aboard the schooner Andaluza, and twenty-nine years of age.

Asked : That you explain what you know respecting the capture of the American brig Mary Lowell by the ship in which you are employed.—Said : That between nine and ten o'clock on the morning of the 15th an Englishman, who appeared to be a pilot, came aboard ; that soon after he observed that the brig which was lying at anchor alongside began to raise her anchor, and having it partly raised she got under way on the seaward tack ; that the commander ordered the ship to be got in readiness to follow her, which was accomplished after the brig had gone about two miles off, which latter continued to extend her tacks farther than she ought ; that the commander now ordered the engines to be forced, and all sail to be hoisted ; that having been done the brig turned on the land tack, and continued tacking without getting any to windward ; that about three o'clock in the afternoon two masts were seen on the horizon, but that they could not distinguish anything definite until after the commander had ordered a reconnaissance to be made, which was accomplished about an hour after ; that at first they saw a blue flag on the foremast, and nearer, it was seen to be a monitor, which same continued her course toward us until within eight or nine cables' length, when they hoisted the national flag to the peak and cleared the decks for action ; that at this time the monitor hoisted to her main peak the Peruvian flag, and continued on her course until within cannon shot. I noted that she did not make any headway toward us ; that at this time the brig was tacking inward at a long distance from the coast. We placed ourselves within hailing distance, and on being near a boat was lowered in which there embarked two officers, one quartermaster, and eighteen sailors, armed, and steered for the brig ; observed at that time the monitor lowering her blue flag from the foretop, and three, the colors of which could not be distinguished, hoisting in its place ; the American hoisting at the same time the national ensign, which, in his opinion, was a signal of recognition or salute ; the brig not awaiting the boat that was dispatched to her, the commander ordered it to come to on his port side and in this position he ordered her, through the English pilot, to stop, and that her sails be taken in, for if not he would oblige her to do so by force ; but not acceding to this request given by the commander, he gave orders to prepare the swivel gun, and steer for the brig, which, seeing this movement, took in sail and awaited inspection, this being accomplished by the boat dispatched arriving alongside the brig in a short time, on account of having remained some distance to the stern ; that the officer inspecting the vessel indicated to the commander that she conducted arms and materials of war, on account of which he directed said officer to take her in tow, telling him beforehand to launch the boat of the brig in order to conduct ashore the English pilots of both vessels, which was done, steering immediately afterward in direction for this port of Nuevitas ; and that the monitor at that time made in toward shore, with the object of making harbor.

Questioned. What distance were you from the coast when intimation was made to the brig to surrender ? He said that he calculated they were about six and a half miles from the coast ; rather more than less.

Questioned. Say if you have anything to add or take off. He said that he had not ; that this declaration having been read, ratified it under oath, and signed it together with the attorney and notary public present. I certify.

PEDRO DIAZ HERRERO.
ANTONIO BUGALLO.

Before me,

BENIGNO ALDEZ.

Declaration of the engineer.

On the aforesaid day, month, and year appeared before the government attorney and the notary public undersigned the individual mentioned in the margin, who being duly sworn, was made the following questions :

Questioned. His name, employment, and birth.—Said : Was named Francisco Arnot y Caldoua, chief engineer of the armada, and attached to the schooner Andaluza ; of the age of twenty-nine years.

Questioned. State if, in the seizure made of the brig Mary Lowell, you received any order to force the engine; and if so, state the time at which it was done. He said that he received orders to quicken speed in the watch from 2 to 4; steaming under this order about a half an hour at different intervals in the same watch, until the seizure of the brig, which took place between 2½ and 4 o'clock, (two and a half to four.)

Questioned. If he could reckon the distance of the brig and steamer from the shore at the time of meeting.—Said: That more or less, according to his reckoning, they were at a distance of from six to seven miles; that he could not state any more that occurred on account of his being at his post from the time that orders for battle were given; and that this declaration is the truth. Sworn to and signed, together with the government attorney and notary public present certified to.

PEDRO DIAZ HERRERO.
FRANCISCO ARMOT Y CALDONA.

Before me,

BENIGNO ALDEZ.

Deposition of the ordinary seaman Francisco Palen.

On the aforesaid day, month, and year personally appeared before the government attorney, and the undersigned notary public the individual referred to in the margin, who being duly sworn, said: His name to be Francisco Palen, first-class ordinary seaman, belonging to the steamer Andaluza; twenty-nine years of age.

Questioned. State what happened on occasion of the seizure of the brig Mary Lowell, by the vessel to which you belong, and brought to this port.—Said: That about 10 o'clock in the morning of the 15th day of the present current month an Englishman came on board, apparently a pilot, and seeing that a short time after the aforesaid brig commenced to get under way, the commander of the schooner Andaluza gave orders to get under way, which was done, ordering her to follow in the wake of the brig which was about two miles distant, more or less, and noting that she was lengthening her distances when tacking outwardly, the commander gave orders to force the engine and give all the sail, which was done, and then the brig about ship toward land, continuing tacking without gaining any to the windward. About 3 in the evening sighted in the horizon two masts without being able to distinguish the object, on account of which the commander thought fit to order a reconnaissance, which was made about 1 o'clock, it resulting to be a monitor flying a blue flag at the foretopmast head; that continuing after the brig that being situated about eight or nine cables length from it, when the national flag was hoisted to the peak; orders were given to clear for battle; also the monitor hoisted the Peruvian flag of war to the peak, and followed after her until within about cannon range, navigating in this situation nearly to her side, but without noting any movement whatever toward the schooner, and seeing that the brig was separating a great distance from the coast on the inward tack, chase was given, and when near her a boat was lowered with two officers, one quartermaster, and eighteen sailors, armed, who steered toward the brig; observing at that time that the monitor had lowered the blue flag from the foretopmast head and hoisted in its place three flags, whose colors could not be distinguished; the American answering with his, the national, colors; and the commander, being advised through the pilot, ordered her to lay to, giving order to prepare the mainsail. She took in sail and awaited inspection, which was made by the officer in charge, who reported the cargo to be arms and materials of war. The commander ordered her to be taken in tow and conducted to this port, which was done.

Questioned. If he could reckon the distance from land the brig was when she was intimated to surrender.—Said: That he calculated it was about six miles, more or less, from the coast; and not having anything more to add or take off, and this declaration having been read, signed it together with the attorney of the government, and the notary public present. I certify.

PEDRO DIAZ HERRERO.
FRANCISCO PALEN.

Before me,

BENIGNO ALDEZ.

Declaration of the ordinary seaman Cruz del Carmen Leriz.

On this same day, month, and year, the government attorney made the individual named in the margin appear before himself and me, the undersigned notary public, who, having been duly sworn, deposed that his name is Cruz del Carmen Leriz, second-class ordinary seaman on board the schooner Andaluza; twenty-nine years of age.

Questioned. State what occurred on the occasion of the seizure of the American brig Mary Lowell by the schooner Andaluza, which brought her as a prize into this port.—

Said: That on the 15th of the present month, at 10 o'clock in the morning, the commander ordered the Andaluza to be got under way, in order to follow the brig, that was about two miles distant, more or less, and, noticing that her tacks were being made longer, the commander ordered more pressure on the engine and all sail to be set, which, when seen by the brig, she aboutship toward the coast, and about three o'clock in the evening two masts could be seen in the distant horizon, but the object could not be distinguished, and the commander ordered a reconnoissance, which showed it to be a monitor, flying the Peruvian war flag, to which the schooner came within nine or ten cables' length of, having made ready for combat beforehand, but the monitor not making any movement whatever on the schooner, and the brig distancing a great deal from shore on the inner tack, the commander followed closely, and, when near, lowered two boats with two officers and crew, armed, which steered for the brig, at the same time noticing that the monitor lowered the flag before mentioned, and, in its place, hoisted three others to foretopmast head, which signal the American answered by displaying his national colors.

Questioned. If he could judge how far the brig was from shore when intimated to surrender.—Answered: That according to his judgment she was about six miles, more or less, from the coast; that he has no more to say; that this deposition is the truth, and attested to by him, but he does not sign on account of not knowing how, therefore makes the sign of the cross, with the signature of the attorney of government and the notary public present.

PEDRO DIAZ HERRERO.

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Before me,

BENIGNO ALDEZ.

Deposition of Francisco Alvarez, private of marine infantry.

On this day, month, and year personally appeared before the government attorney and the undersigned, notary public, the individual expressed in the margin, who, under oath, as prescribed by law, stated his name to be as already expressed; that he belongs on board the schooner Andaluza; and twenty-five years of age.

Questioned. State what occurred in respect to the seizure of American brig Mary Lowell by the schooner Andaluza, on which you were.—Said: That on the 15th day of the present month, between 9 and 10 o'clock in the morning, an Englishman came on board, who, from his appearance, was a pilot, and that a short time after he saw the brig, which was alongside, commence to get under way, on account of which the commander ordered our vessel to get under way, which was done; that directions were given to follow in the wake of the brig, which was already about two miles distant, more or less, and that, according to what was told the witness, the brig made her outward tacks very long, for which reason the commander ordered the engineer to force more speed, and that to give her all sail, which was done, and that then the brig aboutship and tacked toward land, without making any headway; that seeing two masts in the horizon, though hull down, the witness believed it to be the Blasco de Garai, that was bringing them bread and water, but which turned out to be a monitor, with a blue flag at her foretop masthead; that following the same course, they became situated about eight or nine cables' length from each other; that the national colors were hoisted, and the vessel cleared for action; also that the monitor hoisted more flags, the vessel following her course until within cannon range of one another, but that the monitor made no movement whatever toward her; that he cannot testify anything more than what he heard said, which was, that the brig was about seven miles from land when seized. That the foregoing is the truth, sworn to and signed, together with the government attorney and notary public present. I certify.

PEDRO DIAZ HERRERO.

FRANCISCO ALVAREZ.

Before me,

BENIGNO ALDEZ.

Copy of the logtable of the schooner Andaluza, on the 19th day of March, 1869, in Nuevitas.

The attorney arranged so as to go on board for the purpose of taking a certified copy of the log-book of said vessel, and there appears in that, marked with No. 2, which was handed by the commander, the following:

From the 14th to the 15th day:

From 12 to 2 o'clock. Commenced the day; anchored off southeast of Ragged Island; fine weather; wind moderate and smooth sea; fires banked, and the brig anchored off our side at a certain distance.—Francisco Lazaga.

From 2 to 4 o'clock. Nothing new.—Fiol.

From 4 to 8 o'clock. It grew dark early in the day; nothing new from the lookout; the brig anchored off our stern.—E. Albacete.

From 8 to 12 o'clock. Nothing new.—Francisco Lazaga.

From 12 to 4 o'clock. Nothing new.—Emilio Fiol.

From 4 to 8. Day dawned, and nothing new from the lookout; the vessel was cleaned as customary.—E. Albacete.

From 8 to 12 o'clock. At half-past 9 a boat from shore with the provisional collector, Mr. Wilson, who stated he was going to change or vary the course of the brig, and that he would come and act as pilot for us, for the bay to the northwest, as such was the case. At 10 o'clock the brig set sail, and kept close on the wind to the east, tacking. We stirred up the fires, and at twenty minutes past 10, with little steam, got under way making little headway, following the brig. That, at a quarter past 11, the brig aboutship, with head off land, and we continued to follow her. Although there was splendid weather, she did not make any headway on the last tack. That we took up our position in order to await under little steam until she tacked back from outside.—Francisco Lazaga.

From the 15th to the 16th of March, 1869—variation N. E. 4°.

H.	M.	B.	Course.	Wind.	a.	d.	.	.	.	Chro.	Bar.	Ther.	Sail.
1											29.98	84	
2													
3													
4								16	88	2'	48.99		
5													
6	7	0	SW. 4°	E.		7.0							All sail set and gaff-topsail.
7	8	8	SW. 4°	E.		7.0							
8	5	4	W. 8° 53'	E.		7.2	96	1°	46				
9	7	1	W. 8° 53'	E.		7.2							
10	6	7	W. 8° 53'	E.		6.5							
11	6	7	W. 8° 53'	E.		6.8							
12	6	9	W. 8° 53'	E.		7.0	15	86	20	43			
1	6	8	W. 8° 53'	E.		6.8							All sail except gaff-topsailsail.
2	6	0	W.S.W.	E.		5.2							
3	5	1	W.S.W.	E.		5.0							
4	5	0	W.S.W.	E.		5.0							
5	5	5	Making for the light.										
6	6	2				6.5							
7	6	5				6.5							
8	6	5				6.6	15.	78	3'	33			

From 12 to 2 o'clock. We commenced this day laying to under steam, about five miles from Ragged Island, watching the movements of the brig Mary Lowell, that was on the tack out from land, bracing up to the wind from the eastward; fresh, and sea a little rough. At 1 o'clock she returned from her outward tack, and, on nearing us, we steamed ahead at half-speed and followed her. When leaving off the watch the lookout from the topmast sung out that there was a steamer in sight—the vessel that was sighted at a quarter past 1 o'clock.—Fiol.

From 2 to 4 o'clock. At half-past 2 the brig changed her tack to outward, we placing our course in the same direction, but with very little steam. At 3 o'clock we passed her close by, outward bound, for the purpose of reconnoitering the steamer that was sighted, and which was nearing us. At twenty minutes past 3, made a tack inward; at half-past 3 we reconnoitered the steamer, it proving to be a steam monitor, and cleared away ready for combat; at the same time we neared her a little more to find out her nationality. The monitor hoisted a Peruvian flag, pennant, and a blue flag at the fore. A little afterward the brig hoisted the American flag, at which the monitor hoisted three flags at the fore, the upper one being apparently blue—remaining in this position when watch went off duty.—E. Albacete.

From 4 to 8 o'clock. At half-past 4 we saw that the brig Mary Lowell, on her inward tack, went off a great deal in the direction of the monitor, on account of which we put on steam to keep her near. At this time the vessel was worked in the following manner: Head more northwest of the Great Ragged Island, Island No. 4 west, and a point more southeast to No. 40 east; that left us situated about six miles from shore. Then a boat was lowered, in which two officers, one quartermaster, and eighteen men embarked; when, being at the leeward side of the brig, intimation was given for her to take in her sails, to effect which we had to threaten to fire into her, for she continued navigating. A little afterward the boat returned from the brig with four sailors, two negroes, and one Englishman; the three last were sent on shore in the brig's boat. We took her in tow and steered our course southwest one-quarter degree, giving her all the sail. Night set in with good weather, breeze fresh, and sea rough; steering the same course as before said, without anything new from the lookout to report. At the time of taking possession of the brig the monitor was rounding the point of reefs that led

to the port. At half-past 7 steered W. S. W. 5 S.; when seizing the vessel steered the most N. W. to N. 5 E., and the most S. E. to N. 38 E.—Francisco Lazaga.

From 8 to 12 o'clock. Set the gaff, top, and foresails.—Fiol.

From 12 to 4 o'clock. At 1 shortened down steam and steered W.S.W.; at 3½ o'clock saw the reflection of the Matenillos light to the E., at a long distance; steered for it, leaving it off the port quarter.—Francisco Lazaga.

From 4 to 8 o'clock. At 4½ we saw the light clearly and continued making for it; day broke with good weather, sky clear and the horizon without any clouds; breeze fresh and sea rough, from the E. At 6 set the squaresail to keep her steady; from this time we kept luffing, until 7, when we steered for the mouth of the harbor, furled all sails, and at 7½ stopped to take pilot on board, under whose directions we steered in and hoist the national ensign.—Fiol.

From 8 to 12 o'clock. At 8½ sighted the vessels in the anchorage raising their numbers; at 8.43, in a convenient place, we took in the towing-lines and anchored the brig; a few moments after we stopped the steamer and came to anchor with the star-board anchor in fourteen feet of water and one shackle of chain. The steamers Blasco, Ulloa, and schooner Africa are in port. Port watches established.—Fiol.

This is a true copy of the documents that appear from the book or log-book that was handed to the government attorney by the commander of the schooner Andaluza, which being practiced and made known, and for the truth thereof the attorney of government signed. I certify.

PEDRO DIAZ HERRERO.
BENIGNO ALDEZ.

Writ.

The government attorney ordered that it be recorded, the having named interpreter, in order to take the declarations of the four men who composed the crew of the brig Mary Lowell, Mr. Bernabe Sanchez Aden, and the men having shown their willingness if their declarations were received in English, the attorney acceded, and in conformity signed before me, in Nuevitas, the 19th day of March, 1869.

PEDRO DIAZ HERRERO.
BENIGNO ALDEZ.

[Here follows the depositions of the four men.]

In Nuevitas, the 19th of March, 1869, the attorney of the government directed a writ to be made certifying that the depositions made by the four of the crew of this vessel have been translated into Spanish by the interpreter named Bernabe Sanchez Aden, the vice-consul of the United States at this point having assisted at the act of signing the same by the parties interested, as solicited by him and signed by the attorney and the undersigned notary public, who certifies to same.

PEDRO DIAZ HERRERO.
BENIGNO ALDEZ.

Pedro Diaz Herrero, captain of a frigate in the armada, and commander of marine in the province of Nuevitas, and government attorney of this district. Having taken every step to inform myself of the circumstances that arose from the seizure of the American brig Mary Lowell by the war schooner Andaluza, on the 15th of the present month, only to see how criminal a circumstance, when treating upon a subject so important as the present one, in order to be able to declare it a good or bad prize, (should hear,) when hearing the authoritative opinion of the lawyers who, with their enlightenment, leaves no doubt in the mind of the judge when dictating his resolution or decree. The absence of the assessor from this port, he being at Puerto Principe, with which town we cannot communicate; this town being without a lawyer and not possible then to hear his opinion, on account of which I think it my duty, in conclusion, not to give my judgment nor certify to the declarations that may have been made, leaving it to the talent of the superior tribunal of the capital, remitting this decree to the brigadier general commander of the naval station, where the brig and four of the crew will be taken at the disposition of his excellency, who, with his accustomed talent, will resolve what he may judge proper.

PEDRO DIAZ HERRERO.

NUEVITAS, March 20, 1869.

Inventory of articles found on deck and in the cabin of the brig Mary Lowell.

A hull in bad condition, rigged as a brig; one reflecting instrument in its box.

CABIN.—Two charts of the coast of Cuba and Florida; two compasses, (nautical needles;) one cabin clock; two flags, one American and the other blue with white stars; one wooden table with oil-cloth cover; one hanging light; eleven tubes for

same; one looking glass, wooden frame; one small sofa, gutta percha covering in bad condition; three stools of small slats; one arm chair in bad condition; one mattress stuffed with shavings; several articles belonging to the table and kitchen; two signal lamps, one red and one green.

DECK.—One iron stove with a wooden cover over it; one wooden box containing cart wheels; one wooden box containing a box for carrying ammunition; one kedger anchor with iron stock; two anchors and chains.

BOOKS AND PAPERS.—One "Reports upon the Billanhurst battery rifle;" one small book with the first three leaves wanting, in which are found joined together some manuscript notes; one book, "Westbanjin report;" one book from which many leaves are torn; one history, "Our Scientific."

Having raised off the main hatchway, that was unsealed nor under lock and key, we saw the hold full of boxes of which only one was opened, that resulted to contain carbines of the Remington system, some looking like the stocks of carriages, probably belonging to cannons.

On board the brig Mary Lowell, in the town of Nuevitas, 16th of March, 1869.

JOSE DE FRADAMADHES.

Before me,

JACOBO ALEMAN.

CÓMANDANCIA DE MARINA DE NUEVITAS.—(Official.)

In thirty-seven full pages, I have the honor of transmitting you the summary of particulars relative to the seizure of American brig Mary Lowell by the war schooner Andaluza, outside of the jurisdiction of English waters, from Great Ragged Island, of sending you the aforesaid brig, towed by the steamer Blasco de Garay, and the four men, crew of said brig, in which summary the consultation with the lawyer (judge) is wanting, who is not at present in this town, the assessor of that branch who lives in Puerto Principe, with which we have no communication, and there not being any lawyer here on whom I could confer the responsibility, I have thought it convenient or proper for that reason, in view of the absence of so essential a requisite, the making of the declaration, leaving it to the superior tribunal of that capital that you so worthily preside over, and that in view of this you may direct as you think fit, remitting at the same time the inventory papers and letters that are separated from the proceedings. May God preserve you many years.

PEDRO DIAZ DE HERRERO.

NUEVITAS, March 20, 1869.

Brigadier General COMMANDER OF THE NAVAL STATION.

HABANA, March 24, 1869.

Received on this date, place it on file of preference for consultation of the auditor, accompanying it with the antecedents that operate in the office of the secretary in regard to this subject.

To general in command:

I have seen this writ, and in it I observe that the commander of the province of Nuevitas has not decreed on the declaration of a good prize for want of an assessor that would give notice as required by article 13 of the rules of —, and the 5th, title 6, of the rules of registers, because that officer of that province is in Puerto Principe, and that there are no lawyers in Nuevitas that can replace him. At this state of affairs, the vessel being brought to this port by the war steamer Blasco de Garay, I believe that we ought to adopt the proceeding set forth in article 12 of the rules, and therefore to submit at the proper day the decision of this matter to the economical junta of this naval station, which is already established by the royal orders of August 24, 1831, February 5, and April 24, 1866, consequently this writ should pass to the office of chief notary of the naval station, in order that account may be given of it through him, and you can, as president of the junta and chief judge, proceed to take steps leading to strengthen this writ by proofs, and place it in a state that the aforesaid corporation can determine, with a full cognizance of the question if the brig Mary Lowell is a good or bad prize; although, before passing it, it would be very proper that you should order the inventory of what was found on deck and in the cabin of the vessel by the one who seized her, to be added to writ, as also copies of the following particulars: Official communication of the 25th February from the commander of the schooner Guadiana; of the two in number of March last, and of the 9th and 11th of the same from the commander of the station at Nuevitas; of the receipt from the commander of the Africa; also communications of the 27th and 30th of the same month from his excellency the governor and chief of state, with the documents received therewith. In the meantime, while taking these copies and attached to the writ, it

would be proper to discharge the brig *Mary Lowell*, and make an inventory of its cargo, commissioning for that purpose the commander of the arsenal, assisted by an officer of the executive branch or (body) of the armada, which should be deposited in the arsenal store; and as we see now that, by communications from his excellency the governor head of state, the English consul has made some reclamations, it would be advisable to notify him, appointing a day and hour for the execution of said work, in case he might wish to be present. This is my opinion, notwithstanding which you can determine whatever may be deemed the most advisable.

RAFAEL DE AGUILAR.

HAVANA, *April 2, 1869.*

In conformity to each and every part of the foregoing suggestion, add the inventory to the writ, and issue, through the first assistant secretary of commander general's office, certificates of the documents referred to in the foregoing suggestion, attaching, also to the writ the same, and proceed to discharge on that day the cargo of the *Mary Lowell*, depositing it in the store of the arsenal, taking an inventory of all, which an executive officer of the marine service will make up, inviting opportunely, by a polite communication, the attendance of the consul general of her Britannic Majesty, if he desires to do so; and this done, transmit the writ again to the auditor, through the notary in chief of the station, for further proceedings.

JOSÉ MALCAMPO.

To the general commanding :

Having executed through this secretary's office the part that corresponds to it in the former decree, for which are remitted copies of the documents mentioned therein, I have the honor to transmit all to you for their remission to the office of the auditor.

The secretary,
ADOLFO NOVARRÈTE.

HABANA, *April 3, 1869.*

Transmit all to the auditor through the notary's office, with the recommendation that it have quick dispatch.

MALCAMPO.

Adolfo Navarete y Ereudero, captain of frigate of the armada, and first assistant secretary, &c.; I certify that, in virtue of the decree noted this date, from the brigadier general commanding, the following is a true copy of the original which exists in the archives under my charge:

"GOLETA GUADIANA.—At anchoring the 15th of the present month, at 11 o'clock at night in the port of Nuevitas, I gave you account of the trip and the cause of it, and on the following morning the inspection of the combustible matter and its embarkation was proceeded with, in order to return to the port of my destiny. Being entirely ready on the 17th to set sail on the following morning, I received notice from the commandant of marine to present myself to the brigadier commandant of the forces, which I did, and this high authority manifested to me the necessity he had of the vessel under my command, in order to transport troops to Guanaja, in conjunction with the steamers *Don Juan de Austria* and the *Comercio*, from Puerto Principe. I informed said chief of the commission I was charged with, but consulting the opinion of the commandant of marine, and in view of the small loss it would occasion my trip on account of this service, on the morning of the 18th we sailed for Guanaja, with the aforesaid vessels loaded with troops, and launches with animals and war material, and in the best time possible we anchored at the mouth of the port at half past 1, but not finding the steam launches and others at the mouth to discharge us, as it was understood, it became necessary to wait until the next day in order to effect this. At half past 1 on that day we had disembarked more than half of the troops that we carried, and seeing that it would take two hours more to disembark the rest, I took advantage of the *Blasco*, just arrived from Nuevitas with the rest of the troops, and through the condescension of her commander, the assistance of her two small boats and our own, we went alongside and transboarded the troops; immediately after sailed for the port of my destiny, in which I anchored on the 20th, at 3 o'clock in the evening. Afterward a boat with an officer from the war vessel *Realista*, arrived with the compliments of the commander. After returning which I went on shore, and having had interviews with the commandant and other persons, all of whom stated to me, as I informed you in my former communication, that the brig had arrived, which I said should come with arms, and which I knew were in deposit, for which reason the governor gave orders to notify him when they wished to embark a part or the whole of them, to the collector of customs; and also, I have understood that the person I spoke to you of in my former communication, known by name of General *Habilton*, is again back on the island. On the following morning when going to see the governor, together with the consul, on joining the last

named he showed me a letter he had received through said governor, of the following tenor:

“NASSAU, February 21, 1869.

“I have the honor to inform you that I have heard from reliable sources, that an American brig and a steamer were anchored in Rum Key on Monday, the 15th of the present month. The brig was in that port two weeks before the steamer. A great number of Cubans on board the steamer. The collector having refused to permit the transshipment from one vessel to the other the articles from the brig in that port, the brig set sail on the same day, 15th, at 6 o'clock in the evening, and the steamer at midnight, rumor says for Ragged Island, but it is believed that they have gone to the northern part of Long Island, because they took a pilot named Thomas Adderlein, of Long Island, on board. It is believed that the steamer is going to arm for the insurgents in the island of Cuba. The schooner Amelia Ann also is said to be aground off San Salvador.

“I have the honor to be, your most obedient servant,

“J. A. MACGREGOR,

“Custom-house Officer.

“His Excellency the GOVERNOR.’

“Having understood well the contents of said letter I saw the governor, who informed me of his having received another letter, later date, which I will insert hereafter; and that he had a conference with commander of the English man-of-war, who stated that in view of the date of the news received by last letter, it would be useless to go, for although the collector of Rum Key had refused a permit for transshipment from one vessel to the other; they had sufficient time to do that at sea, and the steamer to continue her trips. The other letter referred to is as follows:

“NASSAU, February 22, 1869.

“SIR: I have the honor to inform you that the schooner Erin has arrived from Ragged Island; the captain says that on Wednesday last he saw a steamer anchored in Mure Key, about twelve miles from Ragged Island, and that it sailed from that key on Thursday in direction of Ragged Island—there not being a doubt that it is the same steamer I informed you of yesterday. There is also a rumor prevailing in this town in connection with the Spanish war vessel Guadiana, which is that the crew of the English schooner Galvanic, captured off Lobos Key, were shot by the Spaniards; this rumor is confirmed by the captain of the Carleton, who reports hearing it in Carbanen.

“I have the honor to be, your most obedient servant,

“J. A. MACGREGOR,

“Custom-house Officer.

“His Excellency the GOVERNOR.’

“Notwithstanding the opinion of the commander of the English vessel, without recognizing the truth of what might have transpired in the past days, and that the steamer had time to get everything ready, I did not think it prudent for me to act according to your instructions and remain in port, for some unforeseen circumstance might detain her there. I might meet her and keep a watch over her, and if not, I could return to Nuevitas, where I might inform you, and at the same time the commandant of the naval forces stationed there, where I am certain nothing of this kind was known at the time of my sailing, and to remain in Nassau, it would not have been possible, except by a great deal of delay, to communicate to you this interesting news for want of means of communication. In consequence of this, at 6 o'clock in the morning on the 23d instant, I set sail, outward bound, and in a few hours the starboard boilers were damaged, which consisted of an opening in the sluice of the smoke stack, thereby causing quickly a less pressure, only being able to make four or five miles, notwithstanding the favorable circumstances under which we navigated; and hoping that by anchoring on the bank, we might be able to repair the damage, we did so, and at 10 o'clock all was apparently in good order again, in virtue of which, at 4 in the morning we got under way; but shortly, the steam, which was up to thirteen inches pressure, commenced escaping again; under such circumstances, the vessel not being in a fit state to give chase, and exposed to inaction, because with one boiler and a fresh breeze, we could only go from one to two miles, I resolved to take advantage of the good weather and proceed to Nuevitas, in order to repair the damage, which, in the opinion of the engineer, would take from three to four days, in case it could be done with wooden wedges, although no confidence could be placed in any of them. I transmit to your excellency the notes handed me by the engineer relating to this accident. On being off Lobos Key light, so far, at 10 o'clock at night, made course for Maternillos, and the breeze freshening up from northeast, gave her all sail; in a short time sighted abeam a frigate, apparently a Spanish man-of-war, losing sight of her ahead about 1 o'clock. At half past 6 in the morning sighted a vessel aground northwest of the

light, which the pilot informed me shortly after was an American, and I continued running into this port in which I anchored on this date at 10 o'clock in the morning. Accompanying these are copies of the aforesaid letters to the commander of the naval forces at this point; all of which I communicate your excellency for your information, in accordance with my duty, stating in conformity that I will start from this, for the port of destination, as soon as the aforesaid damage is repaired. May God preserve you many years.

"PORT OF NUEVITAS, February 25, 1869.

"DOMINGO DE CASTRO, *Commander.*

"HABANA, April 2, 1869.

"ADOLPHO NOVARRETE.

"Approved:

"JOSÉ MALCAMPO."

I certify, that in virtue of the decree of this date from the brigadier general commanding: that the following is a true copy of the original as existing in the archives of the secretary's office under my charge.

"SCHOONER AFRICA.—At half-past 4 on the evening of the 18th of the current month, having replenished with coal, food, and water, I started from the port of Nuevitas for that of Nipe, with the object of executing order from your excellency through the commander of the schooner Andaluza, and embark the wife of the army commander Martinez in order to conduct her to the ports of Gibara or Nuevitas, as she might determine. At 2 o'clock in the evening of the 19th I communicated with the captain of the steamer Guantamano and first officer of the schooner Maisi; the former from Cuba with artillery for Colonel Camara's column, the second from Cuba with communications for the same chief of detachment garrisoning Sagua de Tanamo, who informed me that the aforesaid lady had disembarked in Santiago de Cuba without accident, as also her three children. I steered for the Bahama Bank, in the soundings of which I arrived at half-past 8 on the morning of the 20th; headed for Ragged Island until 10 o'clock in the morning, and near land making out the coast I steered for Gibara, convinced that the Peruvian monitor which the Andaluza had seen in those waters could not be found about there. Being interested greatly, however, to find out the doings of that vessel, which navigated without a convoy, although informed that she was accompanied with two others of her class, in direction of St. Thomas, I disembarked in that port, and with such a favorable opportunity that I soon learned from a carpenter on shore, citizen of Ferrol, José Mallo, arrived that day from Banas and Porto Auraujo, that the Peruvian monitor had remained in the latter place, the two first without communicating, and the other in communication with some of the insurgents in those quarters; that they offered gratis the yuca bread, sugar cakes, food, and salt beef for not accepting fish offered them. The arrival of this vessel was for the purpose of procuring fire-wood for the engine, having lost, in bad weather from the north-east, on account of her bad condition, the steamer carrying her deposit of coal, weather experienced during those days on that coast. In this misfortune six men were lost, which was caused by the coming into collision when transhipping or attempting to transship her crew; that she steered for San Domingo, where her companion of the trip awaited her, which appeared true, for she steered out eastward; but, without doubt, she afterward returned to the Bahamas, it not being possible to gain any to the windward with such poor fuel, which accounts for her navigating so slowly, not only when the Andaluza saw her, but also for the N. NE. course when crossing the bank in the meridian of Gibara. From Ragged Island, with some coal proportioned her in Nassau, she might arrive at Ynagua on her line of route to St. Thomas, and await there the return of the steamer that accompanied the other to San Domingo. The individual that gave me these details is a relation of the retired pilot Granadas, who fishes at Bana, and to whose confidential information from the beginning of the insurrection is due at this time the important seizure of the Mary Lowell. From him I knew two months ago that attempts were made to introduce arms from Cayo Sol by the river Mayari, and that the so-called General Cespedes undertook to construct a lighter in said river for the purpose of sending to the Bahamas a person authorized to push ahead the forwarding of the promised armament, since which time I endeavored to watch with the greatest care that part of the bank which comprises those keys, and, in fine, from news sent me by the governor of the province, advising the arrival of suspicious vessels, I did not hesitate a moment in determining the necessity of making a scrupulous reconnaissance of Sun Key. This I proposed to the chief of naval station at Nuevitas, who navigated near the bank, and was accepted by him, and executed on the morning of 28th ultimo, in a boat of this schooner, with such a fine result. At sunrise of the same day we came alongside of the brig Mary Lowell, of New York, whose complement, surprised at the unexpected sight of a Spanish man-of-war's boat at that harbor, all

came on deck, with undoubtedly not very pacific intentions, and with the characteristic look of the sons of Cuba who were on board there, convinced me of the important discovery that we had made. I then hurried on shore to learn the news necessary for the final good result of my expedition from the English authorities. Of the whole of the conversation I had with the collector I gave account of, on my return, to the chief of the station, and, as I suppose he has transmitted it to you, I will add nothing more. But I will not conclude these details without informing you of the bad faith with which, in my belief, they appeared to act, and such suspicious conduct, that I thought proper to translate from the English the correspondence between the Governor General of the Bahamas and myself, giving account to the Spanish consul in Nassau of the occurrence at Rum Key, reminding him not to follow the example of his chief in his connections with the agents of a friendly nation; that they might prefer against him later on very serious charges, and even to suspect the conduct that he might observe with people without a flag, who would take advantage of the good situation of the island for the execution of their criminal designs upon our interests in Cuba. For these, and other reasons, his conscience not very tranquil, and the fear of losing his position if the facts should be made known, obliged him to be more frank and loyal in his conduct, and I gained sufficient from the investigation to carry out the ends that I had proposed. The loss of the steamer that accompanied the Peruvian steamer must have taken place on the night of the 10th instant, on which the wind blew hard from the east, and the sea very high from the northeast. I crossed with three reefs in the gaff-sail and jibs to the other side, that separates this island from Ragged Island, in order to communicate with the Andalusia, that being a vessel of light draught, had arrived at Nuevitas for the purpose of keeping watch over the Mary Lowell; and I further say that it must have occurred on that of the 10th instant—I mean the shipwreck—because the monitor remained in Naranjo about the same length of time that it took me to execute that operation, and replace in Nuevitas all that was necessary to return on the cruise, although, as I have informed you in my former communications, the boilers of this vessel are in a very bad state. I have been able to sustain, however, the cruise without any occurrence of any consideration, notwithstanding the hard blows and heavy seas from north-northeast and east, which, during this and the last month, we have had; and as the months of April, May, and June, which we are about to enter into, are months of calm and variable winds, I believe that navigating with some precaution, and with resources in Nuevitas for patching if necessary, I can conclude the cruise designated to me, and help in that manner to make the boilers useful, for to go to the arsenal new ones would have to be made, or else the same system of patching would be recurred to, as done here, but without leaving the cruise or stopping in the lending of such useful services, so necessary on account of the troubled circumstances of the island. I write this communication crossing from the coast of Nipe to Gibara, where I will touch in order to leave the official correspondence for the Moctesuma, which will be to-morrow. The weather commences to be mild, and I make use nearly altogether of the sails, consuming little coal, and consequently work the engine very little. In reconnoitering some ports, such as Bonai, Banes, Tunuri, in which boats were used to protect the embarkation of some unfortunate families of the peninsula, some shots were changed with the insurgents, but being the greater part of them raw recruits, without knowing how to manage arms, we have luckily had no misfortune on board until now to regret. God preserve your excellency many years.

“AT SEA, *March 23, 1869.*

“RUFINO G. OLIVARES.

“THE COMMANDING GENERAL OF MARINE

“*Of the Naval Station in Havana.*

“HAVANA, *April 2, 1869.*

“ADOLFO NOVARRETE.

“Approved :

“JOSÉ MALCAMPO.”

Adolpho Novarrete y Escudero, captain of frigate of the Armada, and first assistant secretary of the commanding general's office of this naval station.

I certify, that in virtue of the decree of this date from the brigadier general commanding, that the following is a true copy of the original as existing in the archives of the secretary's office under my charge.

“STEAMER OF WAR BLASCO DE GARAY,

“NAVAL STATION, NUEVITAS.

“As a continuation of my communication to you on the 25th ultimo, I started from this port on the evening of the 26th, and, after clearing everything well, I shaped course toward the key of San Domingo, for the purpose of steering from there for the Bahama Bank, on account of information given me by the commander of the schooner Guadiana,

that there were about those waters a steamer and a brig suspicious looking. At 9 on the morning of the 27th we were abeam of said key, from which point we changed course to north-northwest for the bank; at midday sighted, on the port beam, a steamer coming from the eastward, for which I steered to make her out; and at half-past one of the same evening it proved to be the schooner Africa; at one and three-quarters, when near her, the commander came on board, with whom I agreed that he should follow me to the bank, on which, at five in the evening, I stopped the engine and came to anchor with starboard anchor in six fathoms of water and twenty-five shackles of chain, leaving the southeast point of Ragged Island to the north 25° E., at seven miles distant, and then banked the fires. Off said southeast point we sighted, from aloft, a vessel anchored, which was apparently a brig. The schooner Africa came to anchor near us, after which her commander came on board, and we agreed that he should go to the town of Ragged Island in a boat for the purpose of obtaining, with the greatest secrecy, as much information of said vessels as would be sufficient to enable us to carry out the plans proposed. On the morning of the 28th the chief engineer reported that, whilst cleaning the engine, he discovered on the upper part of the beam a crack seven inches long, depth unknown, and that it was a damage of some importance. At 4 o'clock of the same evening and day the commander of the schooner Africa returned, reporting to me as I have stated to you in separate communications. In the data obtained in reference to the aforesaid vessels, the steamer is reported as the Henry Burden, and very fast steamer; therefore, under the circumstances which surround us at present in consequence of the damage being so great as before said, it would be impossible to give chase for the time being; on the other hand, the distance at which I was anchored from the brig Mary Lowell, on account of the draught of this vessel, made my vigilance almost useless, and, therefore, I determined to come to this port, as much for the purpose of reporting the damage I had sustained, which was, and is, very mortifying to me, as to enable me to give orders to the schooner Andaluza to proceed to the anchorage of Ragged Island; which vessel, uniting the qualities of light draught and sufficient speed, I believed to be the most suitable for the attainment of the object I proposed, and which it was impossible to achieve in this one or in the schooner Africa. Therefore, at 9 o'clock at night I ordered the fires to be increased, and soon being ready, started, proceeding with every precaution required by the bad condition of the machinery, shaping my course to this port, where I have just anchored at 4 o'clock in the afternoon. I immediately signaled for the first engineers of the vessels anchored here, in order that they might make an examination of the shaft, transmitting to your honor, under separate official inclosure, a copy of the report of the same. The weather, since my departure from this port, has been as follows: 26th and 27th, calm, with a smooth sea; on the 28th a rain squall, and the wind set in fresh from the northwest with some sea, and continued so until my arrival. Of which I have the honor to inform your honor, hoping to merit your approbation. May God preserve your honor many years.

"MARCH 1, 1869.

"ADOLFO ROBION.

"The Commandant General of the Station."

[Official.]

STEAMER OF WAR BLASCO DE GARAY,
NAVAL STATION OF NUEVITAS.

I say to the commandant of the schooner Andaluza, on this date, that which I copy: According to confidential information received, on yesterday afternoon, at Ragged Island, on the 18th of last month, at 9 o'clock at night, the American steamer Henry Burden came to anchor in the bay northwest of the said key, where the schooner Mary Lowell, belonging to the same nation, had already arrived two days before; on the 24th the steamer sailed in the direction of Nassau, with the object of having her steam-chest repaired and to take in coal; she was manned by Americans, and had on board from forty to fifty Cuban passengers. The description of the steamer is as follows: Wooden hull, 140 feet long, and draws six feet of water; has a walking-beam, smoke-stack forward of the same; has no other rigging except two flag-staffs; appears to be quite new and fast; has no cabin on deck, but has a wooden awning supported by small pillars. She cannot take coal at Rum Key because there is no deposit there. The brig remained at anchor for eleven days in the bay on the northwest, changing her anchorage to the southeast point two days after the departure of the steamer, where she remained yesterday evening. The collector of the English government sealed the hatches, and they remained thus, as I am told, without any transshipment being permitted; the manifested cargo is said to be general merchandise from New York, and on account of her hull being in bad condition and because her crew refused to continue the voyage to Vera Cruz, for which port she had been dispatched.*

* It appears to be a error here in the copy, I presume it should read thus: * * * dispatched, and, therefore, compelled to remain where she is.—TRANS.

You will, therefore, go to sea to-morrow and proceed to the said key, Ragged Island, in order to watch the American brig Mary Lowell at anchor there. In case you do not find her, you will ascertain the day and hour on which she sailed, and, if possible, the point of her destination; whether or not she communicated with the steamer Henry Burden, of the same nation, leaving it to your good judgment, in view of the importance of the service which would be rendered by the capture of the said vessel, to take whatever action, which cannot now be possibly foreseen, which may offer a possibility of accomplishing the same. If, during your stay at the aforesaid key, the said brig should go to sea, you will give chase, examining her and capturing her outside of English waters if she should excite suspicion, and you will bring her to this port; doing the same with the steamer, or with both, under similar circumstances. As it is highly probable that, during your stay at Ragged Island, the schooner Africa may enter those waters, you will strive to put yourself in communication with her commandant, in order that I may learn by him the state or the result of your commission, and that I may send you, in case it may be requisite, the aid that, in the opinion of both, may be necessary. If you do not find either of the vessels you will proceed to your cruising ground, redoubling your vigilance when there, giving me an account of the results of your commission in the way you may deem easiest and most speedy, without leaving, on any pretext, the cruising ground which has been assigned you, which I communicate to you for your information, and that you may comply with the same; and, considering this service more important than that of cruising, I ordered that the said schooner should sail for the said point, which will be done to-morrow; which I have the honor to communicate to your honor for your information, hoping it may merit your approbation. May God preserve your honor many years.

NUEVITAS, March 1, 1869.

ADOLFO ROBION.

The COMMANDANT GENERAL of *Marine of the Naval Station.*

WAR STEAMER BLASCO DE GARAY,
NAVAL STATION OF NUEVITAS.

The commandant of the schooner Andaluza, in an official communication dated the 3d instant, and received to-day by steamer Barcelona, says to me that which I copy: In compliance with what you were pleased to direct in your official communication of the 1st instant, I left that port at 9 o'clock in the morning of the 2d and shaped my course for Ragged Island; at 12 o'clock at night I was on soundings, and at half-past 1 o'clock I anchored alongside the brig Mary Lowell, which I am to watch. This morning, with the object of obtaining information, I communicated with the collector, who seems to be the principal authority of this island. I have no hesitation in saying that this gentleman shows himself hostile in this matter, or, at least, alarmingly suspicious, as he told me that he was going to write to Nassau that I was blockading this port, and having shown him there was no such thing, he answered that he would anchor the brig where I could not follow her. Be it as it may, I am resolved to carry out the commission within international law, with all the ardor and efficacy I possess. The only thing to be feared is that the steamer that is to take the arms may outsail me, or go through places where it will be impossible for me to follow, as you know she only draws six feet of water; nevertheless, I will make an effort to capture her. As for the brig, I have no doubt of being able to take her, if, which I do not expect, she should venture to leave the waters subject to English jurisdiction. As it is highly probable that I may have to sail through this chain (Cordillera) of islands, and possibly have to cross the bank in various directions, I have applied for a pilot, whom I have heard lives in Gibara, to the adjutant of marine of that district, through the commandant of the schooner Africa, who has communicated with me to-day; of which I have the honor to inform your honor for your information. May God preserve your honor many years.

Nuevitas, March 9, 1869.

ADOLFO ROBION.

The COMMANDANT GENERAL of *Marine of the Naval Station.*

HAVANA, April 2, 1869.

ADOLFO NAVARRETE.

Approved:

JOSÉ MALCAMPO.

Don Adolfo Navarrete y Escudero, captain of a ship of the fleet, and first adjutant secretary of the commandant's office of this station.

I certify, by virtue of an advised decree of the brigadier commandant general, that the following is a faithful copy of the original on file in the archives of this secretary's office, under my charge:

WAR STEAMER BLASCO DE GARAY,
NAVAL STATION OF NUEVITAS.

The commandant of the schooner Andaluza, in an official letter of the 10th instant,

received to-day by the schooner Africa which has just arrived at this port, from Ragged Island, says to me the following: In an official communication of the 3d instant, I had the pleasure to announce to you my arrival at this island on the same day, and my interview with the person who presented himself as collector or first authority of this place. In the said official communication I indicated the apparently hostile character which he showed in the matter of the brig; from that day up to to-day I have gone on obtaining information which I do not consider of sufficient importance to induce me to hasten to inform you of the same at some length.* Before all, I ought to inform you that the real collector was in Nassau on the day of my arrival; consequently the one I mentioned in my official communication was only acting *ad interim*. On the following day he came on board my vessel, and, rather more civil and impartial, told me that the chief was absent and that he was acting for him; that the documents referring to the brig are in his hands, and that he had sealed the hatches, and that the arms and war stores on board shall not be transhipped to any other vessel in these waters.

I will now tell you all I have learned concerning this abortive expedition. In the first place, there are some forty odd Cubans on this small island; these, with an equal number which went to Nassau with the steamer Henry Burden, and those who are to embark in Nassau, are to compose the force which is to take charge of the arms and stores on board the brig. This is a poor and very old vessel, already used up in New York; she makes a great deal of water and I am surprised that she has been able to resist the heavy breeze we have had during the last few days; she was given to one of the clubs of the Cuban refugees residing there and fitted out by them for the expedition; she is manned by five American seamen who have been offered one hundred dollars apiece and the vessel, if they succeed in landing the arms in the Island of Cuba; the captain and the rest of the crew are Cubans. The steamer Henry Burden was to carry the men, who I am assured are over two hundred; the brig sailed first, the place of meeting to be at Rum Key. Once here, the bad condition of the brig inspired serious fears, and they decided to tranship the arms to the steamer, as the sailors refused to continue the voyage in her. The collector of the said place opposed the transshipment, and they then came here to effect their purpose, but the captain of the steamer recoiled from the risk of landing on our coast, and with specious delays and under pretext of his boilers being damaged went to Nassau to have them repaired. This gave rise to grave disputes and quarrels among the expeditionary forces, they attributing the timidity of the captain to want of energy on the part of the chiefs or directors of the expedition. Be it as it may, it is certain that they separated, one of the superior chiefs remaining with the forty odd, the rest sailing in the steamer. These were resolved to land on our coast with the brig, and were going to set sail on the afternoon of the 1st instant, when, by a happy chance, our cruisers Blasco de Garay and the schooner Africa hove in sight. This obstacle caused them to delay their departure. On the morning of the 3d they proposed to carry out their object, but, a few moments before they were ready, the noise caused by our anchors alongside their vessel, caused them to lose all hope of being able to carry out their criminal design. In the neighborhood of Nipe they are being waited for with despairing impatience, and I know that they deeply lament the failure of the expedition on which the triumph of their stupid aspirations apparently depended, and the end of their badly concerted and impotent efforts. Since my arrival they have abandoned the brig to the American sailors, and are living on shore, suffering all kinds of privations, with the exception of a few, who, like their chief, live with the collector. Persuaded that the steamer will not return, they have asked for instructions from the clubs; these, it appears, have an abundant supply of money. I have also been assured, they, the rebels, hope to maintain the present state of affairs in the Island of Cuba until General Grant's accession to the Presidency of the United States, as it appears that the said gentleman has promised several conspirators of high rank that he will recognize them as belligerents. As you will comprehend, I do not give the slightest value to this piece of news, which to me is improbable from every point of view, and even contradictory to the American policy and ideas, in the question which is now being debated in regard to the Alabama; but I have believed it best to inform you of it, as, it being strongly believed by them, wild hopes are entertained by the heedless. The acting collector believed in it as an accomplished fact, on the day of my arrival, and it cost me some trouble to dissuade him from his belief. Among the expeditionary forces there are a French soldier, and a Peruvian who calls himself a doctor; the rest are very young men, and the greater part from that capital. The rebels attribute the failure of the revolution to the vigilance of our navy on the Cuban coast; our cruisers trouble them greatly, and the clubs in New York are agitating the idea of procuring some armed vessels. The brig is still alongside my vessel; the actual collector, who came from Nassau the day before yesterday, came to see me, and informed me that, when the present heavy breeze slackened, he would take the brig to the northwest bay as it was more sheltered, as she makes much water here. I have the honor to transmit this official communication by

* Although the original reads thus, I am convinced there must be an error in copying from the original. Clearly it ought to be " " information which I consider of sufficient importance to induce, &c., &c.—TRANS.

the schooner *Africa*, which has just anchored, in accordance with my request to the commandant, as the only means of informing you of the incidents connected with this matter. As this vessel has no condenser, and it being almost impossible to get water on this island, I have asked some of him, and he has given me water for two days, of four days water which he had.

In regard to the pilot for the bank and for these islands, he has not been able to bring him to me from Gibara and, considering that a pilot would be absolutely necessary if I should be obliged to give chase in this neighborhood, I will make a contract with one here if I can manage to find one. Finally, I should inform you that by said commandant I have just received the official communication in which you order me to cruise from Moa Key to Point Maisi, supplying myself with coal and provisions in Cuba, which I will hasten to do as soon as the present commission is ended. All of which I have the honor to lay before your honor for your information. May God preserve your honor many years.

NUEVITAS, *March 11, 1869.*

ADOLFO NAVARRETE.

THE COMMANDANT GENERAL OF MARINE of the *Naval Station.*

Approved:

HAVANA, *April 2, 1869.*

JOSÉ MALCAMPO.

Mr. Adolfo Navarrete y Escudero, captain of a ship of the fleet and first adjutant secretary of the chief office of the commandant of this naval station.

I certify, by virtue of an advised decree of this date of the brigadier commandant general, that the following is a faithful copy of the original on file in the archives of this secretary's office under my charge:

SUPERIOR POLITICAL GOVERNMENT, SECRETARY'S OFFICE.

Adjoined I transmit to your honor copies of the communication which, on the 24th instant, was sent me by the consul general of England in this capital, and of the reply which I made the same on this date. Both documents, as your honor will see, refer to the capture of the American brig *Mary Lowell*, and as it is very clear that international reclamations will be brought up by the English government I hope your honor will be pleased to send me the inventory of the effects found on board the said vessel and will also give me a report of all the circumstances, which, in your honor's judgment, ought to be put on record in the office of the minister of state where I will transmit copies as received. May God preserve your honor many years.

HAVANA, *March 27, 1869.*

DOMINGO DULCE.

The COMMANDANT GENERAL OF MARINE.

SUPERIOR POLITICAL GOVERNMENT, SECRETARY'S OFFICE.

BRITISH CONSULATE GENERAL,

Havana, March 24, 1869.

SIR: I have the honor to inform your excellency that her British Majesty's gunboat *Cherub* has arrived here from Nassau, New Providence, bringing me dispatches from the governor of the Bahamas, in which his excellency makes the following statement: An indecorous outrage has been committed by the Spanish vessel of war *Andaluza*, by illegally taking possession of the American brig *Mary Lowell*, which vessel was at that time in charge of an officer of the British customs, and at a short distance from the coast, changing her anchorage. The act is of such a nature, serious and unjustifiable, that I have ordered the *Cherub* to go to Havana at once with this communication, &c., &c. In laying this matter before you excellency I may add that I have in my hands sworn declarations which prove satisfactorily that the *Andaluza* captured the *Mary Lowell* much within the British jurisdiction, and that I believe the declarations to be true, and that I will certainly hesitate to give credit to any assertion to the contrary, I have been enjoined that the *Mary Lowell* has been brought to Havana this afternoon. Under this circumstance I will limit myself for the present to laying the matter before your excellency, and to express, very respectfully, that being well convinced of the great experience of your excellency in the management of all these affairs and your perfect knowledge of the international laws, which are clear in regard to such cases, there is no necessity for me to indicate to your excellency the course to be pursued in this very painful occurrence.

I have the honor to be your excellency's very humble and obedient servant,

A. GRAHAM DUNLOP.

His Excellency the GOVERNOR CAPTAIN GENERAL,

Of the Island of Cuba, &c.

A copy.

The secretary,

JOSÉ MA. DIAS.

SUPERIOR POLITICAL GOVERNMENT, SECRETARY'S OFFICE.

I have received your honor's communication, in which you inclose copy of one which the governor of the Bahamas has addressed to you concerning the capture of the American brig *Mary Lowell*, by a vessel of the Spanish navy. In fact, on the afternoon of the 24th the said brig was towed into this port by the steamer *Blasco de Garay*. I have no official knowledge of the fact beyond your honor's communication, and that of the commandant general of the station; our consul in Nassau has not yet said anything to me. The commandant general of the station has transferred this matter to the naval auditor, in order that after an examination of the circumstances and the proper steps taken in the matter, he may give his opinion according to law. It cannot be denied that the question is a grave one; but neither your honor, by the sworn declarations referred to, nor I, from the statement of the commandant of the *Andaluza*, who captured the brig *Mary Lowell*, can settle this matter, as our opinions are different, and the point comes under the maritime laws, to be decided by the final decree of a court, and according to international law, solely between England and Spain. The two countries being united by the bonds of the most cordial and sincere friendship, their representatives are not those who should promote a conflict which would be so prejudicial to the interests of commerce. This question will be decided justly, because the Spanish government has always proceeded in such manner as never to have failed in the exact fulfillment of the law, as the most efficacious means of having her rights respected. May God preserve your honor many years.

HAVANA, *March 27, 1869.*

DOMINGO DULCE.

The ENGLISH CONSUL *in this city.*
A copy.

Secretary,
JOSÉ MA. DIAS.

SUPERIOR POLITICAL GOVERNMENT, SECRETARY'S OFFICE.

Adjoined I transmit your honor translation of the communication I have just received from the consul general of England at this capital, and of the sworn declarations which he sends with the same, relating to the capture of the American brig *Mary Lowell* by the war schooner *Andaluza*, for the purposes which may correspond. May God preserve your honor many years.

HAVANA, *March 30, 1869.*

DOMINGO DULCE,
Commandant General de Marina.

SUPERIOR POLITICAL GOVERNMENT,
SECRETARY'S OFFICE, BRITISH CONSULATE GENERAL,
Havana, March 27, 1869.

SIR: It is my duty to lose no time in thanking your excellency for your polite and friendly communication of this date relating to the case of the *Mary Lowell*. Fully recognizing the force of the remarks it contains on the necessity which exists that this matter should be investigated with care and in due legal form, I venture to lay before your excellency certified copies of declarations sworn to before the governor of the Bahamas, which may be of service to your excellency's auditor, in order that he may form an early and favorable opinion in the case. Your excellency will observe that these documents prove that the *Mary Lowell* was captured by the *Andaluza*, about one mile from *Ragged Island*, an inhabited English colony. It will be also not out of place to state here that other documents have been shown me, proving that the declaration of the four prisoners on board the vessel, taken before Spanish officers, shows their opinion that the *Mary Lowell* was captured not more than two miles from the port of the island when she was taken. These documents are not in my possession, but they exist, and I believe have been sent to Washington. The papers and documents of the vessel, which had been formally deposited with the authorities of the custom-house of *Ragged Island* when they took charge of her, are complete and in perfect legal order, and are now here in my hands. Not having yet received any instructions concerning this matter, and therefore depending and resting entirely on your excellency's protection in the performance of the ordinary consular duties in regard to the same, I merely wish to set forth the acts complained of by the governor of the Bahamas, and frankly and respectfully to remark that nothing would afford me more gratification personally than a minute and careful investigation of the affair of the *Mary Lowell*, having implicit confidence in the desire of your excellency to do justice.*

* * * * *
But there are other interests over which I have no authority; his excellency the gov-

"Esto por lo que respeto á V. E. forma parte y á mi por la otr;" I cannot make sense of this, there must be an error in the copy.—TRANS.

ernor of the Bahamas believes, as I do, that marine jurisdiction of the Bahamas has been outraged, and he has undoubtedly written energetically to her Majesty's government concerning the matter, while the American naval authorities here believe their flag has been insulted and defied by a Spanish vessel of war in the waters of a friendly power. With sentiments of the greatest friendship and sincere respect, I venture to express an anxious hope that no such delay will occur in the case of the *Mary Lowell* as will take it out of your excellency's hands as well as mine.

I have the honor to be your excellency's very obedient servant,

E. GRAHAM DUNLOP,
Consul General of her Britannic Majesty.

His Excellency the GOVERNOR CAPTAIN GENERAL
of the Island of Cuba, &c., &c., &c.

I certify that the foregoing is a faithful and exact translation of the original.

RODRIGO TAVIRA, *Government Interpreter.*

HAVANA, *March, 1869.*

SUPERIOR POLITICAL GOVERNMENT, SECRETARY'S OFFICE.

Copy of the sworn declaration of Walker I. Wilson, officer of her Majesty's customs at Ragged Island, Bahama.

RAGGED ISLAND, *March 15, 1869.*

I, Walker I. Wilson, a native of this island, having been left in charge of the American brig *Mary Lowell*, by the captain, S. M. Bonneau, of the United States of America, while I was taking said brig (in conformity with the orders and with the knowledge of the collector of this port) from the man-of-war anchorage of this island to the port, I certify by these presents, that after having weighed anchor I was followed by the war steamer *Andaluza*, which kept close to me until the last tack to get to the windward of the island; that the said steamer lowered a boat. Seeing that the boat could not come up with me, the steamer increased her speed, placing herself on the port side of my vessel, ordering me to lower my sails; at the same time I saw the guns run out and manned, ready to fire into me; I then lowered the sails and the boat came alongside, asking to come on board, as I could not be communicated with from the boat on account of the heavy sea. I told him that I would allow him to come on board as a gentleman, to which he assented; he then came on board, and we had hardly been talking a moment or two when, at an order from the commandant of the steamer, (which was within speaking distance,) all the men, about fifteen, precipitated themselves upon my decks, armed with muskets, revolvers, and cutlasses, taking possession of the brig. I then asked the officer whether he knew that the vessel was American, with an English officer on board; and he answered that he was obeying the orders of his superior, making me get into the boat with the rest of my crew, sending me on board the steamer; on arriving on board the steamer the crew of the vessel, four in number, was put in arrest. I was sent on shore in the brig's boat with two other men from the shore, and my brother, George Wilson, was employed as pilot on board said steamer. The American flag was hoisted at the peak of the brig when the Spanish commandant ordered the sails to be lowered, and was hanging over the side when the Spaniards boarded me. They took possession of the brig about three-quarters of a mile south of the southeast point of Little Ragged Island.

WALKER I. WILSON.

Sworn declaration of George W. Wilson, pilot.

BAHAMA, RAGGED ISLAND, *March 15, 1869.*

I, George W. Wilson, a native of this island, having been called on board the war steamer *Andaluza*, as pilot, to take her to the port, I certify by these presents, that on the morning of this day I weighed anchor in said steamer and followed the American brig *Mary Lowell*, which was going to the port of this island; when said brig was some three miles from Little Ragged Island, I noticed suspicious movements on board said steamer—that is to say clearing the decks for action. I asked the commandant what was his intention; he replied, to capture the brig if she gets six miles from the shore. I told him that he would violate the international laws if he did so within three miles of the Bahama bank; he answered that it made no matter, that he would capture her when she was six miles distant, and would put me and my brother, Walker I. Wilson, who was then in charge of the brig, on the shore; before we could get near enough to board her the brig tacked and stood towards the land. We then followed in her wake until the brig made her last tack, in order to pass the southwest point of the Little Ragged Island. At this moment a Peruvian monitor came in sight with a signal flying for a pilot. The commandant of the steamer then ordered a boat to be lowered and

manned by some fifteen men, armed with muskets, revolvers, and cutlasses. Seeing that the boat could not make the brig, he ordered all steam on and placed his vessel on the port side of the brig, ordering her sails to be lowered, or he would fire into her. I told him he would not dare to fire into an American vessel in English waters. He said that he cared little for the English and Americans; that he would fire into her at once if they did not lower the sails. His orders not having been obeyed, he gave the order to fire. The order was delayed by one of the officers. He repeated his orders a second time, and it was delayed by the Spanish pilot; said pilot asking me to tell those in the brig to lower the sails. I then spoke to my brother, Walker I. Wilson, in order that he should do so, the Spanish commandant again giving the order to fire; but another officer, seeing that the sails of the brig were being lowered, delayed the order. The boat boarded her at this time and took charge of her. The brig was then about three-quarters of a mile to the southeast of Little Ragged Island. The American flag was hanging over the side when she was boarded, having been taken from the peak when the mainsail was lowered. They then sent another boat with two ropes to the brig. When this boat returned they sent my brother, W. I. Wilson, and the crew of the brig on board the steamer. On their arrival the crew, four in all was immediately put in arrest. We were then sent on shore in the brig's boat, with two men who belonged on shore, who had been hired to help to take the brig into port. The steamer put to sea with all sail set and under full steam. When I last saw her she was standing W.S.W., with the brig in tow.

GEORGE W. WILSON.

These two documents are officially certified by his excellency under his official seal. The governor of the Bahamas.

JAS. WALKER,
Governor.

For exact copies.
[SEAL.]

G. GRAHAM DUNLOP,
Consul General.

I certify that the foregoing is a faithful translation of the original.

RODRIGO TAVIRA,
Government Interpreter.

HAVANA, *March*, 1869.

A copy.
The secretary,

JOSÉ MA. DIAS.

Approved.

J. MALCAMPO.
ADOLFO NAVARRETE.

Order.

HAVANA, *April 6*, 1869.

Proceed to extend the declarations of the crew of the American brig Mary Lowell, to which end the señor auditor of the naval station will, with the señor notary of the same, and Mr. Arturo Braza y Alcazar, who is appointed interpreter, go on board the ship of war Gerona, where the said crew now is.

MALCAMPO.
AGUILAR.
L. PLACIDO M. BORREGO.

Acceptance.

On the same day, 6th of April, 1869, personally appeared before me (previously notified) Mr. Arturo Braza y Alcazar, whom I informed of the foregoing order notifying him of his appointment as interpreter in this case, and, having read it, said he would accept, and accepted said appointment; making oath that he would perform it well and faithfully, signing the present document before me. I certify.

ARTURO BRAZA Y ALCAZAR.
L. BORREGO.

Declaration of Mr. John Reynolds.

On board the ship Gerona, in the Bay of Havana, on the same day, the 6th of April, 1869, an individual was brought up who, by means of the interpreter, said his

name was John Reynolds, and being made to understand the obligation in which he is to tell the truth concerning what he may be asked, and—

Questioned. Whether the Cubans who arrived at Ragged Island with him lived on board or on shore.—Said: That from the time they arrived at the said place, they lived and ate on shore.

Questioned. If he knew where the said passengers lived.—He answered: That he did not, because he only went on shore to get water.

Questioned. At what point the brig was anchored before the departure in which she was captured.—He said: At the man-of-war anchorage.

Questioned. At what distance was she from the shore and from the reefs, and what were the bearings of the most salient by the compass?—He said that she was about a mile distant from the shore, and about two from the reefs.

Questioned. Whether the anchorage was sheltered and secure from the prevailing winds there.—He replied that it was not.

Questioned. How many days had he been at anchor there?—He said eight or nine.

Questioned. Whether the vessel dragged her anchors during that time, or suffered other damage?—He said: No.

Questioned. With what object did you get under way on the day you were captured?—He said: With the object of making a turn in order to get into the bay.

Questioned. From whom did you receive the order, and had you a pilot on board to leave the anchorage?—He said: That they received the order from the pilot, who the captain, before he left the vessel, had informed them, would fill his place, and that his name was Mr. Wilson.

Questioned. Which way was the wind on that day, and whether it was unfavorable or fair for their trip?—He said: That he does not remember which way the wind blew, but that it was unfavorable for leaving the anchorage, and that it was not strong.

Questioned. How much water did the vessel draw?—He said: He did not know.

Questioned. How near could they sail to the coast and to the reefs, and what was the nearest they could go with the vessel?—He said he did not know whether they could sail close to the island, but that on one tack they had gone within three hundred yards of it.

Questioned. At what point were you when you were captured?—He said: That they were about to double the point; that they were steering north, and that the point bore to port, and that they were about a mile and a half from the reefs.

Questioned. Whether they left the anchorage with all sails set?—He said: No, but when they were captured, they had all sail set, and that they had to set more sail because with the former ones they made no headway.

At this point the señor auditor ordered this proceeding to be suspended, to be continued, if necessary; and having read the foregoing to him through the interpreter, he said that it was correct, signing with the señor auditor and the interpreter, before me, to which I certify.

AGUILAR.

JOHN REYNOLDS.

ARTURO BRAZA Y ALCAZAR.

Before me,

L. PLACIDO M. BORREGO.

Another, of Mr. Louis Extou.

Immediately following, and on the same day, 6th of April, of 1869, an individual was brought up, who, through the interpreter, said his name was Louis Extou, who being made to understand the obligation in which he is to tell the truth concerning what he may be questioned, was interrogated as follows:

Questioned. Whether the Cubans who arrived at Ragged Island with him lived on board or on shore?—He said: That the passengers did not live on board, but on shore, all scattered, and each one where he could, but that there was always one of the Cubans on board, in order that no one might touch the cargo, and in charge of it.

Questioned. At what point of Ragged Island was the vessel anchored before she got under way, when she was captured?—He said: To the south of Ragged Island.

Questioned. At what distance was she from the shore and from the reefs, and what were the bearings of the most salient by the compass?—He said: That they were distant half a mile from Little Ragged Island and one from Great Ragged Island, and about five miles from the reefs.

Questioned. Whether the anchorage was sheltered and secure from the prevailing winds there.—He said: That it was.

Questioned. How many days had they been anchored there, and whether the vessel had dragged her anchors or suffered any damage.—He said: That the vessel had been anchored ten or twelve days; that she did not drag her anchors, nor had they suffered any damage; that only on one night there was a little wind, and they let go some anchors which soon held.

Questioned. With what object did you get under way on the day you were captured?—He said: In order to make a turn in the bay, and to be nearer Mr. Wilson's house.

Questioned. From whom they received the order, and whether they had a pilot on board to leave the anchorage.—He said: That they received the order from Mr. Wilson, who had been made known to them as captain, and was the pilot at the same time.

Questioned. Which way was the wind on that day; how strong was it, and whether it was fair or unfavorable for their trip.—He said: That the wind was from the east; that it was light and unfavorable to their trip.

Questioned. What was the draught of the vessel, whether they could sail close to the shore, or at what distance from it, and from the reefs.—He said: That he does not know the draught of the vessel, but that they could go close to the shore and to the reefs.

Questioned. At what point were you when you were captured, and what course were you steering.—He said: That they were going to double the point, steering northwest, and that the most extreme points of the reefs bore one mile distant.

At this stage the señor auditor suspended this declaration in order to continue it should it be necessary. The foregoing was read to him by means of an interpreter, and hearing it, he said he was satisfied with its contents, and he signs with the señor auditor and interpreter before me. I certify.

AGUILAR.
LOUIS EXTON.
ARTURO BRAZA Y ALCAZAR.

Before me,

L. PLACIDO M. BORREGO.

Another, of Mr. James Walsh.

Immediately following and on the same day, 6th of April, 1869, an individual was brought up, who, by means of the interpreter, said his name was James Walsh, and having made him understand the obligation in which he is to tell the truth in all that he might be questioned, and—

Questioned. Whether the Cuban passengers who arrived at Ragged Island with them lived on board or on shore.—He said: That they lived on shore, excepting one who was on board, and that he does not know where they lived, as the deponent went only once on shore.

Questioned. At what point of the land, I mean Ragged Island, was the vessel before she got under way when she was captured?—He said: At the southwest, one mile and a half from land, and one mile from the reefs.

Questioned. Whether the anchorage was sheltered and secure from the prevailing winds there, and how many days they were anchored there, and whether the vessel dragged her anchors during that time, or sustained any damage.—He said: That he does not well remember the time they were anchored there, but that he believes it was twenty days; that the anchorage was safe, and that during said time they neither dragged their anchors nor sustained any damage.

Questioned. With what object did you get under way, on the day on which you were captured; who gave you the order, and did you have a pilot on board?—He said: That Mr. Wilson told them he was going to take them into the bay; that he was the pilot and at the same time the captain who had been made known to them.

Questioned. Which way was the wind on that day; was it strong or light, fair or foul for their trip?—He said: That he believes the wind was northeast, light and contrary.

Questioned. Whether he knows the draught of the vessel, how much water she drew, and whether she could sail very near the shore, or to the reefs.—He said: That he believes she drew nine feet; that he does not know how much water she draws, nor does he know whether they could sail near the shore, because he is not acquainted with the locality.

Questioned. Where were you when you were captured; what course were you steering; what were the bearings of the farthest points of the island?—He said: That on doubling the point he believes they were steering east; that the reefs bore to the starboard, and distant three miles.

At this stage the señor auditor suspended the declaration, to be continued if necessary. It was read by means of the interpreter, and upon knowing the contents, he stated that he was satisfied with the same, signing with the señor auditor and interpreter, before me. I certify.

AGUILAR.
JAMES WALSH.
ARTURO BRAZA Y ALCAZAR.

Before me,

L. PLACIDO M. BORREGO.

Another, of John Shannon.

Immediately following, and on the same day, an individual was brought up, who said, by means of the interpreter, that his name was John Shannon; who was made to understand the obligation in which he is to tell the truth concerning what he might be asked, and he was interrogated in the following manner:

Questioned. Whether the Cuban passengers who arrived at Ragged Island with them lived on board or on shore.—He said: That they lived on shore; that he does not know the house they lived in; and that only one came on board frequently.

Questioned. At what point of the island were you anchored when you went out on the day you were captured.—He said: He did not know,

Questioned. How far were you from the land and from the reefs; and what were the bearings, by the compass, of the most salient.—He said: That they were a mile from the island; that he did not see the reefs, and did not know their bearings.

Questioned. Whether the anchorage was sheltered and secure; how many days they were anchored; whether the vessel dragged her anchors, or suffered any other damage.—He said: That he believed the anchorage to be safe, although the pilot said it was bad when there was much wind; that they were sixteen or seventeen days; that the vessel did not drag her anchors, nor did they suffer any damage.

Questioned. With what object did you get under way the day you were captured; from whom did you receive the order; and did you have a pilot on board.—He said: That they started with the object of going into the bay; that they received the order from Mr. Wilson, who was pilot, and also captain of the vessel.

Questioned. Which way was the wind that day, whether strong or light, favorable or unfavorable for their trip.—He said: He does not know which way the wind was on that day; that it was light, and unfavorable for their trip.

Questioned. Whether he knows the draught of the vessel, the depth of the water; and whether they could sail near the coast and the reefs.—He said: He did not know.

Questioned. At what point were you when you were captured; how were you steering; and what were the bearings of the most salient points of the reefs.—He said: That he did not know how they were steering; and that the salient points of the reefs were to their left.

At this stage the señor auditor suspended the proceedings, to be continued when it might be necessary. This declaration was read to him by means of the interpreter, and, knowing its contents, he stated he was satisfied with its contents; he signs, with the señor auditor and interpreter, before me, of which I certify.

AGUILAR.

JOHN SHANNON.

ARTURO BRAZA Y ALCAZAR.

L. PLACIDO M. BORREGO.

HAVANA, April 6, 1869.

Suspend the state of solitary confinement in which the individuals who are being tried are now kept; and the pages of these proceedings having been interrupted, and many of them not numbered, let the senior notary proceed to number the pages of this case, correcting those which are already numbered.

MALCAMPO.

AGUILAR.

L. PLACIDO M. BORREGO.

NOTE.—That on one leaf of the present stamp I dispatched the communication provided for by the preceding proceedings to the commandant of the ship of war Gerona, releasing the individuals on trial in this case from solitary confinement, which communication I delivered in the secretary's office for its dispatch.

HAVANA, (date as above.)

ANOTHER.—That in accordance with that which is ordered in the foregoing proceedings, I have corrected the paging of this process.

HAVANA, (date as above.)

Order.

HAVANA, April 7, 1869.

Let the papers in this case remain in the office of the señor auditor of the naval station, in order that he may extend the brief with which account of the same should be given to the tribunal of the same.

MALCAMPO.

AGUILAR.

L. PLACIDO M. BORREGO.

Proceedings.

On the same day and year I left this case in the hands of the señor magistrate, auditor, for the object called for in the foregoing proceedings. I certify.

L. PLACIDO BORREGO.

Order.

HAVANA, April 10, 1869.

The brief alluded to in the foregoing proceedings being made by the señor auditor, let the commandant general of the naval station be officially advised, in order that he may be pleased to give notice to the tribunal (junta) of the same, to which the said magistrate will present it.

MALCAMPO.

AQUILAR.

L. PLACIDO M. BORREGO.

NOTE.—That on one leaf of the fourth official stamp, the communication ordered in the foregoing proceedings was dispatched to the brigadier commandant of the naval station, the same which I delivered in the secretary's office of the same naval station.

HAVANA, (date as above.)

MOST EXCELLENT TRIBUNAL OF THIS NAVAL STATION :

From the first days of the breaking out of the revolution which is now devastating this island, those who sympathized with it have been employing all the means in their power in its favor; sometimes availing themselves of the popular tumults, recruiting young men, whom they seduced into the ranks of the rebels; sometimes by soliciting contributions from persons who were able to furnish funds, and sometimes by openly using the foreign press, and that part of the Spanish press which they could control, using indirect expressions, which a very slight examination would shew to be in encouragement of the rebellion.

Among the most usual means employed by the revolutionary committees of different points to send reinforcements of men and arms to the rebel camp was to send the recruits to the Island of Nassau, and the other small islands of the Bahamas, in small parties, where they have publicly established a committee, hoisting their flag over the house in which it meets. It is public that in those places there are deposits of arms; that the inhabitants protect them, and that the greater number of the piratical expeditions which come to this island to swell the ranks of the incendiaries who, under the name of Independents, are wandering about our country, sail and have sailed from those islands. The expedition, your excellency, which succeeded in penetrating our territory, under the command of the escaped criminal, Manuel Quesada, who is now called general by the rebels, sailed from Nassau. The one which was captured in the proximity of Cayo Romano also sailed from Nassau. In the said English town the meeting of numbers of armed men is permitted, who, by practicing the use of arms, show that their object is to effect a landing on this island, in order to join the rebels, and finally sailed from the said place. The mineral coal which was furnished on the same coast to the pirates who mutinied on the steamer Comanditario, which was forcibly taken from the possession of her captain near this island, the representative of the private property which was on board of her, belonged to the firm of Dehig, Bandis & Co.

He who speaks does not think for one moment that the protection which is publicly given to the rebels and pirates of Cuba by the British subjects residing on the islands of the Bahama bank is recognized by the English government, nor by her delegated authorities; for, besides being a noble and civilized nation, they should have the same views as the Spaniards regarding the possessions which she has in these waters, which cannot profit much by the sad spectacle presented by our island, which is promoted by the English islands which have been mentioned.

The Spanish government, during the conflict which the English government sustained in Jamaica, of the same class as that which we now deplore, sent her vessels and offered her army to the said authorities, which proceedings contributed efficaciously to the re-establishment of order there. It is not possible to believe that, forgetting such conduct, the government of an allied nation can assist in any way to promote the insurrection now going on in our territory; but there are facts which show us that the said authorities regard, if not with favor, at least with too much indifference, the conspiracy which is being planned in their territory against this island, and that some of the officers of the said country sympathize to such an extent as to be agents of the rebels, as will be shown in this argument, and which is proven in the proceedings. From this indifference on the part of the superior authorities, and the protection on the part of the inferior authorities, it results that the focus of the insurrection is located in the said possessions, and that the Spanish authorities have to

watch with their squadron the points from whence the aid which the rebels count upon may come.

Having established these preliminaries, the auditor now proceeds to remark upon that which appears in the proceedings, in order to advise the tribunal of the sentence which it should give in this case; and in so doing, should say that from the proceedings result:

That according to the communication of the commandant of the war schooner *Africa*, which is reported on folio 69 of these proceedings, by confidential information, it has been known from about the middle of last January that a landing of arms was intended to come from Salt Key in the Bahamas, by way of the river Mayari, and that the so called General Cespedes proposed to build a launch in the said river in order to send an agent to the said islands to hurry the remittance of the proposed armament; that this confidential information was confirmed one or two months afterward, so far as regarded the remittance of arms, by the letters of the 21st and 22d of February, received by the English governor of Nassau, copies of which are recorded on the 66th and 67th of the same, and the information given by the said authority to the Spanish consul of that place, which the commandant of the war schooner *Guadiana* inserts in his communication on the 65th.

That the confidential information of the governor advised the presence of an American steamer and American brig at Rum Key, and that the collector of the custom-house had refused to permit a transshipment of the brig's cargo to the steamer, in said port; that with this object they had sailed for Ragged Island.

That the commandant of the steamer *Blasco de Garay*, and the commandant of the schooner *Africa*, availing themselves of the confidential information of the governor, proceeded to a point near said island, and the commandant of the last-named vessel went on shore in a boat, and, seeing them, the whole crew of the brig went on deck with hostile gestures, and on this account he had the means of observing that they were Cubans, with the characteristic physiognomy of the natives of this country; that in a conference with the collector of the custom-house of that place, he showed himself little in favor of lending the aid, which, in the way of information, was asked of him; so much so that it became necessary to show him the communication of the governor of the Bahamas in order to make him understand that he was proceeding against the orders of his government in the strange manner in which he treated the representative of a friendly nation, and the aid he was giving to people who had no flag, who were attacking the integrity of the Spanish territory, for which heavy charges might be made in the future; that by the information acquired by the excursion of the commandant of the *Africa*, it appeared that with an interval of two days the steamer *Henry Burden*, with a load of passengers, and the brig *Mary Lowell*, loaded with arms and munitions of war for the rebellion in this island, had arrived at Ragged Island, and that the steamer being damaged had gone for repairs to Nassau; that the *Blasco de Garay*, having also received some damage, with the same object, and also to send the schooner *Andaluza*, which, owing to her build, was more fitted to watch and capture the *Mary Lowell* when she should leave the English line, proceeded to Nuevitas.

That the *Blasco* having arrived at this port, and having given the proper orders to the *Andaluza*, the last-named vessel sailed for Ragged Island; from which point her commandant addressed an official letter to the commandant of the first-named vessel on the 3d of March, informing him of the little favor which the collector of the custom-house was disposed to show to the cause of the Spanish government, and that it was apparently the principal authority of the island who had told him that he would anchor the *Mary Lowell* where he could not follow her.

That in another official letter of the commandant of the *Andaluza*, dated March 10, folio 79, he informs the commandant of the station of Nuevitas of having been fully assured that, in fact, the brig *Mary Lowell* was loaded with arms and munitions; that the passengers which she had on board lived on shore, and the chief of the expedition lived in the house of the collector of the said custom-house, and was aiding them in every way, and in consequence of discussions among the crews of the vessels, and on account of the damages of the *Henry Burden*, the voyage to our coast had been abandoned by the said vessels, the brig having proposed to do so alone on the 1st of March, and they were detained by the arrival of *Blasco* and the *Africa*, and attempted a second time on the 3d; the arrival of the *Andaluza* again frustrated their attempt, and that in Rum Key they tried to transship the arms to the steamer, but the collector of the custom-house there would not allow it, and also of other matters which do not belong here.

That according to the official report of the capture on the first leaf, and dated 16th March, the *Mary Lowell* was captured six miles southwest of Ragged Island, which agrees with the observations taken by the officer on guard, of the *Andaluza*, at the time of the capture, and which are entered in the certificate of the fact taken from the log-book of the schooner at the time of the capture, which is stated on folio 37; that the *Mary Lowell* had no papers on board, no captain nor crew, excepting sailors; that she was found loaded with arms and munitions of war; that the acting collector at first,

and afterward the collector himself, indicated to him the intention of changing the place of anchorage of the brig as soon as the wind slackened; but that on the 11th and on the following days the weather became fine, and it was not done, the crew being employed only in overhauling the running rigging, in setting up the standing rigging, and taking large quantities of water on board, and in watching the horizon very anxiously; that on the morning of the 15th the acting collector presented himself, the brother of the collector, who had told the commandant that he would furnish him with a pilot when the brig should get under way, telling him that he went with him for said purpose; that at 10 o'clock the *Mary Lowell* got under way, and the schooner followed in her wake, with a strong breeze from the east; that the brig made several tacks without making any progress to windward; that about 1 o'clock some masts hove in sight, and when no one on board had recognized the vessel the pilot recognized it, and said a two hundred and fifty iron-clad; that being seen, it turned out to be a monitor bearing the Peruvian flag, on which account the schooner cleared her decks for action, and went within cannon shot of her; that in this situation the brig stood to the southward, and in seeing her in free waters according to the most experienced officers on board, the schooner ran up to her and hailed her, telling her to surrender, telling the pilot to tell them to heave to, or to lower the sails; but far from doing so, he shouted to them, telling them to give her more way and let her fall off from the wind, under which circumstances the schooner had to go alongside of her and make her obey, threatening her with the guns and boarding her with a boat; and seeing the vessel full of arms, she captured her.

That from the declarations of the crew of the schooner *Andaluza*, it appears that the capture was made more than six miles from Ragged Island, and the same facts are set forth in the report of the commandant, and that the same is shown by the log-book.

That the crew of the brig do not agree as to the distance they were from the coast at the time of the capture, as one says that he calculates that they were about a mile and a half, without being sure of it; another, that between three and four miles; another at about three from the coast, and another at a mile and a half from the island; but they do agree as to the load of Cubans transferred to the brig, of their wearing the rebel cockade on their hats, like the one shown which was found in the same vessel, and which they afterward left off by order of Mr. Campbell; that they only knew Cisneros and Castillo by name, stating that the first chartered the vessel; that although all the Cubans landed on Ragged Island, there was always one on board in charge of the cargo; that the acting captain, from whom they received their orders, was Mr. Wilson.

That by declarations given by Mr. Walker Wilson, and Mr. W. Wilson, pilots of Ragged Island, the first acting captain of the *Mary Lowell*, copies of which are inclosed by the English consul in the communication of the 17th of March, they affirm they were within three-quarters of a mile to the southeast of Ragged Island.

That the crew of the brig affirm that the port was secure, and that during the long time that they had been anchored there they had not sustained any damage, nor had they dragged their anchor; that the wind on the day of their capture was unfavorable for entering the new port, and that they could sail near the shore with the vessel.

That from the inventory of what was found on board the *Mary Lowell*, it appears that this vessel had only charts necessary for a voyage to the Island of Cuba; that no others were found excepting those of this coast, and the coast of Florida.

Considering that by the confidential information received by the government of this island, corroborated by the communications of the English governor of the Bahamas, our cruisers and naval stations had to be very vigilant, and this justifies the precaution employed by our vessels to frustrate the attempts of the rebels who, outside of the island and in the territory of the allied nations, conspire against the integrity of Spanish territory.

Considering from what appears in this process, that notwithstanding the good understanding which unites us to the government of her Majesty the Queen of England, and the good will which we have seen displayed in some of the acts of the governor of the Bahamas, and by the authorities of Rum Key, it is not shown in other places where they give aid to the agents of the rebellion, as in Ragged Island, where the first authority of the said place, Mr. Walker Wilson, is seen entertaining the chief of the rebels in his house, and taking charge of the keeping and direction of the vessel loaded with arms for the promotion of the rebellion in this island, telling the commandants of our vessels that he proposed taking the *Mary Lowell* where they could not follow her, which conduct not only makes his affirmations worthy of rejection, weak and unworthy of belief, for being wholly partial to the cause to which he lent these services, but is a more than sufficient motive to warrant a complaint to the English government.

Considering that although some of the sailors stated that they believed that the vessel has been dispatched for Vera Cruz, this assertion is contradicted by reflecting that Ragged Island is not a port of arrival for said voyage, the vessel coming from New York, and by the fact that the only marine charts which were found on board were of

the coasts of Florida and Cuba, which evidently proves that the brig sailed for this island.

Considering that the movements of the *Mary Lowell* from the time she left the anchorage at Ragged Island were suspicious, as her tacking without making any way toward the port, her making more sail when she saw the *Andaluza* near the monitor, and her having chosen a day on which the wind was contrary, show her intention to escape, believing that the schooner might be captured by the monitor, eluding in this manner the vigilance of the vessel which was watching her, which she expected to deceive, letting the previous days on which the wind was fair pass by without moving.

Considering that it is proved that the cargo of arms and munitions which the *Mary Lowell* had on board belonged to the rebels of this island, according to the statements of the sailors of the said vessels, which show that she was chartered by Cisneros, and that there was always a Cuban watchman on board.

Considering that the crew of the *Mary Lowell* do not agree in their depositions concerning the distance they were from the coast when they were captured, and that their depositions do not agree with those of the pilots, the brothers Wilson, the assertions of both of whom are faulty and unworthy of credit on account of their intimate relations, and the protection given to the rebels who came to promote the rebellion, as also results from the official communications of the commandants of the Spanish vessels of war, prior to the capture, there remains no proof more sure and convincing concerning the point where the capture was made, than that offered by the declarations of the officers and crew of the schooner *Andaluza*, and the situation set down in the log-book of the said vessel.

Considering that the law of England of the 28th of August, 1833, in conformity with what is generally accepted by good principles of international right, sets the limit of her maritime zone at one league, or three miles from her coast, and bearing this order in mind, there is no reason to believe that the commandant of the schooner *Andaluza* has been wanting, in the slightest degree, in the respect and consideration which is due to a neighboring friendly nation, allied to the Spanish nation, as the comprobatory document in the question now being ventilated, which is the log-book, shows us that the capture was made at double the distance; that the declarations of the officers and crew agree with it, and part of the declarations of the crew of the *Mary Lowell* also indicate a greater distance than the three miles; the place of capture being, therefore, on the high seas.

Considering that although it may be said by the English authorities that the vessel was in charge of a custom-house officer, as it appears from this process that the said functionary, who was Mr. Walker Wilson, was not on board as such, but as acting captain of the vessel, according to the crew themselves, and that, having taken the *Mary Lowell* out of the waters under jurisdiction, his intention was not only to cause an injury to the Spanish nation, but to disobey the orders of his government, as he could have taken the vessel to the other port without going beyond the waters within jurisdiction.

Considering that it is proved by the preceding reflections that the English territory has been respected, as it should be, neither have we insulted the flag carried by the *Mary Lowell* without any right, in the least degree, as a friendly flag does not cover merchandise composed of contraband of war, according to good principles of international law, put into operation by the government of the United States in the late war, which was brought on by the attempt of the Southern States against the integrity of the territory of the Union, and therefore the capture of the vessel and her cargo is good.

Considering that the sailors who came on board the *Mary Lowell* did not leave New York in this vessel, but that they were transferred from the *Henry Burden*, and that it does not appear that they knew what line of conduct Mr. Wilson, whom they obeyed as their chief, was going to pursue, therefore this relieves them from responsibility.

Considering that even according to international law the *Mary Lowell*, having been captured on the high seas, and without the necessary outfit to prove her flag, this would be sufficient to warrant her being considered as a pirate, and to subject the crew to the penalties which the laws impose on this class of crime; the consideration that these sailors cannot be responsible for the acts which Mr. Wilson did without their consent, the only responsible party in this unlawful transaction, strengthens the idea expressed in a former consideration of the irresponsibility of the crew, which should be stated.

In view of Articles Nos. 10, 13, and 34, of the ordinance of the 20th of June, 1801, and what is proven by this process, it is the opinion of the auditor that the detention of the *Mary Lowell* should be declared lawful, and the same, with everything belonging to her and her cargo, a lawful prize, adjudging her value, deducting the expenses, to the commandant, officers, and crew of the schooner *Andaluza*, in the proportion allowed by law; setting the crew at liberty, if the tribunal does not need further declarations.

The captain who made the capture should also be notified of this decree, not the owner of the cargo, because he apparently belongs to the rebels and traitors to

the country, and although the nationality of the vessel is indicated it is not proved in the proceedings, and it is not known to whom she belongs, the owner cannot be notified.

The auditor further believes that, in view of the good relations which exist between the English government and our own, and in order to banish the unfounded suspicion entertained by the governor of the Bahamas, respecting his belief that the capture had been made within the English maritime line, let a certified copy of these proceedings, and of the sentence which may be given by the court, be made and forwarded with a proper official communication to the English consul in this city.

This is the opinion of the auditor, which he this day submits to the enlightened judgment of the gentlemen who compose the court of the naval station, who will sentence in conformity with it, or as they may think more just.

Most excellent sir,

RAFAEL DE AGUILAR.

HAVANA, April 12, 1869.

Act of information.

In the city of Havana, on the 12th of April, 1869, the Junta Economica de este Apostadero, presided over by the brigadier commandant general of the naval station, all the members being present excepting the señor ordenador, on account of sickness, and the señor auditor, Mr. Rafael de Aguilar y Angulo; the process formed in regard to the capture of the American brig Mary Lowell, laden with articles of war, made by the national schooner Andaluza, near Ragged Island on the Bahama banks, was read by the secretary for their resolution, as to whether the capture was good or bad; the tribunal having heard the whole process and the luminous argument made by the señor auditor being read, in conformity with it, and considering besides that the pilot Wilson, who at the same time was pilot and captain of the captured vessel, according to the declarations of her crew, has conceded the fact that he was performing the duties of pilot and captain in the declaration he made in the Bahamas, and which was sent here by the consul general of England, representing himself only as an officer of the custom-house, and that this being the case, in this last character he had no reason for being on board said vessel, which concealment shows the cunning with which it was made, and his conviction of his culpability as captain and pilot, as losing his official character, he would have become one of so many mercenaries employed on board the brig Mary Lowell to carry out their illegal design.

Considering that, even in his official character, the said Wilson had evidently shown by his remarks to the commandants of the Africa and the Andaluza his adhesion to and protection of the rebels against the integrity and government of this island, therefore in his character of captain his projects should have seemed much more suspicious to the commandant of the Andaluza.

Considering that neither the captain and pilot of the Mary Lowell, nor her mate, protested, at the time of their capture on finding themselves, as they say afterward, within English jurisdiction, nor take observations, nor ask that they should be made in their presence in order to establish, with all exactitude, the point and the distance from the coast at which the vessel was captured, as was their duty, which proves that they were persuaded that the result of the said observations would be contrary to their desires, as otherwise it is incomprehensible that they should omit so essential a proof for the complaint afterward presented as the commandant of the Andaluza did not omit to perform that necessary operation.

Considering that the position on the chart, by the bearings with the shore, taken by the officers of the —, in order to determine the point at which they were at the time of the capture, gives a result of more than six miles from Ragged Island, and, therefore, much beyond English jurisdiction, which only extends three miles.

Considering, also, that the commandant of the Andaluza, having stated in his official communications previous to the day of the capture, that in the guard he kept over the Mary Lowell he would not capture her unless she should go out of English waters, which he repeated to the pilot Wilson, whom he took on board a few moments before the capture, proves his respect for foreign waters, and that if it had been his intention to capture the vessel in the same he would have done so at the moment she got under way and left the coast for the first time, without waiting for her to do so the third time; nor that she might be able to put herself under the protection of some English or foreign vessel of war, which might arrive there.

The court agree to declare the detention of the Mary Lowell, and her being taken to the port of Nuevitvas, to be legitimate, the vessel and cargo being, therefore, a good prize, without any room for complaints or reclamations by the English authorities, or of any other nation, as she was captured as contraband of war intended to aid the rebels of this island, and captured on the high seas; that there being no complicity or culpability worthy of punishment in the crew found on board the vessel, they shall be put at liberty, notifying the captors of this award, and not the owner of the cargo, because

he belongs to those who are declared to be in rebellion, nor to the owner of the vessel, who is not known. Let this sentence be made known to the English consul general in this city, with also a copy of the argument of the señor auditor, in order that with it he may remove the doubt or belief which, in common with his excellency the governor of the Bahamas, he has in regard to the vessel having been captured in English waters, and that all being done in the notary's office, let this process be returned to the auditor's office. Thus it was resolved by the said most excellent court, the gentlemen composing it signing before me, of which I certify.

JOSÉ MALCAMPO.
MATEO GARCIA.
JOSÉ SAIUZ.
FEDERICO SAUTALA.
MODESTO DOMINGUEZ.
FEDERICO MARTINEZ.

Before me,

L. PLACIDO M. BORREGO.

NOTE.

That on one leaf of the fourth stamp of official paper, the corresponding communication to the commandant of the national ship of war Gerona, in order that the crew found on board the Mary Lowell when she was captured might be put at liberty; and which communication I delivered to the secretary's office, that he might give it the proper direction.

ANOTHER.

HAVANA, *April 13*, of the same year.

That on this date the certified copy of the argument of the señor auditor, and the preceding sentence, for remittance to the English consul general in this city, has been finished in conformity with the order of the same, having used seven sheets of the fourth stamp of official paper in the same.

ANOTHER.

HAVANA, *April 14*, of the same year.

That for the remittance of the certified copy referred to in the note immediately preceding, to the English consul general in this city, the corresponding official document was written on one leaf of the present stamp.

RETURN.

HAVANA, (date as above.)

On the same day, month, and year I delivered to the messenger, Mr. Manuel Padilla, the certified copy and communication referred to in the two last preceding notes, for their delivery.

PADILLA.
L. BORREGO.

ANOTHER.

On the same day, month, and year, before me, the messenger, Manuel Padilla, said he had delivered the certified copy and communication mentioned in the preceding return at the consulate general of her British Majesty. I certify.

PADILLO.
L. BORREGO.

To the Magistrate Auditor of the Naval Station :

On advising your excellency of this process, in conformity with the resolution of the most excellent Junta Economica de este Apostadero, I should call your excellency's attention to the fact that your excellency's decree has not been complied with in regard to the notification of the captors of the Mary Lowell, which order I have not been able to carry into effect, because the vessel which made the capture is not in this port.

L. M. BORREGO.

HAVANA, *April 15*, 1869.

Order.

HAVANA, *April 15*, 1869.

The commandant of the national schooner of war Andaluza, being now in port, let the proper officers extend the proper notification.

MALCAMPO.
AGUILAR.
PLACIDO M. BORREGO.

On the 16th of said month and year I proceeded to the arsenal of this city, and the commandant of the war schooner Andaluza being present, I notified him by a full reading and a literal copy of the sentence pronounced in this case, on the 12th of the present month, by the most excellent Junta Economica de este Apostadero, and he signed before me, of which I certify.

JACOBO ALEMAN.
L. BORREGO.

Most excellent sir, president of the marine court of this naval station :

MOST EXCELLENT SIR : Mr. Jacob Aleman y Gonzalez, lieutenant of a ship of the line of the 1st class, and commandant of the national schooner of war Andaluza, for himself and in representation of his subordinates on board said vessel, sets forth—

That the arms and other munitions of war deposited in the general storehouse of this arsenal, which were captured by this vessel on the American brig Mary Lowell, which capture was declared good in all its points and consequences, by the most excellent court of which your excellency is the worthy president, in sentence of the 13th of April last, are being perceptibly damaged, and this being provided for, even if the case had not been decided by the 4th law, 8th title, 6th book, in article No. 50 of the existing law relating to cruisers, which I copy literally : "In case that it should become necessary to sell any goods on account of its being impossible to preserve them, the sale shall be made in the presence of the captured captain, at public auction, with the usual formalities, and with the assistance of the clerk of the sale, placing the proceeds in the hands of a responsible person, to be delivered to whom they might belong, after the sentence of the prize."

He begs that your excellency will be pleased to concede him the authorization for the sale of the said arms and munitions of war, designating the person or banking establishment with which the proceeds of the said sale are to be deposited ; a favor which he hopes to merit from the goodness and rectitude of your excellency, whose life may God preserve for many years.

On board the schooner Andaluza, arsenal, Havana, May 1, 1869.

JACOBO ALEMAN.

Order.

HAVANA, May 5, 1869.

Direct an official letter to the commandant of artillery, in order that he may appoint two officers of that branch of service, that they may proceed to examine the arms and munitions of war referred to in the foregoing petition, and report whether they are damaged, and whether the damage will continue on account of the place of deposit.

MALCAMPO.

L. PLACIDO M. BORREGO.

NOTE.—The official letter prescribed by the foregoing order directed to the commandant of artillery, was written on one sheet of the fourth official stamp, which I delivered to the messenger, Mr. Manuel Padilla, for its dispatch.

HAVANA, May 7, of said year. [A rubric.]

On the same day and year the messenger, Mr. Manuel Padilla, stated before me that he had gone to the arsenal of this city and had delivered the official communication he carried to an orderly of the commandant of artillery of the navy. I certify.

PADILLA.

L. BORREGO.

Adolfo Navarrete y Escudero, lieutenant of a ship of the line of the royal fleet, and first adjutant secretary of the general commandants office, &c., &c.

I certify that among the documents on file in the archives of this office under my charge, the following communications are to be found :

HAVANA, April 25, 1869.

SIR : I have the honor to inform your excellency that Captain McCrai, of her Majesty's ship Favorite, showed me a dispatch yesterday, addressed him by your excellency, respecting the cargo of the Mary Lowell,¹ I believe it respectful on my part to acknowledge receipt of your excellency's courteous communication to me on the matter, through his excellency, who I requested, on the 15th instant, to be so good as to thank your excellency for me for your politeness in sending it to me. I take the liberty, therefore, of sending a copy of my said dispatch

¹ "Habiendo con su excelencia el Capitan-General en este asunto." I cannot make sense of this.—TRANSLATOR.

to his excellency the Captain General, and also copy of an extract from another dispatch sent to his excellency on the 22d instant, in relation to the same affair.

I have the honor to be, with the greatest respect, your excellency's very obedient and humble servant,

ALEX. GRAHAM DUNLOP,
Consul General of Her Britannic Majesty.

His excellency Admiral MALCAMPO.

I certify that the foregoing is a correct translation.

RODRIGO TAORIA.

HAVANA, *April 27, 1869.*

Mr. Dunlop to the Captain General.

HAVANA, *April 15, 1869.*

MOST EXCELLENT SIR: I had the honor yesterday to receive a communication from General Malcampo, which contained a very voluminous document, designated as a decision in the case of the American brig Mary Lowell, recently captured in English waters by the Spanish gunboat Andaluza. Referring to the said document, I found it therein established that the Spanish judge or court has delivered the opinion that the Mary Lowell is a legally-made Spanish prize; and further, that the proofs sent here by his excellency Governor Walker have been completely ignored and set aside. As I have already had the honor to correspond with your excellency in relation to this matter, I would respectfully say that I do not desire to continue *todo so**; but I beg your excellency to thank General Malcampo for the trouble which he has taken in communicating to me these documents, which I shall not fail to send to my government by the first mail steamer. Meanwhile, in the lack of special instructions with regard to the case from my superiors, my simple consular duty is to lose no time in emphatically reiterating to your excellency the formal and official protest incorporated in the dispatch to me from Governor Walker, of the Bahama Islands, which extract I transcribed to your excellency in my dispatch dated March 24, in which Governor Walker complains, and asserts that the Mary Lowell was illegally captured by force in British waters, with an English revenue officer on board, and her hatches officially sealed, the papers and other documents of the vessel then being in the custody of the royal custom-house of Ragged Island. I have nothing to do with the reasons or causes which influenced the opinions of the judge, and therefore I do not claim to make any observations to him; but respectfully referring your excellency to the two notes which I had the honor to send you on the 24th and 27th of March, and avoiding all allusion to the justice or injustice of these opinions, I should not perform my duty if I did not insist particularly on your reconsidering the report and the assertions contained in the said communications from Governor Walker with respect to the Mary Lowell. As such questions are not new to me, and as I am sure that your excellency will recognize the difficulty of the situation, (the Mary Lowell being an American vessel,) and likewise certain that you will aid me in doing what is just, I propose that General Malcampo do me the favor to allow me to receive copies of the entries in the log-book of the Andaluza with regard to her exact position when she captured the Mary Lowell, and likewise all the particulars of the case as they are stated in the proceedings, without any regard whatever to the opinion of the judge, to the end that I may be able to answer questions which will, as a matter of course, be asked by my superiors. With the utmost respect to your excellency and to General Malcampo, I venture to make this request; but as this note is an emphatic protest against the action of the Andaluza toward the Mary Lowell, I am convinced that your excellency will see that my duty is clearly defined, and that I am right in fulfilling it, in order to reserve the rights of my government, whatever course it may see fit to adopt.

I have, &c., &c.,

ALEX. GRAHAM DUNLOP.

I certify that the foregoing is a faithful and correct translation of the English original, which I have rubricated.

In testimony whereof I affix my signature below at Havana, on the 27th day of April, 1869.

RODRIGO TAORIA.

* The words in the Spanish document, from which this translation is made, which are here translated, "I would respectfully say that I do not desire to continue to do so," present, in reality, no sense, having evidently been copied wrong. The words above given seem to furnish the most obvious meaning.—TRANSLATOR.

Mr. Dunlop to the Captain General.

[Extract.]

HAVANA, *April 22, 1869.*

I have received no reply from your excellency to my communication of the 15th instant, in relation to the American brig *Mary Lowell*, in which I had the honor to reiterate to your excellency the official protest of Governor Walker against the capture of said vessel, and also to address a respectful request, through your excellency, to Admiral Malcampo in relation to certain documents.

A. GRAHAM DUNLOP.

I certify that the foregoing translation agrees with its original in English, which I have rubricated.

HAVANA, *April 27, 1869.*

RODRIGO TAORIA.

And in obedience to the orders of the brigadier general in command of this apostadero, I issue the present in Havana, on the 7th day of May, 1869.

ADOLFO NAVARRETE.

Examined and found correct.

JOSÉ MALCAMPO.

List of the articles and munitions of war found on board of the brig Mary Lowell, captured by the war schooner Andaluza.

Three rammers, encased in wool; 3 needles, diamond points; 3 needles, gimlet point; 7 barriquetas, with clasps or buckles; 42 bridle-reins; 21 round brushes for grooming horses; 1 swing bar; 5 complete ball molds; 40 pistol-bullet molds; 3 leather bags; 60 solid balls; 42 horse-collars; 2,761 straps, with buckles; 37 Spencer rifles; 2,738 cartridge-boxes; 160 short carbines, Remington's make; 278,828 charges for Remington, Spencer, and Minnie rifles; 840 Remington rifles; 5 gun-carriages; 3 cannons; 13 shot-boxes; 970 flannel cartridges; 500 canteens; 61 instruments for unscrewing the tubes of percussion locks; 42 stirrups; 94 fuses; 7 supports for carts; 5,000 quick matches; 186 bridles; 21 bands, with clasps; 136 revolver cases; 1 furgon; 1,700 Minnie rifles; 80 boxes containing percussion caps; 100,000 ditto for Minnie rifles; 14 sets of mule harness for the animals attached to each side of the pole of the wagon; 28 ditto for the leading mules; 860 shells, discharged; 3 axes; 6 cart-poles; 21 large leather bags; 149 sets of cavalry trappings; 98 gray woolen blankets; 100 cutlasses; 1,889 boxes for carrying percussion caps; 10 barrels of powder; 1 platform for artillery; 2 pickaxes with handles; 1 ditto without handle; 3 house lines with toggles; 6 crow-bars; 7 jars for powder; 28 wheels for gun-carriages and ammunition carts; 21 scrapers; 130 Colt's revolvers; 42 outer collars; 2 sabers for officers; 31 bags of salt in lumps; 2 lynchpins for furgons; 50 sabers for boarding vessels; 1 worm for extracting charges from canons; 64 straps; 40 double ditto; 1 mold for balls; 40 traces, with buckles, for drawing artillery; 2,346 bayonet scabbards; 6 violins; 3 leather buckets.

HAVANA ARSENAL, *April 24, 1869.*

A copy.

JOSÉ AGASINO.

OFFICE OF THE COMMANDING GENERAL OF THE APOSTADERO OF HAVANA.

To the end that it may be used for all proper purposes in the proceedings relating to the capture of the American brig *Mary Lowell*, I herewith send you a certified copy of a communication received from the English consul, together with documents to which said communication refers, as likewise an account of the cargo found on board of said vessel. May God preserve you many years.

Havana, May 7, 1869.

JOSÉ MALCAMPO.

The JUDGE OF THIS APOSTADERO.

HAVANA, *May 8, 1869.*

Let the above-mentioned official communication, together with the documents accompanying it, be placed with the papers of a like nature, for such purposes as may be proper.

AGUILAR.

LDO. P. BORREGO.

Don Jacobo Aleman y Gonzalez, naval lieutenant of the first class, and commander of the national war-schooner *Andaluza*, says as follows: I give full and general power to

S. Ex. Doc. 108—7

the army captain and lieutenant of marines, Don José Rico y Crucidas (Cruceiras?) to represent my person and right in all that relates to the seizure of the artillery, arms, and munitions of war which were captured on board of the American brig *Mary Lowell*, and he may in my name, and in that of my subordinates on board of this vessel on the 15th day of May, 1869, dispose of or sell the whole or any part of the arms, implements, and other munitions, which form the whole quantity seized, making the sale in such manner as may be ordered by the marine court of this apostadero, or the authorities having jurisdiction in this case, and he may also receive such sums as may be produced by the sale, which he shall deposit in such places as may be designated.

In testimony whereof I issue the present in the Bay of Havana, May 8, 1869.

The commander,

JACOBO ALEMAN Y GONZALEZ.

Examined and found correct.

FEDERICO DE MARTINEZ.

Don José Rico Cruceiras, captain in the army, lieutenant of marines, in consequence of the proceedings instituted in relation to the capture of the American brig *Mary Lowell* and cargo, in the manner most conformable to law, doth say: The naval lieutenant of the first class, and commander of the national war schooner *Andaluza*, Don Jacobo Aleman y Gonzalez, has deputed me to represent him in said case, as is shown by the annexed document, which I hereunto join, in due form, for all necessary purposes. I beg you to be pleased, considering said document as having been presented, to order it to be placed with its antecedents, and to consider me as a party in the name of Aleman y Gonzalez, and to make due arrangements with me in matters relating to the case, as the attorney of said Aleman y Gonzalez.

JOSÉ RICO Y CRUCEIRAS.

HAVANA, May 8, 1869.

HAVANA, May 8, 1869.

The accompanying document having been presented, let it be placed with the other papers in the case, and let the army captain and lieutenant of marines, Don José Rico Cruceiras be considered as a party in this case, representing Don Jacobo Aleman y Gonzalez, commander of the national schooner *Andaluza*.

MALCAMPO.

AGUILAR.

L. PLACIDO M. BORREGO.

STAFF OF ARTILLERY OF THE FLEET.

In obedience to the direction which you were pleased to give in your marginal order of the annexed official communication, in which you order an examination and inspection of the arms and other munitions of war which formed the cargo of the American brig *Mary Lowell*, the undersigned officers have visited the general storehouse of this arsenal, where the said arms and munitions of war are deposited. An inspection of the same has shown the arms to have become rusty, and the leather, the mule harness, and artillery utensils to have been injured by the dampness, and it should be remembered that if these articles be kept packed as they now are their condition will become so impaired that they will be useless.

In testimony whereof they sign the present at the arsenal of Havana, May 10, 1869.

MIGUEL BELLON,

Captain of the Park.

BERNARDINO DEL SOLAR,

Lieutenant.

A copy.

FEDERICO SANTALÓ,

Lieutenant Colonel.

In obedience to the orders which you were pleased to give me in your official communication of the 7th instant, referring to the war material which was found on board of the American brig *Mary Lowell*, captured by the war schooner *Andaluza*, and is deposited in the general storehouse of the arsenal of this place, I appointed a commission composed of the captain of the park, and Lieutenant Bernardino del Solar, to the end that, making a careful examination of these articles, they might report to me their present condition, and inform me whether the manner in which they are now kept will affect their preservation. This examination having been made, I have the honor to send you a copy of the report made to me by the aforesaid officers, and I would add that I share the opinion expressed in the same. May God preserve you many years.

Havana May 10, 1869.

FEDERICO SANTALÓ,

Lieutenant Colonel.

The COMMANDING GENERAL of the *Apostadero*.

ORDER.

HAVANA, *May 12, 1869.*

Let the foregoing official communication and the report of the examination made by the experts be placed with their antecedents, and let notice be given to the commander of artillery of this port, to the end that he may be pleased to order that an appraisalment of the stored arms and munitions be made, and that a report be made of the result by the same experts, (or by others who may be designated,) together with those who may be appointed by the representative of the captors, and let said representative be informed of this order.

J. MALCAMPO.

AQUILAR.

L. PLACIDO M. BORREGO.

EXECUTION.

In Havana, on the 13th day of May, of the year aforesaid, I visited the arsenal of this place for the purpose of notifying the lieutenant of marines, Don José M. Rico, of the foregoing order, and was informed that he was not there.

L. BORREGO.

On the 14th of May of the same year I visited the arsenal of this place, and having there met the army captain and lieutenant of marines, Don José M. Rico, the representative of Don Jacobo Aleman, commander of the war schooner Andaluza, I notified him of the foregoing order by reading it to him in full, and furnishing him with a copy of the same. He then replied that he would appoint no experts for the appraisalment of the articles in question, being satisfied with whomsoever the commander of artillery should select, adding that he would be satisfied with the appraisalment which they should make; he told me to give this as his reply, which he signed in my presence. To this I certify.

JOSE M. RICO.

L. BORREGO.

NOTE.

The communication referred to in the foregoing order was copied on a sheet of stamped paper of the fourth class, for the commander of artillery of this apostadero, (or port,) and I delivered it to the alguacil, Don Manuel Padilla, to be given to him.

HAVANA, 19th of the same month and year.

On the same day the alguacil, Don Manuel Padilla, said before me that he had delivered in the arsenal of this place, the residence of the commander of artillery of this port, the communication above referred, to which I certify.

PADILLA.

L. BORREGO.

STAFF OF ARTILLERY OF THE FLEET, OFFICE OF THE COMMANDING GENERAL OF THE APOSTADERO OF HAVANA.

Statement of the value of the war material belonging to the American brig Mary Lowell, captured by the war schooner Andaluza.

- 3 rammers, encased in wool, at 6 escudos* each.
- 3 needles, diamond points, at $\frac{1}{2}$ escudo each.
- 3 needles, gimlet points, at $\frac{1}{2}$ escudo each.
- 7 barriquetas, with buckles, at 4 escudos each.
- 42 bridle-reins, at 2 escudos each.
- 21 round brushes for grooming horses, at $\frac{1}{2}$ escudo each.
- 1 swing-bar, 6 escudos.
- 5 complete ball-molds, at 8 escudos each.
- 40 pistol bullet-molds, at 2 escudos each.
- 3 leather bags, at 4 escudos each.
- 60 solid balls, at 2 escudos each.
- 42 collars for horses, at 6 escudos each.
- 2,761 straps, with buckles, at 1 escudo each.
- 37 Spencer rifles, at 36 escudos each.
- 2,738 cartridge-boxes, at 4 escudos each.
- 160 short carbines, Remington's make, at 22 escudos each.
- 278,828 charges for Remington, Spencer, and Minie rifles, 80 escudos per thousand.

* There are escudos of different values. The gold escudo equals \$2. The silver escudo equals \$1. But there is an imaginary escudo worth 50 cents, which is the one meant by the Spaniards of Cuba in using this word.

- 840 Remington rifles, at 26 escudos each.
 5 gun carriages, at 1,000 escudos each.
 3 cannons, at 600 escudos each.
 13 shot-boxes, at 200 escudos each.
 970 flannel cartridges, at 2-5 escudo each.
 500 canteens, at 2 escudos each.
 61 instruments for unscrewing the tubes of percussion locks, at 1 escudo each.
 42 stirrups, at 2 escudos each.
 94 fuses, at 2 escudos per package.
 7 supports for carts, at 160 escudos each.
 5,000 quick matches, at 40 escudos per thousand.
 186 bridles, at 16 escudos each.
 21 bands, with clasps, at 1 escudo each.
 136 revolver cases, at 2 escudos each.
 1 furgon, at 100 escudos.
 1,700 Minie rifles, at 12 escudos each.
 80 boxes of percussion caps, at 2 escudos each.
 100,000 boxes of percussion caps, for Minie rifles, at 2½ escudos per thousand.
 14 sets of mule harness, for the animals attached to each side of the pole of the wagon, at 68 escudos each.
 28 sets of mule harness, for the leading mules, at 5 escudos each.
 860 discharged shells, at 2 escudos each.
 3 axes, at 3 escudos each.
 6 cart-poles, at 30 escudos each.
 21 large leather bags, at 8 escudos each.
 149 sets of cavalry trappings, at 20 escudos each.
 98 gray woolen blankets, at 4 escudos each.
 100 cutlases, at 6 escudos each.
 1,889 boxes for carrying percussion caps, at ½ escudo each.
 10 barrels of powder, at 9-10 escudo per kilogram.
 1 platform for artillery, at 160 escudos.
 2 pickaxes, with handles, at 6 escudos each.
 1 pickaxe, without handle, at 5 escudos.
 3 hawse lines, with toggles, at ½ escudo each.
 3 crowbars, at 4 escudos each.
 7 jars for powder, at 34 escudos each.
 28 wheels for gun-carriages and ammunition carts, at 80 escudos each.
 21 scrapers, at 1 escudo each.
 130 Colt's revolvers, at 6 escudos each.
 42 outer collars, at 40 escudos each.
 2 sabers, for officers, at 10 escudos each.
 31 sacks of salt, at — escudos each.
 2 lynchpins, for furgons, 4 escudos each.
 50 sabers, for boarding vessels, at 8 escudos each.
 1 worm for extracting charges from cannons, at 4 escudos.
 74 straps, at 8 escudos each.
 14 double straps, at 8 escudos each.
 1 mold for balls, at 160 escudos.
 14 traces, with buckles, for drawing artillery, at 2 escudos each.
 2,346 bayonet scabbards, at ½ escudo each.
 6 violins, at 10 escudos each.
 3 leather buckets, at 3 escudos each.

MIGUEL BELLON, *Captain.*
 BERNARDINO DEL SOLAR, *Lieutenant.*

ARSENAL OF HAVANA, June 1, 1869.

A copy:

FEDERICO SANTALÓ,
Lieutenant Colonel.

STAFF OF ARTILLERY OF THE FLEET, COMMANDANCY OF THE APOSTADERO OF HAVANA.—
OFFICIAL NO. 131.

Having received your communication of the 19th of May last, with regard to the appraisalment of the arms and munitions of the American brig *Mary Lowell*, captured by the war schooner *Andaluza*, I have the honor herewith to send you a copy of the statement of the value of said articles, according to the order given me in your communication aforesaid. May God preserve you many years.

HAVANA, June 7, 1869.

FEDERICO SANTALÓ,
Lieutenant Colonel.

The COMMANDING GENERAL of the *Apostadero*.

ORDER.

HAVANA, June 12, 1869.

Let the foregoing official communication, with the accompanying statement of the value of the articles, be placed with the orders. Let the statement be ratified by the experts who made it, they appearing in the study of the judge on such day and at such hour as they may appoint with the clerk of the court. Let the commander of naval artillery be notified, to the end that he may be pleased to order the powder contained in the ten barrels mentioned to be weighed, so that the number of kilograms may be known.

MALCAMPO.
AGUILAR.
L. PLACIDO BORREGO.

NOTE.

The official communication which precedes the foregoing order to the commander of naval artillery of this port was dispatched, and I delivered it to the alguacil, Don Manuel Padilla, to be delivered to him.

HAVANA, same date as above.

EXECUTION OF ORDER.

On the same day appeared before me the alguacil, Don Manuel Padilla, and said that he had delivered at the office of the commander of naval artillery of the port, (apostadero,) the official communication referred to in the note on the other side, to which I certify.

L. BORREGO.
PADILLA.

ANOTHER.

On the same day I visited the royal arsenal, and Don Miguel Bellon being present, I notified him of the order on the other side, and he signed it, to which I certify.

MIGUEL BELLON.
ACOSTA.

ANOTHER.

On the same day I gave information thereof to Don Bernardino del Solar, to which I certify.

BERNARDINO DEL SOLAR.
ACOSTA.

STAFF OF ARTILLERY OF THE FLEET, OFFICE OF COMMANDING GENERAL OF THE APOSTADERO OF HAVANA.—OFFICIAL NO. 138.

HAVANA, June 17, 1869.

In obedience to your superior order of the 12th instant, which becomes a part of the expediente * in the case of the brig Mary Lowell, captured by the war schooner Andaluza, I have ordered the ten barrels of powder found on board of said Mary Lowell to be weighed. This has been done, and each one has been found to contain fifty kilograms of the said material.

Which I have the honor to state to you, in reply to your official communication aforesaid. May God preserve you many years.

HAVANA, June 15, 1869.

FEDERICO SANTALÓ,
Lieutenant Colonel.

The COMMANDING GENERAL of the Apostadero.

To the judge.

MALCAMPO.
L. PLACIDO BORREGO.

DECREE.

HAVANA, June 19, 1869.

Let the foregoing communication of the commander of naval artillery be joined with the papers to which it belongs; let that part of the order of the 12th instant which has not been obeyed now be obeyed, and considering that among the articles found on board of the brig Mary Lowell there are thirty-one bags of coarse salt; Don Juan Francisco Tabernillas and Don Miguel Ochoa, experts in this branch, are appointed to

* *Expediente*: Judicial proceedings, proces-verbal; all the papers relating to a case.

fix the just price of the same, and they will be informed of the appointment, for their acceptance, and for the performance of the duties confided to them.

MALCAMPO.
AGUILAR.
L. PLACIDO BORREGO.

NOTE.

The commanding general has not yet signed the foregoing order (anto) on account of being at sea.

HAVANA, *June 28*, of the said year.

EXECUTION.

In Havana, on the 30th of the same month and year, I went to the store of Don Miguel Ochoa, and he being present, and I having informed him of the appointment contained in the foregoing order, he said that he accepted it, and he did accept, swearing that he would perform his duties well and faithfully, to the best of his ability and knowledge. To which I certify.

MIGUEL OCHOA.
ACOSTA.

ANOTHER.

In Havana, on the 1st day of July, of the said year, I went to the store of Don Juan Francisco Tabernillas, and having informed him of his appointment, made by the foregoing order, he said that he accepted it, and he did accept, swearing that he would perform the duties thereof faithfully and well to the best of his knowledge and ability. This he said and signed; which I attest.

JUAN FRANCISCO DE TABERNILLAS.
ACOSTA.

RATIFICATION OF DON MIGUEL BELLON.

In Havana, on the 13th day of July, 1869, before the judge (auditor) appeared Don Miguel Bellon, captain of the staff of artillery of the fleet, who made oath that he acted according to orders, and having seen the valuation of the arms and war material of the American brig *Mary Lowell*, he ratified it in all its parts, and declared under oath that what he then stated was true. He read the document, declared that it was correctly and faithfully written, and signed. To which I certify.

TRAVIESO.
MIGUEL BELLON.

Before me,

CARLOS DE ACOSTA.

ANOTHER, OF DON BERNARDINO DEL SOLAR.

In Havana, on the 13th of July, 1869, before the judge (auditor) appeared Don Bernardino del Solar, lieutenant of naval artillery, who made oath that he acted according to orders, and having seen the evaluation of the arms and war material of the American brig *Mary Lowell*, which he made together with Don Miguel Bellon, and which bears the date of June 1, 1869, he ratified it in all its parts, and declared under oath that what he then stated was true; he read the document, declared that it was correctly and faithfully written and signed; to which I certify.

TRAVIESO.
BERNARDINO DEL SOLAR.

Before me,

CARLOS ACOSTA.

OFFICE OF THE COMMANDING GENERAL OF THE APOSTADERO OF HAVANA.

His excellency the vice-president of the board of admiralty sends me, under date of the 13th of last month, the following order: "In order to give the capture of the *Mary Lowell* a definite sentence and character, since it must still be the object of a second investigation, and in order that the minister of state may, after the confirmation of the sentence of the Havana court, know what course he must take in the matter of the claims to which this capture gives rise on the part of some foreign governments, it becomes necessary for you to send with all speed, and without losing a mail, all the originals of the papers relating to the said capture of the *Mary Lowell* to this superior authority, or, in lack thereof, certified copies of the same, taking care that they be complete. This order I give you that it may be most strictly fulfilled." And I trans-

mit it to you that it may be fulfilled by the court. May God preserve you many years.

HAVANA, August 6, 1869.

JOSÉ MALCAMPO.

The JUDGE (AUDITOR) of the *Apostadero*.

ORDER.

HAVANA, August 7, 1869.

Let the order given by his excellency the vice-president of the board of admiralty on the 13th of the month last past, which order appears transcribed in the foregoing official communication, be kept, fulfilled, and performed. Let it be placed with its antecedents, and let all proper arrangements be made.

MALCAMPO.
TRAVIESO.
C. DE ACOSTA.

REPORT.

To the BRIGADIER GENERAL in command of the *apostadero* :

These proceedings having been examined with the scrupulous care demanded by the importance of the subject, as well as by his excellency the vice-president of the board of admiralty, in his communication transcribed in the official note of the 6th instant, to be found on folio 135, and the manner of proceeding to be adopted from the beginning having been considered, as likewise the state in which the matter now is, the judge thinks that, in order to fulfill the said superior order as far as possible and practicable, it is proper, firstly, that the appraisers proceed immediately to estimate the thirty-one bags of salt in grain which was found on board the *Mary Lowell* when she was seized, for the which duty they were commissioned by decree of the 9th of July last. Secondly, that afterward, without interfering with the foregoing requirement, you will proceed to make an exact copy of all the writ, and formally certified to by the notary, for remittance to the vice-president of admiralty, as was decreed. Thirdly and lastly, that you will by the first mail inform his excellency of the idea intended in the accomplishment of his orders, as also the measures of which this speaks. In this manner you may grant or resolve whatever you may judge most proper.

HAVANA, August 13, 1869.

JOSÉ MARCELINO TRAVIESO Y JIMENEZ.

DECREE.

HAVANA, August 13, 1869.

I am conformable to the foregoing suggestion, and let it be carried out.

MALCAMPO.
CARLOS DE ACOSTA.

EXECUTION.

In Havana, on the same day, month, and year, I awaited upon Francisco Tabernillas, at his store, who, being present, I notified him by reading and giving him a copy of the foregoing decree, instructing him of the opinion of the auditor as to the part referring to him, to which I certify.

JUAN FRANCISCO DE TABERNILLAS.
ACOSTA.

EXECUTION.

In Havana, on the same day, month, and year, I notified Miguel Ochoa, present in his store, by reading and giving him copy of foregoing decree, instructing him of the opinion of the auditor as to the part referring to him therein, to which I certify.

MIGUEL DE OCHOA.
ACOSTA.

NOTE.

On a sheet of office paper, fourth-class seal, the communication referred to in the foregoing writ was respectfully dispatched to his excellency the vice-president of admiralty, inserting therein the opinion of the auditor, to which said decree devolved.

HAVANA, 14th day of same month and year.

[Signature of the notary.]

EXECUTION.

On the same day, month, and year, I mailed the document referred to in the preceding note, and certified to. I certify.

ACOSTA.

ANOTHER.

In Havana, 14th day of August, 1869, personally appeared before me, Juan Francisco Tabernillas and Miguel Ochoa, appraisers named for the estimating the value of thirty-one bags of salt found among other things on board the American brig *Mary Lowell*, seized by the national war schooner *Andaluza*, and said: That they had been to the arsenal and surveyed the thirty-one baskets of salt in grain which are deposited there, belonging to the cargo of the *Mary Lowell*, which they calculated to contain five arrobas each one, and that according to the best of their knowledge and ability, guided by their experience and practice in the traffic of this and other similar articles, they believe each one of said baskets is worth seventy-five cents, or one and one-half escudo in silver. This they asked to be noted as the result of the appraisement which had been intrusted to them, and signed this before me, and to which I certify.

JUAN FRANCISCO TABERNILLAS.
MIGUEL OCHOA.
CARLOS DE ACOSTA.

EXECUTION.

On the 16th of the same month and year I transferred the writ to the office of the auditor, to which I certify.

ACOSTA.

HAVANA, August 18, 1869.

Let the foregoing executions practiced be ratified, under oath, by the appraiser that signed them, appearing immediately after being notified, at the office of the auditor; and let the attesting of the writ be proceeded with according to and in the terms as before ordered.

MALCAMPO.
TRAVIESO.
CARLOS DE ACOSTA.

NOTE.

Although the preceding order bears date of 18th, it was not signed until the last moment to-day, by the brigadier general commanding the naval station.

HAVANA, 20th of the same month and year.

[Rubric.]

EXECUTION.

On the same day, month, and year I went to the store of Miguel Ochoa, and being there present, I notified him of the foregoing writ by the reading of and copy of same. I certify.

MIGUEL OCHOA.
ACOSTA.

ANOTHER.

On the same day, month, and year I went to the store of Juan F'co Tabernillas, and being there present, I notified him of said writ by the reading of and copy of same. I certify.

JUAN F'CO TABERNILLAS.
ACOSTA.

RATIFICATION OF JUAN F'CO TABERNILLAS.

In the city of Havana, August 20, 1869, personally appeared before the auditor magistrate of the naval station, Juan F'co Tabernillas, and said that he was born in the province of Santander, in this vicinity and community, of age, and married, who, put under oath as prescribed by law, offered to swear to the truth, and who having read and understood well the contents of writ on folio one hundred and thirty-nine, said that he ratifies every word contained in said writ, to which he has nothing to add or take off, and that the signature at the foot is his own handwriting and for such is responsible. And he further declares his statement to be the truth under oath; the above was read to him, and in conformity signed same together with the auditor, before me, to which I certify.

TRAVIESO.
JUAN F'CO TABERNILLAS.

Before me,

CARLOS DE ACOSTA.

ANOTHER OF MIGUEL OCHOA.

In the ever faithful city of Havana, August 20, 1869, personally appeared before the auditor magistrate of the naval station, Miguel Ochoa, and said he was a native of Santander, of this vicinity and community, married, and of age, who, put on oath as prescribed by law, offered to swear to the truth, and who having been shown and read the writ on folio 139 to his entire satisfaction, said that he ratifies said writ in all its parts, and that he has nothing to add to or take off from it, that the signature at the foot is in his own handwriting, and for such is responsible, as the same he subscribed to on the 14th instant, for which purpose he had appeared in the office of the notary. He further declares that under oath his statement to be the truth. The above was read to him, which, in conformity, he signed, together with the auditor, before me, to which I certify.

TRAVIESO.
MIGUEL OCHOA.
CARLOS DE ACOSTA.

DECREE.

HAVANA, August 21, 1869.

Having seen the aforesaid ratifications fulfilled as per writ or decree of the 18th of the present month, let the rest be immediately executed in regard to the attesting and remittance of a certified copy of the writ.

MALCAMPO.
TRAVIESO.
CARLOS DE ACOSTA.

NOTICE.

To the Brigadier General Commandant :

Having terminated the certificates or attesting that you saw fit to have taken from this office, in your decree of the 13th of the present month, and in accordance with the preceding, I render account that you may determine what you judge proper.

HAVANA, August 26, 1869.

CARLOS DE ACOSTA.

DECREE.

HAVANA, August 26, 1869.

The writs being clear and approved be it decreed that, in virtue of the notice from the notary, and considering all other requirements that this cause may give rise to, the court, with the attesting of the same completely terminated, has sufficient, bearing in mind besides that for the purposes referred to in the superior decree on folio 135, the presenting of the original is much more efficacious where facts that have taken place during the course of a cause may be seen and examined with distinctness and greater clearness; and considering, finally, that having terminated altogether the measures required for judgment up to the pronouncing of the sentence or decision, it has not been nor is it possible to conclude what corresponds to it, owing to questions that may arise out of it as a necessary inference, let the decree be carried into effect, understanding that the remittance of the original should be made, notwithstanding the anterior order, which by this decree is changed, out of greater respect for the superior authority, which, with the notice that precedes, shall be filed with the testimony already referred to.

MALCAMPO.
TRAVIESO.
CARLOS DE ACOSTA.

NOTE.

In order to give execution to the foregoing decree I have attested at the continuation of the testimony of this writ that they remain in the office of the notary of this station, referring to the decree and notice of the same notary, on whom it devolves.

HAVANA, 27th of the same month and year.

[Rubric.]

OFFICE OF THE COMMANDING GENERAL OF MARINE
OF THE NAVAL STATION, HAVANA.

The vice-president of admiralty informs me of that which I copy, under date of 1st December last: The writ made at that naval station, arising from the seizure of the American brig Mary Lowell, loaded with contraband of war, by the war schooner Andaluza, on the 15th day of March last, having passed for the information of the counsel of state, said high body agreed to the following:

YOUR EXCELLENCY: The counsel has examined the writ originating from the seiz-

ure of the American brig *Mary Lowell*, captured by the Spanish war schooner *Andaluza* on the 15th day of March last, and fulfilling the wishes of your excellency, in an order of 27th of September last to me, by which said writ should be remitted to it, let it be transmitted to inform your excellency of that which, in their judgment, might be resolved at the present time on the subject. From the antecedents it results that the marine authorities of the Island of Cuba, having received news and assurances of the landing of arms and material of war for the insurgents was being attempted on their coast, the commanders of the steamer *Blasco de Garay* and the schooner *Africa*, commissioned for that purpose, went to *Ragged Island*, and there had occasion to find out that the brig *Henry Burden*, loaded with Cubans, and the brig *Mary Lowell*, with arms and munitions of war, had arrived at that port. That in consequence of this the schooner *Andaluza* was dispatched to said place for the purpose of capturing the *Mary Lowell* just as soon as she would be out of the waters under English jurisdiction. That said vessel, having got under way from said port on said 15th day of March, at 10 o'clock in the morning, under pretext of changing its anchorage, the schooner *Andaluza* followed her movements, and that at 1 o'clock in the afternoon a Peruvian monitor was seen in the distance, and the brig being pursued was making an inward tack and navigating toward her. She being then on the high sea and already in free waters the *Andaluza* intimated to her to surrender, and boarded and captured her, finding on board a number of arms in the cabin and gun-carriages on deck. Having raised the summary of information according to the regulations, it appears that the captured brig had no captain on board, nor any papers that would give her true nationality, although before the capture she had raised the American flag; that according to the depositions of the commander, officers, and crew of the schooner *Andaluza*, conformable with the notes made on her log-book table, she was more than six miles from shore; that the sailors of the *Mary Lowell* made their declarations in the summary and differ in their statement as to the distance, two of them stating it to be a mile and a half, one three miles, and the other between three and four; that a cockade was found on deck (folio 21) like those the insurgents in Cuba use, and that, according to the said sailors, were worn by some of the Cuban passengers on board; that according to the inventory of the articles found on board, the *Mary Lowell* only had charts for navigating to the Island of Cuba and to Florida, (folio 60;) and finally, that her cargo consisted (folio 118) of arms and material of war, such as projectiles, carbines, sabres, a number of belts, three cannons, and five gun-carriages. Having completed the summary without citing or hearing the captured parties in their defence, the junta of the naval station of Havana, by previous suggestion of auditor, decreed that the said vessel and her cargo was a good prize, and that the crew should be placed in liberty, because of their not being complicated in such a manner as to be liable to punishment. Up to this all the antecedents are successively noted down, and from which, however, there appears no document to have been found on board the *Mary Lowell*, so that it cannot be known exactly who is the owner of the vessel and cargo, and not even who was the captain; for the same reason, if the utility of this is shown in the writ, it is no less certain without that the proceeding is defective always, when the junta of the station should have summoned those who believed themselves legally entitled to said vessel and cargo, granting them sufficient time to appear and make up their defence. This routine is essential, because its omission would constitute a defect sufficient to make the whole proceedings null, and so indispensable that, for the reason that the nation of a captured party has the right in the exercise of its sovereignty to judge and decide as to the legality of a prize of war, it is more rigidly obligatory to observe the routine and forms as established, and more so that which refers to the defence, in order to illustrate the question by more additional data, and that the ultimate decision may carry with it more guarantee of impartiality and correctness. If you consider, besides, that the omission of this requirement might give foundation to an international claim question, it is one reason more why this case should be proceeded with as in others equal to it, in which it is very carefully procured to summon and concede sufficient time to the captured parties for presenting their exoneration and defence. In face of this the counsel cannot now anticipate its opinion as to the legality of the prize in question, but reserve it until the writ be properly prepared to that effect. In the meanwhile this suggestion, that the writ be returned to the commander general of the naval station in Havana, in order that the junta of prizes may issue the summons to the interested parties by an edict published in the gazette of the superior civil government of the Island of Cuba, conceding to them the necessary time to appear and become informed of the writ, and, if they appear, that they may be heard attentively; or if, on the other hand, they do not appear, then let it be submitted for the approval of the regent of the kingdom, first consulting in council, as the law requires, though your excellency can direct that which in your judgment may deem most proper. By agreement of the admiralty I transfer to you for returning the aforesaid summary, in order that, with all possible brevity, the summoning and other requirements which in the foregoing suggestions are advised may be made, it being necessary to return it again to this corporation for another consideration of the said council; and, including the

said writ alluded to, I transmit it to you through the principal court of this station for fulfillment, recommending the shortest possible brevity, in order that it may be returned to the executive authority with that dispatch that the urgency of this subject requires. May God preserve you many years.

HAVANA, *January 10, 1870.*

Auditor of the naval station,

JOSE MALCAMPO.

To the General Commanding the Naval Station :

Having pronounced sentence on the 12th of April last, (see folio 110,) the undersigned had no authority to alter, change, or modify it, much less to declare it null, for want of essential formalities. It was for that reason that nothing was manifested to you on this particular point, as inferred from the simple reading of your suggestion, (folio 137,) expressing the opinion that it belonged to a higher authority to manifest its opinion on that subject. Seen in this light, then, the auditor gives to understand that you should not only order the filing, approval, and execution of the letter written by the admiralty inserted in the preceding document, but immediately thereafter and without delay proceed through the junta of prizes to notify the parties interested in the captured vessel and cargo, as also the captain of the same, by means of edicts in legal form, and which will be published beside in the Gazette of Havana, to whom thirty days from the last publication will be given to appear at the office of the notary, and be informed of the writ in the customary manner, and having discharged the foregoing, together with a certificate of the result, return the writ to the council for its disposal. Such is my opinion, which you can approve or rectify, according to your judgment.

HAVANA, *January 10, 1870.*

JOSE MARCELINO TRAVIESO Y JIMENEZ.

COMMANDANT GENERAL OF MARINES, OFFICE OF THE NAVAL STATION OF HAVANA.

HAVANA, *January 18, 1870.*

In conformity with the preceding let a meeting of the junta of the station under my presidency be convened, in order to consider this subject before any other, attending the auditor and notary public of the principal court.

MALCAMPO.

OFFICE OF THE COMMANDING GENERAL OF MARINES OF NAVAL STATION AT HAVANA.

In the city of Havana, on the 20th day of January, 1870, the junta of the naval station assembled under the presidency of the commanding general, contra admiral of the armada José Malcampo y Mon, and composed of the following members: Captain Matea Gracia, audian in the navy, and commander of the arsenal; José Agasino, chief of the executive; Santiago Moreno, chief of the board of health; Manuel Girart, lieutenant in the navy and commander of the engineer corps; Enrique Santalo, lieutenant colonel and commander of artillery; Sigundo Vigodet, second-class commissary of marine; José Maria Antram y Montato, acting secretary, lieutenant in the navy and secretary of the commandant generals; also, José Marcelino Travieso y Jimenez, auditor of the station, and Placido Manuel Borigo, notary public of the commandant generals, considered, and agreed upon the following:

The president took the floor and manifested to the junta to its having been deputed for the purpose of considering the writ formed in consequence of the seizure of the American brig Mary Lowell, loaded with articles of war, by the national schooner Andaluza, on the 15th day of March, last year, and which this same tribunal declared a good prize on the 12th of April following. The secretary read the order of the admiralty noted in the proceeding, under date of the 6th of August of said last year, in which the transfer to higher authority was advised for the purpose of giving a character of definite to the decision, which was done by sending it through mail of the 15th of the following September. He also read another order from the admiralty under date of 1st of December last, returning said writ of proceedings in conformity with the resolution of the council of state, which high body is of the opinion that, on the part of the tribunal of prizes of the station or the junta of economy, the most essential requisite in cases of this nature was omitted, and that is the not having summoned, in the official journal of the high civil government of this island, those who accredited themselves with a right to the vessel and cargo, giving them sufficient time to form their defense before dictating the decree of the 12th of April, declaring it a good prize. At this stage, and it being then so indispensable a requisite that your decision is not only liable to be made null in reference to the past, but also to give rise to well founded motives for international claims; therefore, the tribunal being formed again let it agree to summons, through the official organ, any person who may consider themselves to have a right to the vessel and

to the cargo she carried, in order that they may appear to answer within the term that may be named; that when present they may be heard attentively, or in case they do not appear, let the same junta of prizes dictate a new resolution, which will be submitted, with a return of this writ to higher authority. Afterward the secretary read the deliberation of the auditor on the 12th of the present month, with reference to the following resolution, expressing the opinion that the process should be filed, noted, and executed without delay, not only by posting edicts in the legal form, summoning the parties interested in the captured vessel and cargo, but that also said edicts be published in the gazette of the capital, giving them the term of thirty days after the last announcement, to appear at the notary publics of the office of the commanding general, to inform themselves of the expedient in the customary way. The junta, advised of everything, agreed, unanimously, to carry out the resolution of the admiralty in accordance with the opinion expressed by the council of state, and approval of the auditor of the station present at the act, and with that proposed in his resolution united to the writ, that the posting of the edict in the customary way, as also the summoning in the official gazette in terms already expressed, be proceeded with immediately.

JOSE MALCAMPO.
 MATEA GRACIA.
 JOSE AGAEINUS.
 SANTIAGO MORENO.
 SEGUNDO VIGODET.
 FREDERICO SANTALOS.
 MANUEL GIRART.
 JOSE MARCELINO TRAVERIO.
 JOSE MARIA AUTRAM.

NOTE.

That on this date the summary raised by the seizure of the Mary Lowell by the Andaluza, with the resolution of the admiralty, and the act of the junta of prizes, dated 20th ultimo, was delivered by the secretary of the commandant general of the station in Havana, this 19th day of February, 1870.

[Rubricated.]

On the 21st of the same month and day, I notified the auditor, and delivered these writs into his possession. I certify.

PDO. BURREGO.

DECREE.

HAVANA, February 22, 1870.

Let the resolution of the junta of prizes at its meeting on the 20th of January last be archived and executed; therefore, by means of edicts as is customary, and inserting same in the Gazette of Havana, summons the parties interested in the vessel and cargo captured by the Andaluza, including the captain of same, who, within thirty days after the last edict and announcement shall appear at the office of the notary, to be informed of what had been done in regard to said prize. This done, report to whom it corresponds, with a certificate of what may be the result.

MALCAMPO TRAVIERRO.
 PLACEDO M. BORREGO.

NOTE.

That for the summons alluded to in the foregoing decree I have dispatched three edicts in the terms as stated.

HAVANA, 23d of same month and year.

[Rubricated.]

EXECUTION.

On the same day, month, and year I went to the old company of steamers' office in the bay and posted one of the edicts issued. I certify.

PDO. BORREGO.

ANOTHER.

On the same day, month, and year I went to the Tacon Market and posted another of the edicts issued. I certify.

PO. BORREGO.

ANOTHER.

On the same day, month, and year I went to the office of the Havana Gazette and delivered the remaining edict issued for publication in said periodical. I certify.

PDO. BORREGO.

I certify that there was published in the Havana Gazette of the days 5th, 6th, and 8th of March last, numbers 55, 56, and 57, the edict summoning the captain and other parties interested in the American brig Mary Lowell and her cargo, in conformity to disposition made in writ of 22d of February last, and that in answer to which no one has presented himself. In testimony thereof, I sign the present in Havana, April 12, 1870.

CARLOS DE ACOSTA.

NOTA.

That I annex, in continuation, an edict which this morning I took down from the wharf in the old company of steamers in the bay.

HAVANA, date as above.

[Rubric.]

EDICT.

José Malcampo y Mon, contra-admiral and commander general of marine at this naval station.

By the present edict I summons, convoke, and cite the captain and other interested parties in the American brig Mary Lowell and her cargo, captured by the war schooner Andaluza, to appear, within thirty days after the last edict and announcement, at the office of the head notary public of this station, under charge of Placido Maria Borrego, to be informed of what had taken place in consequence of said capture. That it is so ordered with the advice of the auditor-judge of the station in the writ drawn up on the subject of said seizure.

JOSÉ MALCAMPO.

HAVANA, *February* 23, 1870.

By order of his Excellency :

PDO. BORREGO.

HAVANA, *April* 2, 1870.

Revised, terminated, and disposed of by this court of admiralty, elevate this writ to the commanding general of the station, in order that he may convoke under his presidency the junta, constituted into a prize court, and proceed to new resolutions, which will be submitted to the regent of the land for his approbation after consulting with his council, as the law determines.

MALCAMPO TRAVERO.
CARLOS DE ACOSTA.

NOTE.

That, with the transmission of the writ to the office of the commanding general of the naval station, I respectfully discharged my duty, that they might be delivered to the secretary of the commanding general at his office.

HAVANA, date as above.

ACOSTA.

Most excellent JUNTA of the naval station, constituted into a prize court :

It is the duty of the auditor, on constituting you into a prize court, to inform you most minutely of the facts of the process, and conclude by counselling you what, according to law, you should prepare and order in the sentence or definitive decision. The undersigned would be gratified, and even honored, if he could discharge well so worthy as important a trust; but, considering that said duty has been already discharged with such luster by his predecessor (on folio 99) and the following with these writs; that the admiralty, in its resolution inserted in the order (folio 143) dated 10th of January of the present year, said nothing nor advised anything against him; that that aforesaid court was convened only for summoning the owner or owners of the captured vessel and of its respective cargo, that they may appear at the court, be summarily heard, and justice administered in the customary form; and, in conclusion, that, having complied with that order, no advancement was made, because no one had appeared in said court; considering that you understand that, by reading the aforesaid information on folio 99, you repeat what he leaves set forth, you ought to hold, and consider it as reproduced by the undersigned and as if inserted here in this place, letter for letter, he has nothing to add there to what is therein stated, not one single line or a dot should be added or taken off. The leading and material facts of the process are at this moment the same as existed on the 12th of April of last year—absolutely identical in circumstances. Neither have the captors of the brig Mary Lowell added or taken off anything from that which was then composed, nor much less have the captors added or taken off anything from same. Therefore, why augment the number of folios of this process with a new inquiry, excessively delaying; with what object or why weary this tribunal with repeating that which with perfect clearness and nicety is there found completely set forth?

The facts are to-day, as I have before said, the same as existed and would exist when

sentence was pronounced. This is undoubtable. The legal regulations on which that was founded not only have not been suppressed or derogated, but even not conceded in the hypothesis that it might be. The new one could not be of service in the present instance, on account of not having strength or retroactive power any sovereign ordinance. For which reasons the auditor concludes, first, by reproducing, as he does reproduce, the statement on folio 99, in order that, being ordered to be read, it may be considered in the present act; second, by counselling you that, in default of the owner or owners of the American brig *Mary Lowell* and her respective cargo, to proceed to pronouncing the sentence; third, that, in conclusion, that it being in conformity to the dictation of the before mentioned statement on folio 99, it should be submitted to the regent of the land for his approbation, after consultation in council according to law. Such are the statements of the undersigned, which he submits to the well known illustration of the gentlemen who compose this high tribunal, in order that [in order that] you may form your resolution, or determine what you may think best.

JOSE MARCELLINO TRAVERO Y JIMENEZ.

HAVANA, *April 23, 1870.*

OFFICE OF COMMANDING GENERAL OF MARINES OF THE NAVAL STATION AT HAVANA.

HAVANA, *April 23, 1870.*

Let the secretary convene the prize court for a meeting at 12 o'clock on 25th of present month, under my presidency, requesting the attendance of the auditor and the assistant notary public of the court at the act.

MALCAMPO.

In the city of Havana, on the 25th day of April, 1870, the prize court of the naval station assembled at the commandant general's, under the presidency of José Malcampo, the contra-admiral of the armada and commanding general, and composed of Gabriel Pitadaviéga, major general of the same and captain in the navy; Mateo García Anguan, of my grade, commander of the arsenal; José Agazil, first-class commissary and chief of executive; Santiago Moreno, chief of board of health; Enrique Santalo, lieutenant colonel of artillery of the armada; Eduardo Friendo, second engineer and commander of the corps; Seguendo Vigodet, second-class commissary; José Autran, first lieutenant in the navy and secretary of the commanding general; also assisting José Marcellino Travero, the auditor, and Carlos de Acosta, the assistant notary of the court. The proceedings commenced by the undersigned reading of the whole of the learned writ arising from the capture of the American brig *Mary Lowell* with a cargo of arms and materiel of war for the insurgents of this island, to which is added the resolution of the admiralty, together with that which was returned, for fulfillment of the requirements to which the same refers, and that given from the last discourse in writing and from the statement by the auditor, and that produced by the act from which the order of the high authority appears carried out; so that, notwithstanding the execution of said orders, the writ which the court is occupied with appears in the same situation and under the same circumstances as it did when the sentence was pronounced as in folio 110 and 112, inclusive. The tribunal being well informed of all, and after a deliberated discussion, resolved to confirm, as it does confirm, the aforesaid sentence of the 12th of April of last year in all its parts, based upon the same foundation and antecedents as it had then in view, for declaring the capture of the American brig *Mary Lowell* by the war schooner *Andaluza* on the evening of the 16th day of March of the same year a lawful prize, sentencing the captain of said vessel, and any others that may present themselves and allege their right to said vessel and her cargo, in default of appearance, notwithstanding the summons inserted in the official Gazette of this city on the 5th, 6th, and 8th of March last, and after having more than elapsed the stipulated time of thirty days, fixed for the appearance of any one who considered they had a right to said vessel and cargo. No one appeared to validate such right, and so it defines, also, in the writ, with a certificate of the notary, (folio 157.) the result of which also confirms the sentence, since the fitters out or owners of the *Mary Lowell*, convinced as they ought to have been of their illegal expedition, it did not appear probable that they would present themselves to make any claim, fleeing the responsibility that undoubtedly they would have to assume from the moment they confessed themselves authors of such a criminal enterprise. Finally, the tribunal, after leaving testimony in the court of the executions that have been added to the writ, apart from the resolution of the admiralty, on folio 143, let it be returned to the superior authority, in conformity to the proposition made in the instructions of the auditor for a definitive decision, and which his excellency the president and other members that composed the tribunal signed.

JOSE MALCAMPO.
MATEO GARCIA.
GABRIEL PITADAVIEGA.
SANTIAGO MORENO.
JOSE AGASINO.
SEGUNDE VIGODET.

FREDERICO SANTALOS.
EDUARDO FRIENDO.
JOSE MARCELINO.
TRAVIERO Y JIMENEZ.
JOSE MARIA AUTRAN.
CARLOS DE ACOSTA.

NOTE.

That at 11 o'clock this morning this summary of 173 leaves was delivered at the office of the secretary of the commanding general of this station, relative to the capture of the American brig *Mary Lowell* by the war schooner *Andaluza*, in which statement is found the resolution of the most excellent prize court, under date of April 25, of the present year; and in testimony thereof I certify.

HAVANA, *May 13, 1870.*

ACOSTA.

ANOTHER.

That, in virtue of the order of his excellency, the commanding general of admiralty, I make the delivery of this writ to José Antonio Gomez, the notary named for this naval station,

HAVANA, *May 18, 1870,*

ACOSTA.

HAVANA *May 21, 1870.*

Revised: Let the resolution of the most excellent prize court in their declaration of April 25th last, on folio 162, be archived, approved, and executed, making the transfer as soon as possible.

MALCAMPO TRAVIERO.
J. A. GOMEZ.

OFFICE OF THE COMMANDING GENERAL OF MARINE OF THE NAVAL STATION AT HAVANA
ADMIRALTY.—COUNCIL OF STATE.

MOST EXCELLENT SIR: The council has examined the learned writ arising out of the capture of the American Brig *Mary Lowell* by the Spanish war schooner *Andaluza* on the 15th day of March last, and, fulfilling your excellency's order of the 27th of September last, said writ was transmitted to your excellency, that you might decree whatever you thought most proper in your judgment in regard to it. From the foregoing it results that the marine authorities of the island of Cuba, having received news and private letters that the landing of arms and materiel of war for the insurgents was being attempted on the coast, the commanders of the steamer *Blasco de Garay* and the schooner *Africa* were put in commission, and for that purpose went to Ragged Island, and there had an opportunity of ascertaining that the brig *Henry Burden*, loaded with Cubans, and the brig *Mary Lowell*, with cargo of arms and materiel of war, had arrived at that port; that, in consequence of this, the schooner *Andaluza* was sent to that port to capture the *Mary Lowell* as soon as she would go out of the waters under English jurisdiction; and that at 10 o'clock in the morning, on said 15th day of March, that vessel having sailed from port under pretext of changing her anchorage, the schooner *Andaluza* followed her, and that at 1 o'clock in the evening there appeared in the distance a Peruvian monitor. The brig pursued made an inward tack, steering for her, and being already in free waters, the *Andaluza* intimated to her to surrender, and boarded and captured her, finding in the cabin a number of arms and some gun carriages on deck. The summary of information having been made up according to the regulation, it appears that the brig had no captain or papers on board that would accredit its real nationality, although before the seizure it raised the American flag; that according to the declarations of the commander, officers, and crew of the schooner *Andaluza*, in conformity with the statement of the log-book table, the capture was made more than six miles from the coast; that the sailors of the *Mary Lowell*, who also testified in the summary, differ in regard to the distance, two of them testifying that it was only one mile and a half from the coast, another three miles, and the others from three to four; that a cockade was found on deck (folio 21) like those used by the insurgents in Cuba, and which, according to said sailors, were worn in the hats of some of the Cuban passengers; that, according to the inventory of articles found on board, the *Mary Lowell* only had charts to navigate to Florida and the island of Cuba, (folio 60;) and, lastly, that her cargo consisted (folio 118) of articles and materiel of war, such as projectiles, a large number of carbines and sabres, belts, three cannon, and five gun carriages. The summary having been completed without citing or hearing the party captured, the junta of the naval station at Havana, with the previous opinion of the auditor, dictated the resolution declaring said vessel and her cargo a lawful prize, ordering the crew to be placed at liberty for not having been found sufficiently complicated to make them liable to punishment. So far the antecedents were being successively revised, but on account of having found no documents on board the *Mary Lowell*, it could not be known exactly who was the owner of said vessel and cargo, nor even could it be determined precisely who was her captain for the same reason, although, in regard to the latter, there is proof in the writ; however, notwithstanding this, the process was defective, because the junta of the naval station should have summoned those who claimed for themselves a right to said vessel and cargo, conceding them a

sufficient time in which to appear and make their defense. This proceeding is so essential that its omission would constitute a sufficient cause of defect in form to produce a nullity of the process, and so indispensable that for the same cause that the government of the captured party has the power to make use of its sovereign right, in judging and deciding as to the legality of prizes of war, it is more rigidly obliged to observe the rules and forms already established, and much more when they refer to the defense, in order to give to the subject more data of elucidation, and that the ultimate decision may carry with it more proof of impartiality and correctness. If it is considered, beside, that the omission of this requisite could give well founded motives to international claims, it is one reason more that the process *should be* the same as in other like cases, in which care is taken very cautiously to cite and concede sufficient time to the captured parties to present their response and defense. In virtue of which, the council could not anticipate its opinion as to the legality of the prize, reserving the giving of it until the writ was in due form, and they were better prepared for it. In the meantime there was an order to return the writ to the commanding general of the naval station at Havana, in order that the prize court might give the summons to the interested parties by means of edicts that would be inserted in the official Gazette of the superior civil government of the island of Cuba, and concede to them a sufficient time as in their judgment necessary to appear, and inform them of the writ, and that they could present themselves and be carefully heard, or, on the contrary, if they did not appear, to dictate a new resolution, which would be submitted to the regent of the land for his approbation, after a previous consultation with the council, as the law requires. Your excellency, however, will resolve whatever is most proper.

Madrid, November 13, 1870.

His excellency the president,

ANTONIO DE LAS RIOS Y ROSAS.

The acting secretary general,

ANTONIO ALEANTRAS.

His excellency MINISTER OF MARINE.

It is a copy.

ANTEQUERA.

This is an exact copy of the original to which it is referred, and to which I certify, by order of his excellency the commanding general.

JOSÉ MARIA AUTRAN,

Secretary.

HAVANA, May 22, 1870.

OFFICE OF COMMANDING GENERAL OF MARINES OF THE NAVAL STATION AT HAVANA.

His excellency the vice-president of admiralty communicates to me, under date of April last, the following:

MOST EXCELLENT SIR: The representatives of the United States having solicited from the secretary of state a copy of the writ or documents of the seizure of the *Mary Lowell*, prosecuted before the prize court of this station, the cabinet of state having assembled to consult as to whether said copy could be given, that being under process, said high body communicated to his excellency the minister of marine the following:

MOST EXCELLENT SIR: By order of the regent of the land, issued by the ministry under the worthy charge of your excellency on the 2d instant, the council is urgently charged to ascertain if a copy of the writ of the seizure of the brig *Mary Lowell*, while said writ is under process as it is at present, can be given in response to the claim made by said minister of the United States in the name of his government. With said order is transmitted the note passed by the minister plenipotentiary of that republic, on the 19th of March last, to the minister of state, insisting that, without further delay, the copies of said documents relating to said seizure should be delivered to him, and which he had asked for from the authorities at Havana, who refused to give them until they received instructions from the government at Madrid. According to the antecedents that exist in this council, the writ being ready and prepared for the judging of the seizure of the *Mary Lowell*, the prize court of the naval station at Havana dictated a resolution declaring it a legitimate prize, and your excellency having consulted this body as to the approval of said resolution, the council, in statement of 16th November last, proposed to your excellency, to which you agreed, that it should be returned to commanding general of naval station in order that the junta might summon the parties interested in the prize, for the purpose of giving them a careful hearing, and in case they did not appear, to dictate a new resolution that would be submitted to the regent of the land for his approval. It is seen, therefore, that the stage at which the question stands allows the process to be made public without danger, as there might have been while executing the requirements necessary for fear it might impede a perfect research of the facts upon which the seizure is based. Under such a

conception, all parts of the writ should be made manifest to the captured parties, in order that they may examine and draw from them their defense and the justification of their right, and nothing is more easy than that, during the process, they should be shown also to the consul of the United States in Havana, who is the public agent, under whose protection the commerce of that capital with his country is intrusted and under whose care the rights of the citizens of the republic are placed, as stipulated by treaties and besides who, like all consuls representing the public trust, can authorize and legalize the copies that the plenipotentiary desires, in accordance with the instructions he may communicate to him. But, as at the same time, it may be proper to avoid further claims, the representative of the United States should be acquainted with the legality of the proceedings in this case, and with the exactness of the forms and rules established by our laws, and most principally by those referring to the defense of captured parties. For these reasons the council adjudges: 1. That your excellency can cause it to be transferred to the minister of state that he may make for the plenipotentiary an authorized copy of the resolution of the council on the 16th of November last, in which the points just mentioned are defined, if you have given your approbation to same. 2. That order be given to the commanding general of the naval station at Havana, that the writ may be shown to the consul of the United States at the office of the secretary of the prize court, in order that he may take from the same copies of the documents that he may desire. 3. That the minister plenipotentiary be informed of this resolution that he may give instructions, in time, to said consul, and recommend to him the utility that said copies should be taken by said functionary, together with the secretary of the prize court, and in as short a time as possible, in order that this incident may not impede the regular course of the process and its quick termination, as justice demands. The which, by resolution of admiralty, I transmit to your excellency for your information, and to the end that the expediente may be exhibited for reference to the consul of the United States in this city, and that he may be permitted to take the copies he may require, in conformity to the consultation or advice of the council of state, and I transmit you a copy, including a certified copy of the document to which the inclosed refers, for your information, and which added to the writ of the Mary Lowell, with its effects, may operate with it. In this idea, they should be placed in the hands of the secretary of the commanding general, who is also the secretary of the prize court, for the purpose of executing the decrees of superior authority. May God preserve you many years.

HAVANA, *May 21, 1870.*

JOSE MALCAMPO,
Auditor of the Naval Station.

HAVANA, *May 30, 1870.*

Revised; archived: Fulfill, and execute the resolution of superior authority in the preceding communication. Therefore, after connecting communication and deliberation of the council of state to the writ in this question, place them in the office of the secretary of the prize court, at the disposition of the consul of the United States, that he may take from same copies of documents he may think proper, it being well understood that said copies should be taken by said functionary, through the mediation of the secretary of the prize court and in as short a time as possible. For the performance of the aforesaid dispositions, let the said consul be informed in a very polite manner—all of which being fulfilled, render account.

MALCAMPO.
TRAVIERO.

José A. GOMEZ.

NOTE.

That on this date I delivered to the secretary present entire charge of the writ for the purposes expressed in the former writ.

Havana, June 1, present year.

JOSE MA. AUTRAN.

José A. GOMEZ.

José Ma. Autran, first lieutenant in the navy, first aid and secretary to the commandants generals of this naval station, certify that the accompanying copies are taken textually from the original, with which they were compared and verified with the greatest exactitude. And in testimony thereof, for all time, I sign same in Havana, May eleventh, eighteen hundred and seventy.

[SEAL.]

JOSE MA. AUTRAN.

No. 43.

*Mr. Davis to Mr. Campbell.*DEPARTMENT OF STATE,
Washington, July 8, 1870.

SIR: After a long correspondence by telegraph and by mail, we succeeded in procuring copies of the proceedings in the case of the *Mary Lowell* before the Spanish courts.

The document was a voluminous one, and in Spanish, and it has taken several days to translate it.

It appears that the Spanish government claims that the vessel was taken on the high seas, and was without captain or papers to show her nationality or her destination, and that she was laden with arms and ammunition for the insurgents of Cuba. This is the substance of the voluminous evidence which will be transmitted to the Senate in answer to a call from that body.

If you have any comments or answer to make to either of these points, this department will be glad to hear from you before proceeding further with the case.

I am, sir, your obedient servant,

J. C. B. DAVIS,
Assistant Secretary.

CHARLES H. CAMPBELL, Esq.,
One hundred and eighteenth Street, Harlem, New York.

2.—THE COLONEL LLOYD ASPINWALL.

No. 1.

Mr. Hall to Mr. Davis.

No. 51.]

UNITED STATES CONSULATE GENERAL,
Havana, February 9, 1870.—(Received February 16.)

A small steamer, called the *Colonel Lloyd Aspinwall*, arrived here in tow of the Spanish war steamer *Hernan Cortes* on the 29th ultimo. She was taken near *Maternillas* light-house, near *Nuevitas*, on the 21st instant; was carried to the latter port, where a preliminary investigation was made, and thence she was towed to this port, where the case is still pending in the marine court, and the master and crew deprived of intercourse with any one except the officials. I have asked that the master may be permitted to communicate with me, but as yet my request has not been complied with. From all that I can learn the steamer was regularly cleared at *Port au Prince* for this port, and has all her papers in order. The case will undoubtedly be brought to the attention of the department, with a claim for damages. I shall report further as soon as I have seen the master.

No. 2.

Mr. Fish to Mr. Hall.

[Telegram.]

WASHINGTON, February 18, 1870.

Report particulars of seizure of *Lloyd Aspinwall*. If seized on the high seas demand immediate release.

No. 3.

*Mr. Hall to Mr. Davis.*No. 58] HAVANA, *February 18, 1870.*—(Received February 25.)

Referring to my No. 51 of 9th instant, I have now to inform the department that I have just received a telegram from the honorable the Secretary of State, as follows: "Report particulars of seizure of Lloyd Aspinwall; if seized on high seas demand immediate release."

I have a number of papers relating to the case that will require some time to put in order for transmission to the department. After repeated requests of myself and the master, the latter was permitted, to come to this office on the 14th instant, and remain long enough to communicate with me, enter his note of protest, and leave with me a memorandum for guidance in extending the same. I trust to be able to do it in a few days.

The master states that he was from four to five miles from shore at the time of his seizure. The distance will probably prove to be the disputed point of the case. I have had several interviews with the political secretary in relation to this vessel, and have not failed to remonstrate against her seizure and detention. On the 16th I laid before him the following memorandum:

"STEAMER COLONEL LLOYD ASPINWALL.

"On the 14th instant the master of the American steamer Colonel Lloyd Aspinwall entered a note of protest demanding me to extend the same in accordance with his written declarations against the captors of that vessel, declaring that he was duly and properly dispatched by the proper authorities of Port au Prince, Hayti; that all his papers are regular and in order; that his manifest was duly legalized by the Spanish consul at that port; that he was provided (his vessel) with a passport from the United States consul at that port; that he was intrusted with important dispatches from Rear Admiral Poor, addressed to the care of the United States consul general at Havana, and that he was not permitted to deliver them; he protests against the action of the marine authorities of this port in detaining his vessel, as also in detaining himself and crew as prisoners, and claims damages for the owners of the vessel at the rate of \$300 per day, and indemnity for himself and crew in depriving them of their liberty."

I shall again lay the case before the Governor General, in accordance with the instructions contained in the foregoing telegram.

No. 4.

*Mr. Hall to Mr. Davis.*No. 62.] HAVANA, *February 26, 1870.*—(Received March 3.)

Referring to my dispatches Nos. 51 and 58, I have now the honor to transmit to the department a duplicate copy of the protest of the master and crew of the steamer Colonel Lloyd Aspinwall. I also transmit an authenticated copy to the superior political governor of the island.

It will appear by this protest that the steamer was regularly dispatched from Port au Prince for this port, and, encountering heavy weather,

would have done. All the incidents of the voyage are narrated day by day, and bear the evidence of truth in every particular.

On the 2d instant the master applied for permission to communicate with me, but was refused; the evidence of this is before me, and will be transmitted later. Had the marine authorities of this port permitted the master to communicate with me, as he requested, or had they invited me to be present at an examination of the crew, I doubt not that I could have explained the case so as to have avoided the reclamations that are likely to grow out of it. Holding, as they still do, all the papers in their possession, it seems to me incomprehensible that they can find any pretext for longer detaining the vessel.

PORT OF HAVANA, *Island of Cuba, to wit:*

By this public instrument of declaration and protest be it known and made manifest unto all to whom these presents shall come or may concern, that on the 14th day of February, A. D. one thousand eight hundred and seventy, before me, Henry C. Hall, vice-consul general of the United States of America for Havana and the dependencies thereof, personally came and appeared Charles H. McCarty, master of the steamer or vessel called the Colonel Lloyd Aspinwall, of New York, of the registered burden of 71.46 tons then lying in this port of Havana, who duly noted and entered with me, the said vice consul general, his protest for the uses and purposes hereinafter mentioned. And now, on this day, to wit, the day of the date hereof, before me, the said vice-consul general, again comes the said Charles H. McCarty and requires me to extend this protest, and together with the said Charles H. McCarthy also comes George Shaw, mate, John Burns, second mate, Hiram Woods and Charles Palmer, engineers, John Priest and Anderson Douglass, firemen, and John Weeks and Charles Wilson, seamen of, and belonging to, said steamer, all of whom being by me duly sworn, did severally, freely, voluntarily, and solemnly declare, depose, and state as follows, that is to say:

That these appearers on the 17th day of January last past, in their capacities aforesaid, sailed in and with the said steamer or vessel from the port of Port au Prince, Hayti, and bound to the port of Havana, in the Island of Cuba. That in the prosecution of the voyage they proceeded to sea on Monday, the 17th day of January last past, nothing of special interest occurring on that day.

Tuesday, January 18, begins with strong winds. At 3 a. m., civil time, the sea running very high, wind east by north. At 4 a. m., the steamer being in danger of swamping in consequence of the high sea, they altered their course, steaming three points to windward. At 7 a. m., when in sight of the shore of Cuba, the bunker doors and sides of the bunker fell down and the coal going into the bilge choked the pumps, obliging all hands to turn to with buckets to keep her free, the sea breaking over her in large quantities. At noon the sea still running very high, the men kept at work bailing. At 3 p. m. the engines moving very slowly, twelve inches of water on the fire-room floor, the firemen putting coal in the furnaces with their hands. At 4 p. m. were obliged to stop the engines and all hands, including the mate, engineers, and firemen, to turn to to bail the vessel. At 5 p. m. they had gained on the water in the hold sufficient to start the engines. At 7 p. m. they had made Cape Maisi light, bearing south. At 12 midnight the men still bailing. Wind east northeast and the sea still very high.

Wednesday January 19, begins with more moderate weather, but the sea still high; the vessel's course being kept close to land in the hope of making the harbor of Baracoa, the crew quite exhausted with excessive labor, gaining but slowly on the water in the hold; water within three inches of the grate-bars. At 7 a. m. they saw the entrance to the harbor of Baracoa, bearing south, and finding the sea too rough to enter without a pilot, they kept away for Point Manglarito—all hands bailing. At noon the sea very high, wind east northeast, pumps not working. John Weeks, seaman, taken suddenly ill, apparently in consequence of fatigue and overwork. At 8 p. m. they had gained on the water in the hold; engines running very slowly. At 12 midnight, they stopped work from sheer exhaustion.

Thursday, January 20. At 6 a. m. they recommenced bailing, the sea apparently going down, but still breaking upon the deck. At 7 a. m. they sighted the lighthouse on Point Manglarito; stopped the engine to get coal and ashes out of the bilge, so that the pumps could work. At 12 noon, they drifted past the lighthouse. At 3 p. m. they rigged up a small mast and put all the sail on it they could dispose of, and kept her northwest by west half west. At midnight they had succeeded in getting the coal and ashes out of the bilge and freeing the pumps.

Friday, January 21. At 12.15 a. m. they started the engines; sea going down. At 10 a. m. they sighted the Maternillas light-house on starboard bow; found their compass one point out of the way, in consequence of which they got to the southward of their true course; they thereupon changed their course to northwest by west. At 11 a. m. they saw a steamer on starboard bow steering in shore and apparently come to anchor. At 11.55 a. m. they saw the steamer coming toward them, and made her out to be a Spanish man-of-war; whereupon they hoisted their flag. The Spanish man-of-war changed his course, apparently satisfied, and the first-named appearer ordered the mate to take in the flag and put it away; he declares he did not keep up the flag longer because it was a large one, and too heavy for the flag-staff. A strong breeze was blowing at the time, and the flag streaming toward the port beam. At 12.10 p. m. the Spanish man-of-war fired a gun, whereupon the engines were ordered to be stopped. At 12.30 p. m. a boat came alongside with an officer, pilot, and an armed force; they came on board and took possession of the steamer. The first-named appearer immediately handed the steamer's papers to the officer, and invited him to examine and see for himself that they were on a legitimate voyage, and that the papers of the steamer were regular; but the officer would not examine the papers, nor the vessel. He said he had orders to take her to Nuevitas. Thereupon the first-named appearer protested and explained to the said officer, as well as he could, that he was the bearer of dispatches of the utmost importance to the United States government, and did exhibit to the said officer two large packages of correspondence addressed to the care of United States consul general at Havana, for Rear-Admiral Poor, commanding the United States North Atlantic squadron; said packages had been confided to this appearer by Commander Elias K. Owen, commanding the United States steamer Seminole, with strict instructions to deliver the same to no one other than Rear-Admiral Poor, or the said United States consul general. The said first-named appearer further declares that he also exhibited to the said officer two packages addressed to Messrs. Whitman, Myer & Co., of Havana, and informed the said officer that, to his certain positive knowledge, the said packages contained communications of the greatest importance addressed to the Department of State at Washington, by the United States minister resident in Hayti, and others of great importance for the owners of said vessel residing in the United States. The said officer only replied that he had orders to take the steamer to Nuevitas.

And these appearers, on their oaths, do further declare that the time the steamer Colonel Lloyd Aspinwall was boarded by the officer and armed force, as hereinbefore related, they were, to the best of their knowledge and belief, from four to six miles from the shore, Maternillas light-house bearing west southwest at the time.

And these appearers further declare that at about 3 p. m. the steamer arrived at the outer roads of the bay of Nuevitas. and was anchored; and the first-named appearer was ordered on board the Spanish war steamer that had seized their vessel, which, the said first-named appearer then learned, was called the Hernan Cortes. The said first-named appearer presented his vessel's papers to the commanding officer, who examined them and said he should send them on shore. The said first-named appearer then stated to the commander what he had previously stated to the boarding officer, that he had dispatches of very great importance to the United States government on board of his vessel, to which the said commander gave no heed whatever.

This first-named appearer further declares that the steamer's papers delivered to the commander of the Hernan Cortes comprised, to the best of his recollection, the following: The register; a clearance from the custom-house at Port au Prince; a manifest clearance authenticated by the Spanish consul at Port au Prince; clearance of the United States consul at Port au Prince; an official letter as passport from the United States consul at Port au Prince, addressed to the commanders of Spanish men-of-war in the Bahama channel; the shipping articles, containing the names of the crew now on board of said steamer, and an old roll or crew list from Charleston, containing the names of persons that had been employed on board of said steamer, and that several months ago were discharged from said steamer at Port au Prince.

Saturday, January 22.—The steamer Colonel Lloyd Aspinwall still at Nuevitas; on this day Spanish officers came on board and examined the vessel and crew; they also sealed up the trunk of the first-named appearer, which contained two packages of letters addressed to Messrs. Whitman, Myer & Co., received from the United States consul at Port au Prince, two large packages from the commander of the United States steamer Seminole, addressed to the care of the United States consul general at Havana, for Rear-Admiral Poor, commanding the United States North Atlantic squadron, and one package of correspondence from the said United States steamer Seminole for the United States mails; also some packages of papers belonging to the said first-named appearer, comprising one package of Haytien orders, received while in the employ of the Haytien government, showing that the said steamer Colonel Lloyd Aspinwall had been in the employ of said government, from the month of July last up to the date of her departure, or thereabouts, from Port au Prince as before related; one package marked correspondence of the house of R. Murray, jr., New York; a package of bills

and accounts, and a package containing personal recommendations and letters of the Navy Department of Washington.

Sunday, January 23.—The steamer still at anchor as on the previous day. During this day the first-named appearer, the mate, and engineers were ordered on board the said Spanish man-of-war, where papers were presented to them to sign, which they refused to do, because they were not in the English language; because they could not sign said papers under protest, and because they had had no opportunity to consult with a consul of the United States, or, in fact, with any one except those who had these appearers in custody; whereupon all were ordered back to their vessel.

Monday, January 24.—The steamer still detained as on the previous day; an armed force still on board.

Tuesday, January 25.—The vessel still detained at Nuevitas. During the day a number of officers and officials came on board and examined the crew, writing down what these appearers suppose may have been their statements, and requested these appearers to sign the same, which said appearers refused to do, because the writing was not in the English language, or in a language that any of these appearers understood.

Wednesday, January 26.—The steamer still at Nuevitas, and an armed force still on board.

Thursday, January 27.—On this day the first-named appearer received a note from the commander of the Spanish man-of-war, directing him to get ready to proceed to Havana, with which the said appearer complied, with the exception of starting the fires; the fires not being started, an officer from shore came on board and inquired whether said appearer was ready to go, to which said appearer replied that he would be, after the vessel's papers had been returned to him; the officer then said that the papers would not be delivered to him until after arrival at Havana; the said appearer thereupon declared that he would not go to sea of his own free will unless said papers were returned to him; that as a prisoner, with an armed force on board, he, the said appearer, would give no orders to start the fires; that the engineers of an American steamer had no right to obey orders from any one but an American commander; that if the said Spanish commander would return to said appearer the steamer's papers, and take the steamer to the place where she had been captured, the said appearer would proceed on his voyage to Havana.

And these appearers further do declare that at 3 p. m. of the last-named day boats came alongside and towed them to the Spanish war steamer San Francisco, by which they were taken in tow at 4 p. m., an armed force still remaining on board, nothing of special interest transpiring until Saturday, 29th day of January last past, when they arrived at Havana and were made fast alongside of the last-named Spanish war steamer.

Saturday, January 30.—The first-named appearer declares that he was given to understand that he could have no communication with the shore.

Tuesday, February 1.—Armed force still on board.

Wednesday, February 2.—The first-named appearer further declares that on this day he made application in writing to the commander of the Spanish war steamer, in whose custody he was, to be permitted to go on shore to see the United States consul, and that a reply came back to the effect that no communication between the steamer Colonel Lloyd Aspinwall and the shore would be allowed.

Thursday, February 3.—On this day the steamer was towed alongside of the Spanish flag-ship Almanza, and made fast to her.

Friday, February 4.—The first-named appearer declares that on this day he addressed a letter to the Spanish admiral, asking to be supplied with provisions, because there was barely anything on board, to which letter no reply was received. He further declares that on this day George D. Green, the colored cook, was taken out of the vessel, without the knowledge or permission of said appearer.

And these appearers further declare that nothing of special interest occurred there-
 • after until Friday, the 7th day of the present month, when several officials came on board, and with them a gentleman delegated by the United States vice-consul general to be present at the breaking of the seals with which the trunk containing the correspondence and papers before referred to had been closed. That on the 8th instant an interpreter came on board and inquired of the first-named appearer whether he intended to name or appoint an advocate or counsel to attend in the case of said steamer; to which said appearer replied that he could do nothing in the premises until he had consulted with the United States consul. On this day the said appearer was enabled to communicate with the shore and obtain some provisions, of which the crew were greatly in need.

And the first-named appearer further declares that on the 13th day of this present month he was notified that he had permission to go on shore and see his consul, and it being Sunday, the said appearer did not avail himself of the privilege, because he was satisfied that the consulate would be closed; he therefore on Monday, the 4th instant, came on shore, and noted his protest, as is hereinbefore related, and now extends the same against the commander of the Spanish war vessel Hernan Cortes, and all others

concerned in the seizure of said steamer, and against all and every act and acts of the marine authorities of this port in the detention of said steamer, and in depriving these appearers of their liberty as are hereinbefore related. And these appearers further, on their solemn oaths, declare that up to the present time they have not been informed of the motives for the seizure of said steamer Colonel Lloyd Aspinwall, and for the detention of these appearers as prisoners.

The said appearers further declare that the voyage upon which they entered from Port au Prince, Hayti, bound to Havana, was a legitimate one, that the course steered by them, up to the time of the seizure of said steamer as aforesaid, was as direct as the size of the steamer, the severe weather they encountered, and their distressed situation, and other circumstances hereinbefore related would permit; and they further do solemnly swear that from the time of their departure, and up to the day on which the said steamer was seized as aforesaid, they held no communication with any vessel or person whatsoever, nor did they come to anchor at any place, and that any suspicion that the said vessel was in the employ of the enemies of Spain is without foundation in fact, and that any statement to that effect is untrue in every respect, and that the seizure of the said steamer and the detention of these appearers as hereinbefore related cannot be justified upon any grounds whatsoever.

Wherefore the said Charles H. McCarty, master, in behalf of the owners of said vessel and others concerned, hath protested against the seizure and detention of the said steamer Colonel Lloyd Aspinwall, and claims compensation therefor at the rate of \$300 per day for each and every day that said steamer has been so detained, or may hereafter be detained; and these appearers in their own behalf have also protested, and I, the said vice-consul general, at their special instance and request, do also protest against the acts of the commander of the Spanish vessel of war Hernan Cortes, and the acts of all and every other authority and authorities, person and persons concerned in the seizure and detention of said steamer Colonel Lloyd Aspinwall, and in depriving these appearer of their liberty as aforesaid, and do declare that all losses, damages, costs, charges, and expenses incurred, or that may hereafter be incurred, in the premises are and ought to be borne by those who have caused the same, and not by the owners of said steamer or these appearers; these appearers further claiming the privilege at any future time to specify the indemnity and compensation to which they may consider themselves entitled.

This done and protested in the port of Havana the 25th day of February, A. D. 1870.

In witness whereof these appearers have hereunto subscribed their names, and I, the said vice-consul general, have granted the said master this public instrument under my hand and seal of this consulate general to serve and avail him, and all others whom it doth or may concern, as need and occasion may require.

HENRY C. HALL,
Vice-Consul General.

CHARLES H. McCARTY.

his
GEORGE + SHAW.

mark.
JOHN BURNS.

HIRAM WOOD.

CHARLES PALMER.

JOHN PREEST,

his
ANDERSON + DOUGLASS.

mark.
JOHN WEEKS.

CHARLES WILSON.

No. 5.

Mr. Biddle to Mr. Davis.

No. 10.]

HAVANA, March 4, 1870.—(Received March 12.)

I have the honor to transmit herewith for your information a copy of the communication of the late Vice-Consul General Mr. Hall to the Captain General, dated 25th February, accompanying the protest of the master of the steamer Colonel Lloyd Aspinwall. This copy should have accompanied Mr. Hall's dispatch, No. 62, but was inadvertently omitted.

Mr. Hall to Governor of Cuba.

UNITED STATES CONSULATE GENERAL,
Havana, February 25, 1870.

EXCELLENCY: I have the honor to accompany herewith the protest of the master and crew of the American steamer Colonel Lloyd Aspinwall, now in this port in custody of the marine authorities, and the said crew deprived of their liberty.

Your excellency will not fail to observe that the case of this vessel merits the special attention of your excellency, and I doubt not that justice will be done in the premises. I am at a loss to know what motive there can be for any longer detaining the crew as prisoners.

His excellency the SUPERIOR POLITICAL GOVERNOR
Of this Island, &c., &c., &c.

No. 6.

Mr. Fish to Mr. Lopez Roberts.

DEPARTMENT OF STATE,
Washington, March 5, 1870.

The undersigned, Secretary of State of the United States, has the honor to invite the attention of Mr. Lopez Roberts, envoy extraordinary and minister plenipotentiary of Spain, to the case of the forcible seizure and detention of the United States steamer Colonel Lloyd Aspinwall, as set forth in the protest of the master of that vessel, of which a copy is inclosed.

It appears that on the 17th day of January last this vessel left the port of Port au Prince, in Hayti, bound on a lawful voyage to Havana, bearing important dispatches from the minister of the United States in Hayti to his government, and also dispatches from the officer in command of one of the vessels of war of the United States to the admiral in command of the West India squadron.

On the 21st of January the Spanish man-of-war Hernan Cortes arrested the Colonel Lloyd Aspinwall by firing a gun, and then boarded her, and took forcible possession of her, and carried her into Nuevitas.

At Nuevitas the Spanish authorities appear to have taken forcible possession of the dispatches for the government and for the admiral of the United States in command of its squadron.

On the 27th of January the Colonel Lloyd Aspinwall was taken in tow by a Spanish man-of-war, and carried to Havana and placed under the guns of another Spanish man-of-war in that port, where she now is, with all her papers, detained by force.

On the 16th day of July last the undersigned had the honor to address a note to Mr. Lopez Roberts, calling his attention to a decree then lately issued by the Captain General of Cuba, contemplating an interference with the commerce of the United States on the high seas.

In that note the undersigned made use of this language:

The freedom of the ocean can nowhere and under no circumstances be yielded by the United States. The high seas contiguous to those of the Island of Cuba are a direct pathway of a large part of the purely domestic trade of the United States. Their vessels, trading between their ports in the Gulf of Mexico and those of the Atlantic coast, pass necessarily through those waters. The greater part of the trade between the ports of the United States on the eastern side of the continent and those on the Pacific slope passes, of necessity, in sight of the Island of Cuba. The United States cannot, then, be indifferent or silent under a decree which, by the vagueness of its terms, may be construed to allow their vessels on the high seas, whatever may be their cargo, to be embarrassed or interfered with. If Spain be at war with Cuba, the United States will submit to those rights which public law concedes to belligerents.

The decree to which the undersigned referred was, as the undersigned has been informed by the consul general of the United States at Havana, modified by a further decree of the Captain General on the 18th of July last.

The undersigned, cherishing the belief that there would be no further attempt on the part of the Spanish authorities to molest the commerce of the United States, has read with surprise the statements contained in the protest of the master of the Colonel Lloyd Aspinwall, sustained, as they are, by the authority of the acting consul general at Havana.

The government of the United States, remembering the long-established friendship between Spain and the United States, and the prompt response of the Captain General of Cuba to the representations made by the undersigned to Mr. Lopez Roberts in July last, believe that the Spanish officials who have committed these affronts to the national honor of the United States and these wanton injuries to its citizens were not acting in compliance with orders. For it must be apparent that the government of the United States cannot allow such acts to pass unquestioned or without full reparation.

The undersigned is instructed to ask Mr. Lopez Roberts to bring this subject to the attention of his government at the earliest possible moment, and to say that the government of the United States trusts that that government will, when the matter shall have been brought to its notice, of its own accord, offer to the government of the United States a suitable apology for the indignity to the flag of the United States, and to the persons of the bearers of dispatches to this government, and for the interference with the dispatches of the officers of this government to this department and to the admiral in command of the squadron of the United States in those waters.

The undersigned is also directed to ask Mr. Lopez Roberts, in the exercise of the discretion which is understood to have been placed in him by his government, to cause the Colonel Lloyd Aspinwall to be forthwith set at liberty, and a proper compensation to be made to the owners of the vessel, and to all other persons who may have suffered by the seizure or by the detention.

The undersigned avails himself of this occasion to offer to Mr. Lopez Roberts the renewed assurances of his highest consideration.

HAMILTON FISH,
Secretary of State.

Señor Don M. LOPEZ ROBERTS, &c., &c., &c.

No. 7.

Mr. Fish to Mr. Sickles.

No. 34.]

DEPARTMENT OF STATE,
Washington, March 8, 1870.

DANIEL E. SICKLES, Esq., &c., &c., *Madrid:*

I inclose for your information a transcript of a note, of date the 5th instant, (together with its accompaniment,) which was addressed by this department to Mr. Lopez Roberts, the Spanish minister accredited to this government, relative to the forcible seizure and detention of the United States steamer Colonel Lloyd Aspinwall by the Spanish authorities.

No. 8.

Mr. Davis to Mr. Biddle.

No. 16.]

DEPARTMENT OF STATE,
Washington, March 9, 1870.

I have to inform you that dispatch No. 62, of February 26 last, from Mr. Hall, with which was transmitted the protest of the captain and crew of the steamer Colonel Lloyd Aspinwall, lately captured by a Spanish war vessel, and now detained at Havana, has been received.

A copy of the protest has been sent to our legation at Madrid.

No. 9.

Mr. Fish to Mr. Sickles.

[Telegram.]

WASHINGTON, April 6, 1870.

SICKLES, *Minister, Madrid:*

Spanish authorities at Havana still hold American steamer Lloyd Aspinwall, seized on high seas, without reply to our demand for release. Represent this to Spanish government, and ask for answer and release. Also, renew request for Mary Lowell papers, which are not yet furnished. President not satisfied with this prolonged delay.

FISH.

No. 10.

Mr. Sickles to Mr. Fish.

[Telegram.—Extract.]

MADRID, April 8, 1870.—(Received April 9.)

Your telegram of 6th received yesterday. Interview with minister of state this morning. In reply to my demand he promised that orders should be sent to-day to Captain General of Cuba to release forthwith steamer Lloyd Aspinwall, and that the matter of indemnity would be promptly considered. I confined myself to the release of the vessel, and await your instructions.

* * * * *

No. 11.

Mr. Sickles to Mr. Fish.

[Extract.]

No. 82.]

MADRID, April 8, 1870.—(Received April 26.)

I received yesterday your telegraphic instructions of the 6th, and to-day being the usual reception day of the minister of foreign affairs, I took advantage of that circumstance to wait upon him without the delay of asking for a special interview. I brought to his attention your

demand for a prompt settlement of the Lloyd Aspinwall case; I recapitulated the circumstances of the capture and detention, and informed him of the dissatisfaction with which the President regarded the procrastination of the Spanish authorities in this matter; and concluded by asking that a peremptory order be given for the release of the vessel as a preliminary to the consideration of the question of reparation.

Mr. Sagasta sent for the papers which had been received upon the subject. They consisted of a dispatch from Mr. Roberts, inclosing your communication to him, and a report from the apostadero of the Havana, merely announcing the capture of the vessel "under suspicious circumstances," and stating that the matter was undergoing examination in the prize court. His excellency then said that, immediately on receipt of Mr. Roberts's dispatch, orders had been sent to the Captain General of Cuba to report at once in regard to the matter, and to release the Lloyd Aspinwall, if it appeared on investigation to be an American vessel, leaving the question of indemnity open for further discussion; and that, to avoid delays, Mr. Roberts had been instructed to communicate directly with the Cuban authorities.

I then remarked to his excellency that the government of the United States could not recognize the jurisdiction of a prize court in this case; that such jurisdiction could only exist in consequence of a state of war, and that the United States had received no notification that a state of war exists; that the Lloyd Aspinwall was an American vessel, and at the time of her capture engaged in the transport of dispatches of officers of the United States government; that these facts could have been promptly ascertained by the executive authorities; that instead of this, nearly three months had elapsed since the seizure; that this unjustifiable delay had very painfully impressed the government of the United States; that I hoped and expected his excellency would immediately see that peremptory orders were given for the release of the vessel.

Mr. Sagasta at first replied that the decision of the court would be given with all possible promptness; but I insisted in the most emphatic manner that my government could not, in such a case, wait for the judgment of a court, and repeated my request for a prompt decision of the case by the action of the executive.

He finally assured me that, accepting my assertion of the nationality of the vessel, and the fact that she was employed in carrying dispatches of United States officers, orders would be sent by telegraph to-day to the Captain General of Cuba to have the steamer immediately released, and that the question of indemnity would also be promptly considered.

* * * * *

I expressed the pleasure I would have in acquainting you with his prompt and satisfactory reply in the matter of the Colonel Lloyd Aspinwall, and took my leave.

No. 12.

Mr. Sickles to Mr. Fish.

[Telegram.]

MADRID, April 9, 1870.—(Received April 11.)

Minister of state informs me that orders were yesterday sent to Captain General to release the Lloyd Aspinwall, and to settle in a friendly sense any questions arising in the matter.

No. 13.

Mr. Sickles to Mr. Fish.

No. 84]

MADRID, April 9, 1870.—(Received April 26.)

I have the honor to inclose a translation of a communication just received from the minister of state, in which he transmits a copy of a telegram sent by the minister of the colonies to the Captain General of Cuba, directing the immediate release of the Colonel Lloyd Aspinwall, and authorizing the Captain General to resolve in a friendly and conciliatory sense any questions arising in the matter.

Mr. Sagasta to Mr. Sickles.

[Translation.]

MINISTRY OF STATE, *Madrid, April 9, 1870.*

SIR: In consequence of the interview I had the honor to have with you yesterday, I have the pleasure to communicate to you a copy of a note which has just been addressed to me by my colleague, the minister of ultramar, and which, I think, fulfills the wishes which you, in the name of your government, made known to me, in the friendly manner befitting the good intelligence existing between Spain and the North American republic.

"In view of the declarations of the government of the United States, made through their representative, General Sickles, which your excellency has made known to me in your communication of yesterday, I have addressed to the superior civil governor of the Island of Cuba the following telegram: 'As it appears to the government, by the official declaration of that of the United States, that the vessel Aspinwall was going on an errand of the service, and with official dispatches, your excellency will order that she be immediately released, giving notice of this to this ministry and to the representative of Spain in Washington. Your excellency is authorized to resolve, in the most friendly and conciliatory sense, any question arising in this matter.' In bringing this to the knowledge of your excellency, I would in my turn recommend that you communicate this telegram to the representative of the American government, that he may know the amicable and friendly disposition entertained by the government of the regent toward the Washington government, and the manner in which it responds to the proofs of friendship and deference which it has received in the various incidents arising from the Cuban insurrection. I hope at the same time that your excellency will communicate this dispatch to the representative of the regent in Washington, and that you will omit no means to co-operate with this ministry in avoiding every complication in the Cuban question."

I improve this occasion to reiterate to your excellency the assurances of my most distinguished consideration.

No. 14.

Mr. Fish to Mr. Biddle.

[Telegram—Extract.]

DEPARTMENT OF STATE,
Washington, April 9, 1870.

Telegram from Minister Sickles, received to-day, says minister of state promised that orders should be sent yesterday to Captain General of Cuba to release forthwith the steamer Lloyd Aspinwall. Make demand for release and telegraph the result forthwith.

No. 15.

Mr. Davis to Mr. Biddle.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 11, 1870.

Sickles telegraphs 9th instant from Madrid. Orders were sent yesterday to Captain General to release the Lloyd Aspinwall, and to settle in a friendly sense any questions arising in the matter. Inquire whether vessel yet released, and report by cable.

No. 16.

Mr. Biddle to Mr. Fish.

[Telegram.—Extract.]

HAVANA, April 12, 1870.—(Received April 12.)

Telegram received. Captain General absent. Communicated with his representative. He has just replied. As to release of Lloyd Aspinwall, had no power, but would ask instructions from the Captain General at Nuevitas.

* * * * *

No. 17.

Mr. Davis to Mr. Biddle.

No. 36.]

DEPARTMENT OF STATE,
Washington, April 13, 1870.

Your telegram is received, informing the department of the continued delay in releasing the Lloyd Aspinwall * * * * * and instructions have been sent to General Sickles * * * * * which it is hoped will effect a compliance with the just wishes of the United States. It is also hoped that before the receipt of this you will have communicated by telegraph information of the release of the Aspinwall, whose prolonged illegal detention seriously threatens the continuance of our present cordial relations with the Spanish government.

No. 18.

Mr. Fish to Mr. Sickles.

[Telegram.]

WASHINGTON, April 13, 1870.

SICKLES, *Minister, Madrid:*

Telegram last evening from Biddle states Captain General absent. His representative declines to surrender the Aspinwall, saying he has no power. He also declines giving the papers of the Mary Lowell; he also evades answering in the matter of the Champion.

It seems that the Madrid government gives assurances which the authorities in Cuba refuse to fulfill. Ask explanation of these evasions and the immediate execution of the promise made to you in reference to the above matters.

If it be alleged that the orders of which they have given you notice have been sent by mail, request that they be sent immediately by telegraph.

No. 19.

Mr. Sickles to Mr. Fish.

[Telegram.—Extract.]

MADRID, April 14, 1870.—(Received April 15.)

Interview with minister of state at his request to-day. He explained delay in Aspinwall case. He had received report from Havana; local authorities say they had no power to take case out of court. Council of ministers decided yesterday to order release of vessel forthwith on receiving from me formal demand in writing for her surrender as an American steamer carrying official dispatches. Shall I make this demand?

No. 20.

Mr. Sickles to Mr. Fish.

No. 87.]

LEGATION OF THE UNITED STATES,

Madrid, April 15, 1870.—(Received May 4.)

I received yesterday morning your telegraphic instructions of the 13th. I had previously received a note from the minister of state, requesting me to call upon him yesterday at 2 o'clock. In accordance with this invitation I went to the foreign office, and Mr. Sagasta informed me that he had received a telegram from the Havana, stating that the vessel Lloyd Aspinwall could not legally be given up without a document to go on file in the court before which the case concerning her capture was pending, as proof of the fact of her being an American vessel, and at the time of her capture bearing dispatches; that he had laid the matter before the counsel of ministers the day before, and that it was considered proper to ask me to give to the minister of state, in writing, a statement to that effect, upon the receipt of which orders would at once be sent to the Havana to release the Colonel Lloyd Aspinwall, and this statement would be sent as legal proof to justify the release.

I said I had no objection to making such an assertion, but that I must decline to furnish any documents to go upon record as evidence in a case which I claimed was not within the jurisdiction of the court.

His excellency replied that my communication would not be used as evidence; but that upon its receipt they would make out a statement that the government had learned from a diplomatic communication these facts, which would justify the order of release.

I then represented to his excellency that the fact of the Lloyd Aspinwall having been engaged at the moment of her capture in the transport of dispatches, though greatly aggravating the circumstances of outrage to the American flag, was not the essential point in the case; that the

complaint of my government and the demand for immediate release and reparation was founded on the fact that the seizure of the vessel was an unqualified and inexcusable trespass, without justification of law; that it was unhappily not the first instance during the year past in which the Spanish cruisers, in time of peace, had exercised authority which could not belong to Spain except in time of war, and I plainly intimated that the mere assertion of belligerent rights by the judicial tribunals of Spain, with the concurrence of the government, might well be taken as a sufficient declaration to other nations that a state of war existed. I therefore suggested to his excellency that it would be better that orders were given to the attorney general of the Spanish government in Havana to discontinue proceedings in court, on the ground of want of jurisdiction, instead of confining the action of the government to a relatively unimportant incident of the seizure.

He answered that the question at issue might be divided into two parts: one, the question of the nationality and lawful errand of the Lloyd Aspinwall, which would be decided by the mere assertion of my government, through me; the other, the question of the right of the Spanish government to make capture in given cases, which was a subject for full and deliberate discussion, upon which he was ready at any time to enter. He thought it would be well to settle the former question immediately by my giving him the assurance required, upon which he would instantly send orders by telegraph to the Havana for the release of the vessel. The case could not be taken out of court by a declaration of want of jurisdiction, because the Spanish government sustained the right of capture in analogous cases, and in this case the officers who made the capture asserted that it was made, not on the high seas, but within the maritime jurisdiction of Spain.

Preferring to confine the present interview to the case in hand, I declined to follow the minister in a discussion of the general question he opened. I reminded him, however, of your views upon the subject, so clearly expressed in your note to Mr. Roberts of the 16th July, 1869, protesting against the decree of the Captain General of Cuba of the 7th July, 1869, and I observed that the Spanish government, so far from maintaining the provisions of that decree, or the belligerent rights which it assumed to exist, had treated these assumptions as indefensible, promising to cause the orders of the Captain General to be modified, and that these assurances had been given as well to yourself by Mr. Roberts as to me by Mr. Silvela. I then said to his excellency that I had reported by telegraph the substance of our former interview, and also the purport of his note of the following day; that relying upon the assurances thus given my government had again requested the authorities in Cuba to release the Lloyd Aspinwall; that this had been refused by the representative of the Captain General on the alleged ground of want of authority; that copies of the papers in the Mary Lowell case had been again refused; that information had been sought from the Spanish authorities of the island in regard to the capture of the Champion, a United States vessel which had been seized and detained in Santiago de Cuba, a place where the protection afforded to the lives and interests of American citizens was very inadequate; and that this information had been withheld. That all these incidents had caused a most painful impression, and that I had been directed by my government to ask for an explanation of this apparently intentional indisposition to accede to the just and reasonable demands of the United States.

His excellency, in reply, repeated his views already related in regard to the case of the Lloyd Aspinwall; that in regard to the Mary Lowell

papers, it appeared there was a rule of the Spanish tribunals that copies of papers should not be given in a case *sub judice*; that this had occasioned the refusal of the courts in Havana to furnish copies of the proceedings in that case, but that orders had been yesterday sent by telegraph authorizing and ordering the copies to be furnished; that he had heard to-day for the first time of the matter of the *Champion*; that orders would be given to furnish the required information to the consul general of the United States, and a full report would be asked for by telegraph, which when received he would communicate to me.

Referring to a remark of mine in respect to the sensitiveness with which these proceedings were regarded in America, he said there was equal sensitiveness in Spain, and that the two nations must practice mutual forbearance. To which I replied that the United States had so promptly and successfully exerted themselves to fulfill all their international obligations that they had a right to demand the same treatment from Spain; that nearly three months had elapsed since the grave and unatoned outrage of the capture of the *Lloyd Aspinwall* was committed, and that nothing had been done yet by the government or the agents of Spain even to liberate the vessel; and in contrast with this procrastination or indifference, I must remind him that in the same space of time the energetic and vigilant action of the executive and judicial authorities of the United States had broken up half a dozen attempted expeditions against the Spanish dominion in Cuba.

At this moment Mr. Moret y Prendergast, the new minister of the colonies, came in, and Mr. Sagasta spoke to him in regard to the matter. Mr. Moret referred to the imperfection of admiralty proceedings in the Spanish courts; admitted that the delay which had taken place in regard to the *Lloyd Aspinwall* was not justifiable, and promised to do everything in his power to facilitate a prompt and satisfactory settlement of the affair.

I am, sir, with great respect, your obedient servant,

D. E. SICKLES.

HON. HAMILTON FISH,
Secretary of State.

No. 21.

Mr. Fish to General Sickles.

[Telegram.]

WASHINGTON, April 15, 1870.

Make demand. Request orders to be sent by telegraph for immediate release.

No. 22.

Mr. Sickles to Mr. Fish.

No. 88.]

LEGATION OF THE UNITED STATES,
Madrid, April 16, 1870.—(Received May 4.)

I have the honor to inclose a copy of a note which, in obedience to your telegraphic instructions of the 15th, I have addressed to the minister of state, demanding the immediate release of the steamer *Colonel Lloyd Aspinwall*.

Mr. Sickles to Mr. Sagasta.

LEGATION OF THE UNITED STATES,
Madrid, April 15, 1870.

SIR: Referring to our interview of yesterday, and in accordance with the request then made by your excellency, I have the honor to state that I am informed by my government that the United States steamer Colonel Lloyd Aspinwall, on the 21st of January last, while proceeding from Port au Prince to the Havana, on a legitimate and lawful voyage, and bearing official dispatches of agents of the United States government, was forcibly seized by the Spanish man-of-war Hernan Cortes, and taken to the Havana and placed under the guns of another Spanish man-of-war in that port, where she still remains, with all her papers detained by force.

I have therefore to demand, in obedience to the instructions of my government, the immediate release of the steamer Lloyd Aspinwall, together with all her papers, officers, crew, and cargo; and this without prejudice to the further demands for reparation which the government of the United States has made or shall make by reason of this offence to its honor and dignity. And in view of the delay which has occurred in responding to the just reclamations heretofore made in this case, I have also to ask that the necessary orders for the release of the vessel and her appurtenances be sent by telegraph, and that your excellency will have the goodness to inform me of their execution.

I improve this occasion to renew to your excellency the assurances of my most distinguished consideration.

D. E. SICKLES.

His excellency the MINISTER OF STATE.

No. 23.

Mr. Sickles to Mr. Fish.

[Telegram.]

MADRID, April 18, 1870.—(Received April 19.)

Madrid journals state, without contradiction, that the Aspinwall has been condemned as a good prize by the marine court of Havana. Nevertheless, I hear from trustworthy source that minister of colonies has sent peremptory orders to release vessel.

No. 24.

Mr. Davis to Mr. Biddle.

[Extract.]

No. 42.]

DEPARTMENT OF STATE,
Washington, April 20, 1870.

I have to inform you that on the 15th instant a telegram was received from our minister at Madrid, containing a report of an interview with the minister of state, in which the latter explained the delay in the case of the Lloyd Aspinwall, and informed him that the vessel would forthwith be surrendered upon receiving a formal demand.

* * * * *

On the same date, (the 15th,) Mr. Sickles was instructed to make the demand for the release of the Lloyd Aspinwall, and to request that the order be sent by telegraph to Havana.

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No. 25.

Mr. Sickles to Mr. Fish.

[Telegram.]

MADRID, April 22, 1870.—(Received April 22.)

Minister of state informs me that orders have been sent to the naval commander at Havana for release of Aspinwall, based on your note of March 5, leaving pending judicial proceedings to continue.

No. 26.

General Sickles to Mr. Fish.

LEGATION OF THE UNITED STATES,

No. 96.]

Madrid, April 22, 1870.—(Received May 11.)

I have the honor to forward a translation of a note just received from the minister of state, announcing that orders have been sent to the naval commander at Havana for the release of the Colonel Lloyd Aspinwall.

* * * * *

[Translation.]

MINISTRY OF STATE, *Madrid, April 21, 1870.*

SIR: In view of the explicit declarations which have been made by the Secretary of State of the United States, Mr. Hamilton Fish, in his note of the 5th of March last, to the minister plenipotentiary of Spain at Washington, as well as verbally in various interviews held with that representative, showing that the steamer Colonel Lloyd Aspinwall, at present detained in the apostadero of the Havana, belongs to the merchant marine of the United States, and was bound on a legal voyage, bearing important official dispatches of the American minister in Hayti for the government, and from the commander of one of the war vessels of the same nation for the admiral of the West India squadron, the regent of the kingdom has decided to accede to the desire manifested by you in the name of the Cabinet at Washington, and to give the requisite orders to the naval commander at the Havana, so that in virtue of the before-mentioned declarations the vessel may be released, without prejudice of the question of right to which her capture has given rise, leaving the pending proceedings to continue, and the question of indemnity to be settled hereafter.

I take great pleasure in informing you of this resolution of the government of his highness, as a proof of the desire by which it is animated to contribute to the best understanding in the friendly relations existing between Spain and the United States.

I improve this occasion to renew the assurances of my most distinguished consideration.

PRAXEDES MO. SAGASTA.

No. 27.

Mr. Fish to Mr. Biddle.

[Telegram.]

WASHINGTON, April 27, 1870.

Has the Lloyd Aspinwall been actually and formally released? Let me know by telegraph so soon as done. If not done inform me at once.

No. 28.

Mr. Biddle to Mr. Fish.

[Telegram.]

HAVANA, *April 27*, 1870.—(Received April 27.)
The Lloyd Aspinwall has not been released.

No. 29.

Mr. Fish to Mr. Lopez Roberts.

DEPARTMENT OF STATE,
Washington, April 28, 1870.

You will recollect that in a personal interview which I held with you on Saturday last, the 23d instant, you stated that the Spanish government had forwarded orders to the Captain General of Cuba to release the steamer Lloyd Aspinwall. Being desirous of ascertaining if those orders had been carried into effect, I made inquiry upon the subject by telegraph, of the consul general of the United States at Havana. His answer of yesterday, by the same medium, represents that the vessel is still detained.

If you have any information as to the reason why the orders of the Spanish government, adverted to, have not been carried into effect, I will thank you to make it known to this department.

I avail myself of this occasion, &c. , &c.

No. 30.

Mr. Fish to Mr. Biddle.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 28, 1870.

Ascertain why the Aspinwall is not released. Dispatches from Sickles, at Madrid, state that orders for her immediate release have been forwarded to Havana. Mr. Roberts, Spanish minister here, also stated officially the same fact.

Inquire the cause of non-execution of these orders, and telegraph reply.

No. 31.

Mr. Biddle to Mr. Fish.

[Telegram.]

HAVANA, *April 28*, 1870.—(Received April 28.)

At 3 p. m. to-day the Lloyd Aspinwall released. Owners instructing master to decline accepting without tender of resulting damages, I took responsibility and received ship as consul general. Your telegram just arrived.

No. 32.

*Mr. Davis to Messrs. J. M. Requa & Co.*DEPARTMENT OF STATE,
Washington, April 29, 1870.

This department has been officially informed that the steamer Lloyd Aspinwall, of which you are the owners, has been transferred by the Spanish authorities to Thomas Biddle, esq., the consul general of the United States at Havana.

This department will instruct Mr. Biddle to deliver the steamer to your agent. If, however, you should decline to receive her, Mr. Biddle will be directed to cause her to be sold, and the proceeds of the sale will be deposited in the treasury of the United States.

Your decision in regard to the steamer as soon as may be convenient would be acceptable.

No. 33.

*Señor Lopez Roberts to Mr. Fish.*WASHINGTON, *April 29, 1870.*—(Received April 29.)

The undersigned, minister of Spain, has received the note which the honorable Secretary of State was pleased to address him yesterday, relative to the detention at Havana of the American steamer Lloyd Aspinwall, and in reply thereto he has the honor to state that, according to a telegram transmitted to him by the authorities of the Island of Cuba, the said steamer was yesterday surrendered to the consul of the United States in the above-named city.

The undersigned avails himself of this occasion to reiterate to the honorable Secretary of State the assurances of his highest consideration.

MAURICIO LOPEZ ROBERTS.

Hon. HAMILTON FISH,
Secretary of State.

No. 34.

Mr. Biddle to Mr. Fish.

[Telegram.]

HAVANA, *April 30, 1870.*—(Received April 30.)

Shall I deliver Lloyd Aspinwall to Admiral Poor if the master continues to decline taking her?

No. 35.

Mr. Davis to Mr. Biddle.

[Telegram.]

DEPARTMENT OF STATE, UNITED STATES OF AMERICA,
Washington, April 30, 1870.

Owners of the Aspinwall have directed captain to accept vessel.

No. 36.

Mr. Biddle to Mr. Davis.

No. 88.]

HAVANA, *April 30, 1870.*—(Received May 7.)

Referring to the correspondence, telegraphic and written, upon the subject of the seizure and detention of the American steamer Colonel Lloyd Aspinwall by the Cuban authorities, I have now the honor to state that on the 28th instant, at 2 o'clock p. m., I received a communication of that date from the Spanish admiral of the station, a copy and translation of which are hereunto annexed, stating that, pursuant to an order of the marine court in obedience to the direction of the supreme government of the nation, the aforesaid steamer, her captain and crew, were to be released and liberated, and inviting my presence on board at 3 o'clock, (within the hour,) to witness the said delivery, the court to station there at that time for the aforesaid purpose.

Notifying the master of the Lloyd Aspinwall thereof, I proceeded to the United States monitor Saugus, and requested the presence of Captain Franklin, United States Navy, who cheerfully accompanied me. As we were starting from the Saugus, and within fifteen minutes of the hour appointed, we met the master of the Aspinwall, Charles H. McCarty, who produced a letter from his owners in New York, directing him to decline receiving the vessel when proffered, without the tender of the resulting damages. I protested verbally against these directions, showing that the measure of damages could only be adjusted after a survey and examination of the vessel; that many considerations might intervene in their settlement, and that it was a consideration for future governmental reclamation.

Captain McCarty replied that he could only obey his written orders, and that as these were peremptory, he must decline accepting the ship as offered.

We proceeded on board, and the marine court having assembled, the vessel was tendered to Captain McCarty, who inquired whether damages for delay, &c., were also to be now awarded, and being told that the province of the court was only to liberate the vessel, himself, and crew, he then respectfully declined accepting or acceding thereto.

The court now declared that their instructions were to release the vessel, consonantly to a request from the supreme government of the nation, at the instance of the United States of America; that from this hour they relinquished custody thereof and liability therefor, and asked who would receive her. I then said that my government had instructed me to demand the release of this vessel; that I thought the proper party to receive it was the master representing the owners, but that as he declined I knew no other resource in the emergency than to step forward and receive her as consul general in the name of my country. The flag was then delivered to me, and an official statement of the procedure signed, of which I herewith transmit a copy and translation. I then returned to the consulate general and telegraphed to you as follows:

[Official.]

HAVANA, *April 28, 1870.*

HAMILTON FISH,

Secretary of State, Washington, D. C.:

At 3 p. m. to-day Lloyd Aspinwall released, owners instructing master to decline accepting without tender of resulting damages. I took responsibility and received ship as consul general. Your telegram just received.

BIDDLE.

Upon returning to my office I found upon my table your telegraphic dispatch of the 28th instant upon the subject, and accepted it as an indication that the course which I have pursued would meet your approval.

It being brought to my notice that the ship's papers are still retained by the Cuban officials, I have addressed a communication requesting their delivery to the proper authorities, as per copy annexed, and presume they will be returned without delay. I have also, by same medium, asked for the rendition on board of the colored cook, who was taken from the vessel on the 3d day of February last, as will appear from the copy of the protest of Captain McCarty in possession of the department.

It is my intention to call an immediate survey of the vessel to ascertain her seaworthiness, &c., and have conferred with Admiral Poor upon the subject. As the future management of the affairs of the ship entails the care of a naval expert, I have thus telegraphed the department.

[Official.]

HAVANA, April 30.

HAMILTON FISH,
Secretary of State, Washington, D. C.:

Shall I deliver Lloyd Aspinwall to Admiral Poor if the master continues to decline taking her?

BIDDLE.

It is only due to Captain McCarty that I should state that while I protested against his not receiving his steamer, and he persistently refused, upon the grounds as hereinbefore stated, yet that he has rendered me every practical assistance, and has supplied his crew with food and necessaries, and awaits instructions from his owners in New York to guide his future course.

[Translation.]

COMMANDANCY GENERAL OF MARINE OF THIS NAVAL STATION, HAVANA.

It having been ordered by the marine court of this naval station, in obedience to the orders of the supreme government of the nation, to place at full liberty the captain and crew of the American steamer Colonel Lloyd Aspinwall, anchored in this port, as also the delivery of the said vessel, I have the pleasure to communicate the same to you, that in view thereof you may be pleased to be present on board of the Colonel Lloyd Aspinwall at 3 p. m. of to-day, in order to witness said delivery, having on my part made it convenient that the court be there assembled at that hour for the aforesaid purpose.

I am, sir, with the greatest consideration, &c., the rear admiral,

JOSÉ MALCAMPO.

HAVANA, April 28, 1870.

The CONSUL GENERAL of the United States at this city.

[Translation.]

In the ever most faithful city of Havana, on the 28th day of April, 1870, before me, the judge of the marine court and fiscal *ad interim* of the same, on board of the steamer Colonel Loyd Aspinwall, at 4 o'clock p. m., by special appointment of his excellency the commandant general of the naval station, and in presence of D. Gabriel Fofiares and D. Manuel Acosta, witnesses assembled, and assisted by the American consul of this city, expressly invited for the act, being present the captain of the Aspinwall, McCarty, who was previously instructed by the resolution in the proceedings of the 27th instant; as he declared that he would not take charge of the vessel, and that the same be delivered to the American consul, the judge concluded to proceed with the

delivery of the aforesaid vessel to the said consul, who being present took charge of the same, in full and absolute liberty, in accordance with what had been ordered by the supreme government of the nation; and the present instrument in writing having been extended, assisted by Mr. Jos. A. Raphael, secretary and interpreter, of the referred to American consul, Mr. Charles L. Franklin, commander of the monitor Saugus, and D. Eugenio Fragua, lieutenant of the national navy, who also served as interpreter, the latter and Raphael, having sworn according to law to make a correct and faithful translation of the foregoing, being also present at the proceeding D. Francisco Lopez Camaño, ensign of the national navy; all of the foregoing signing with exception of the captain of the Aspinwall, who declined. To which I attest.

FRAVIESO.

THOS. BIDDLE,

Consul General of the United States.

CHARLES L. FRANKLIN,

Commander of the Saugus.

Licentiate ANTONIO M. JURADO.

EUGENIO T. FRAGUA.

JOS. A. RAPHEL.

FRANCISCO LOPEZ CAMAÑO.

ANGEL GABRIEL FONARELY.

MANUEL DE ACOSTA Y VIDERAS.

Before me,

CARLOS DE ACOSTA.

Mr. Biddle to the Commandant de Marino.

CONSULATE GENERAL OF THE UNITED STATES,

Havana, April 30, 1870.

YOUR EXCELLENCY: With reference to the liberation of the American vessel Colonel Lloyd Aspinwall, and her delivery into my hands, as consul general of the United States, I have the honor to request of your excellency the register and other papers belonging to the said vessel, and still detained, and have also to request of your excellency the liberation of one of the crew of said vessel, named Geo. D. Green, the colored cook, who was taken out of the vessel on the 3d day of February last, and that he be returned thereto.

I have the honor to be your excellency's very obedient servant,

THOS. BIDDLE,

Consul General of the United States.

His excellency the COMMANDANTE GENERAL DE LA MARINO.

No. 37.

Mr. Fish to Mr. Biddle.

[Telegram.]

WASHINGTON, May 1, 1870.

Owner says he has instructed captain to receive the steamer. Tender to him. Inform me whether he receives her or not.

No. 38.

J. M. Requa & Co. to Mr. Fish.

NEW YORK, May 6, 1870.—(Received May 7.)

We had the pleasure to telegraph you on the 30th ultimo, and to

write on the 2d instant, but we have received no communication from your department since.

By the Morro Castle, from Havana, to-day, we received letters from Captain McCarty, of the Colonel Lloyd Aspinwall, dated 30th ultimo, written before he received our telegram directing him to accept the steamer.

We are anxious to have a settlement of this unpleasant affair; and, as the owners of the steamer, are willing that the matter of damages be determined by disinterested gentlemen of proper experience as referees, provided such be your recommendation. We have no authority to make any proposition on the part of the crew for their imprisonment and loss of personal effects, but if you would have us to do so, we will seek such authority immediately. We feel that no time should be lost in bringing the whole case to a determination, and would much like that such might be reached here, in case of a reference, so that if further evidence than is already in your possession be necessary, we can produce it here without delay or much inconvenience.

No. 39.

Mr. Biddle to Mr. Davis.

No. 102.]

HAVANA, May 7, 1870.—(Received May 12.)

Referring to my dispatch No. 88 upon the subject of the release of the American steamer Colonel Lloyd Aspinwall, I have now the honor to acknowledge receipt of the telegraphic dispatches from the department, dated the 30th ultimo, informing me that the owners of the Aspinwall had "directed captain to accept vessel," and another instructing me to telegraph result.

On May 2d instant I thus telegraphed: "Master receives Aspinwall."

So soon as Captain McCarty received advices from the owners, he expressed his readiness to take the vessel, which I delivered to him, and she was continued under the guns of the flag-ship *Severn*.

I then, at the instance of the master, issued a warrant for the survey of the steamer, to ascertain her seaworthiness, and to report her condition, &c., to the engineer and carpenter of United States steamer *Severn*, and two respectable ship-masters in the port. Their duty was promptly performed, and I hereto annex a copy of their report.

Admiral Poor at once detailed his whole engineer force to prepare the Aspinwall with all dispatch for sea, and when he sailed for Key West the same assistance has been most efficiently continued by Captain Calhoun, of the United States monitor *Dictator*, and with such celerity that it is hoped she may be able to proceed to sea to-morrow.

I am happy to state that the Spanish admiral of the station, conso-nantly to my request, delivered up all the detained papers and dispatches, and satisfactorily accounted for the missing member of the crew, as per copies and translations hereunto annexed.

It is not thought that any popular excitement will attend the departure of this vessel, but, as a precaution, the *Dictator* will be on the *qui vive*, and escort her to sea if occasion requires.

Captain McCarty to Mr. Biddle.

HAVANA, May 2, 1870.

The American steamer Colonel Lloyd Aspinwall, under seizure of the Cuban authorities, near Nuevitas, on the 21st January ultimo, arrived at this port on the 29th day of said month, in ballast, and has been detained in custody of said authorities in this harbor until the 28th day of April last, and has suffered great injury thereby. I therefore have to request that you will call a survey on the said ship, her hull, engines, joinerwork, and all things appertaining to her.

Order of survey.

CONSULATE GENERAL OF THE UNITED STATES,
Havana, May 2, 1870.

GENTLEMEN: Application having been made to this consulate general by Charles A. McCarty, master of the American steamer Colonel Lloyd Aspinwall of New York, of 71.40 tons, for a survey of said vessel, her hull, engines, joinerwork, and all things appertaining to her, in consequence of her capture and detention by the authorities of Spain, from the 21st day of January until the 28th day of April ultimo, at Nuevitas, and in the harbor of Havana, you are requested to repair on board of said vessel, and there carefully examine the said vessel, her hull, engines, joinerwork, and all things appertaining to her. After which report to this consulate general, in writing, under your own hands, the result of your survey, specifying what work you deem necessary to render her seaworthy, and approximating as nearly as possible to the nature and amount of the damages which she has sustained by her detention in these waters of ninety-seven days.

Given under my hand and seal of office, at Havana, the 2d day of May, 1870.

[SEAL.]

THOMAS BIDDLE,
Consul General.

J. J. BISSETT, *First Assistant Engineer.*

WARREN BARNARD, *Carpenter United States flag ship Severn.*

Captain R. E. MCLEAN, *Master schooner Kate Brigham.*

Captain CHARLES C. RICKER, *Master bark Atlanta.*

Report of board of survey.

HAVANA, CUBA, May 3, 1870.

SIR: In accordance with your request of the 2d instant, we have carefully examined the American steamer Colonel Lloyd Aspinwall as far as possible at present. We recommend that the vessel be docked, in order that her bottom may be more thoroughly examined, as well as to clean it from the grass and other substances that have gathered thereon, caused by her long detention in this harbor. The upper works and deck required calking, as she has been exposed to the sun for over three months. The top of the house on deck requires to be covered with canvas, as that on at present is much worn, caused by the number of men walking over it while alongside of the Spanish frigate, and also from exposure. One "cavil" on deck torn away while towing here, leaving the deck underneath it exposed, so that the planks have become rotten, and it will be necessary to replace the "deck plank" and "cavil" with new ones. The windlass requires slight repairs, having been damaged by making ropes fast to it to secure the Aspinwall to the Spanish frigate. Window glass, frames, binnacle, and doors of the house-deck require repairs, damages caused by the frigate firing guns over the deck of the Aspinwall. The vessel also requires painting throughout. Five awning stancheons, carried away while alongside the Spanish frigate, require to be replaced. Awnings worn out by exposure require to be replaced with new ones. Sixty fathoms of four-inch line worn out and lost, it having been used in securing the vessel.

We could not move the engine with the appliances on board, so that we are of the opinion that the main working parts are badly corroded and rusted fast, from having remained in one position for over three months, and it will be necessary to have them taken apart in order to estimate the amount of damages sustained and the extent of repairs necessary to be made to render the engine seaworthy. The above work will occupy four days. The feed-pipes are burst, and require to be repaired. All valve-stems are greatly corroded, also the shaft. The boiler we find to be in good order. The condition of the screw-propeller and stern-bearing cannot be ascertained until the engine is turned by steam, or the vessel goes in dock. We estimate the damages, as far

as can be seen at present, to be, for hull and appurtenances, \$1,500; for engine and appurtenances, \$500.

We are, very respectfully, your obedient servants,

JNO. J. BISSETT,

First Assistant Engineer United States Navy.

WARREN BARNARD,

Carpenter United States Navy.

RICHD. E. McLEAN,

Master Kate Brigham.

CHAS. C. RICKER,

Master Bark Atlanta.

We have each received \$17 for holding the foregoing survey.

JNO. J. BISSETT.

WARREN BARNARD.

RICHARD E. McLEAN.

CHARLES C. RICKER.

Hon. THOMAS BIDDLE,

United States Consul General.

[Translation.]

COMMANDANCY GENERAL OF MARINE OF THE NAVAL STATION OF HAVANA.

I have the pleasure to remit to you herewith seven parcels, which appear to be correspondence, the log-book and documents belonging to the American steamer Colonel Lloyd Aspinwall, for all of which I trust you will be pleased to give the corresponding receipt for due evidence in this commandancy general.

The rear-admiral JOSÉ MALCAMPO.

The CONSUL GENERAL of the *United States at this city.*

[Translation.]

COMMANDANCY GENERAL OF MARINE OF THE NAVAL STATION AT HAVANA.

With this date I give the convenient order to the commander of the national frigate Almanza, to place at your disposal the colored sailor George D. Green, of the steamer Colonel Lloyd Aspinwall, who has been in the infirmary of said vessel recovering his health. And I have the pleasure to inform you of the same for your knowledge and corresponding results. God guard you many years.

The rear-admiral JOSÉ MALCAMPO.

HAVANA, *May 6, 1870.*

The CONSUL GENERAL of the *United States at this city.*

No. 40.

Mr. Biddle to Mr. Davis.

No. 109.]

HAVANA, *May 12, 1870.*—(Received May 20.)

I have the honor to report that the American steamer Colonel Lloyd Aspinwall sailed for Key West at 4 p. m. on the 10th instant.

There was a delay of three days in obtaining the necessary port-clearance, from the technical obstructions of subordinates.

I transmit herewith a copy and translation of a certificate of the death in the military hospital, on the 4th instant, of George D. Green, the colored cook who was taken from the vessel by the Spanish officials.

[Translation.]

MILITARY HOSPITAL OF HAVANA.

Frigate Almanza.—George D. Green entered on the 20th of February, and died this 4th day of May, 1870, without aid.

Apartment: Dungeon No. 11.

Sickness: Chronic diarrhea.

The inspector JOSÉ GONZALO.

No. 41.

Mr. Fish to Mr. Lopez Roberts.

DEPARTMENT OF STATE,

Washington, May 25, 1870.

With reference to the claim of the owners of the steamer Lloyd Aspinwall for damages on account of the seizure of that vessel by a Spanish man-of-war, and her subsequent detention at Havana, I have the honor to propose that the subject be referred to two commissioners, one to be selected by the Spanish and the other by this government, with power to both to name an arbiter in the event of their disagreeing, and that the place of their meeting be in the city of New York.

It is deemed so important that this irritating question should be promptly and definitively adjusted, that I hope you will at once communicate the proposition to your government.

I avail myself of this occasion to, &c.

No. 42.

Mr. Davis to Mr. Biddle.

No. 66.]

WASHINGTON, May 25, 1870.

Your dispatch No. 109, announcing the sailing of the steamer Lloyd Aspinwall for Key West, and the decease of George D. Green, the colored cook, who was taken from the vessel by the Spanish authorities, has been received.

In relation to the case of Green you will inquire and report to the department whether he was imprisoned in a dungeon, and if so by what authority. The certificate of his death accompanying your dispatch states that he died in a dungeon.

No. 43.

Mr. Lopez Roberts to Mr. Fish.

WASHINGTON, May 30, 1870.—(Received May 31.)

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to acknowledge to the honorable Secretary of State the receipt of his note of the 25th instant, wherein he proposes the ap-

pointment of two commissioners, one to be chosen by the government of the United States, and the other by that which the undersigned has the honor to represent, for the purpose of fixing the amount of the damages suffered by the steamer Lloyd Aspinwall, through her detention in the port of Havana, and her capture by a Spanish war steamer; proposing further, that in case of a failure to agree on the part of the two commissioners, these be empowered to appoint an umpire to decide the case, and that the place of meeting be in the city of New York.

The undersigned informs Mr. Hamilton Fish that he has transmitted the proposal in question to his government, both by submarine cable and by mail, and that as soon as he receives instructions from Madrid he will communicate them to him for his information.

The undersigned avails himself of this occasion to reiterate to the honorable Secretary of State the assurances of his highest consideration.

MAURICIO LOPEZ ROBERTS.

Hon. SECRETARY OF STATE of the *United States*.

No. 44.

Mr. Biddle to Mr. Davis.

No. 141.] HAVANA, June 1, 1870.—(Received June 10.)

I have the honor to acknowledge receipt of your dispatches Nos. 63, 64, 65, and 66.

Referring to your No. 66, I have the honor to report that while the primitive definition of the Spanish term "Calaboza" (the only one, indeed, in Neuman's Dictionary) is "dungeon," and that therefore used by my assistant in his translation, it is also used in a derivative sense, to denote a ward or apartment in a hospital or public institution where the inmates are confined.

I visited to-day the military hospital, and have been shown the room in which George D. Green, the colored cook of the steamer Lloyd Aspinwall, died. It is a large, square, high-ceilinged, dry room, and looks upon a spacious courtyard, well shaded with trees. The ward in which he was originally placed I also examined. It was an airy, long room, with beds for about fifty patients, and I can only say that it seemed to compare well with those in similar institutions in the United States.

I regret the use of the erroneous expression by the translator; the legitimate meaning was his justification, and I had understood the case as the investigation established it.

No. 45.

Mr. Lopez Roberts to Mr. Fish.

[Translation.]

WASHINGTON, June 16, 1870.—(Received June 17.)

Referring to his note of May 30, the undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to inform the honorable Secretary of State of the United States that he has received a telegraphic dispatch from Madrid, in which his government notifies him of its acceptance of the proposal made by the honorable Hamilton Fish,

in relation to the appointment of two commissioners, one by each party, with power to appoint an umpire in case of disagreement, to decide with regard to the losses and damages in the case of the American steamer Lloyd Aspinwall.

The undersigned begs the honorable Secretary of State to be pleased to inform him concerning what he may further decide upon in the matter, and he avails himself of this occasion to reiterate to him the assurances of his highest consideration.

No. 46.

Mr. Fish to Mr. Roberts.

DEPARTMENT OF STATE,
Washington, June 17, 1870.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of a note of the 16th instant from the envoy extraordinary and minister plenipotentiary of Spain, stating that he has received a telegraphic dispatch from Madrid, in which his government notifies him of its acceptance of the proposal made by the undersigned in relation to the appointment of two commissioners, one by each party, with power to appoint an umpire in case of disagreement, to decide with regard to the losses and damages in the case of the American steamer Lloyd Aspinwall.

In reply the undersigned has the honor to inform the minister of Spain that the United States will be prepared to name a merchant as its commissioner, and that it is understood by this government that no counsel will be employed on either side, and would be happy to know if the minister so understands it.

The undersigned avails himself of this occasion, &c.

No. 46½.

Mr. Fish to Mr. Roberts.

DEPARTMENT OF STATE,
Washington, June 22, 1870.

With reference to the correspondence which has taken place between us upon the mode of adjusting the indemnity to be paid in the case of the steamer Colonel Lloyd Aspinwall, I will esteem it a favor if you will inform me whether you have selected a referee on the part of Spain, and if so, you will acquaint me with his name.

No. 47.

Mr. Roberts to Mr. Fish.

WASHINGTON, June 23, 1870.—(Received June 24.)

The undersigned, minister of Spain, has the honor to acknowledge to the honorable Secretary of State of the United States the receipt of his

two notes of the 17th and 22d of the present month, both referring to the matter of the appointment of the commissioners, one by each party, with powers to choose an umpire in case of disagreement, in order to adjust the losses and damages in the affair of the steamer Lloyd Aspinwall.

The undersigned informs Mr. Hamilton Fish, in reply to his aforesaid notes, that his government has appointed to represent it as commissioner in this matter Mr. Juan M. Ceballos, a Spanish merchant established in New York, and that it would thank him to be pleased to state to it whom the United States has chosen for the same purpose, to the end that the negotiations between the two commissioners may commence as soon as possible, in the said city of New York.

The undersigned avails himself of this occasion to reiterate to the honorable Secretary of State the assurances of his highest consideration.

No. 48.

Mr. Fish to Mr. Roberts.

DEPARTMENT OF STATE,
Washington, June 23, 1870.

I have the honor to acknowledge the receipt of your note of this date, informing me of the selection by your government of Mr. Juan M. Ceballos, a Spanish merchant in New York, as the referee on its part in the case of the steamer Lloyd Aspinwall, and requesting me to inform you of the name of the person selected on the part of the United States to act as their referee.

In reply I have the honor to inform you that John S. Williams, esq., of the firm of Messrs. Williams and Guion, No. 63 Wall street, New York, has been selected on the part of this government.

No. 49.

Mr. Fish to Mr. Williams.

DEPARTMENT OF STATE,
Washington, July 7, 1870.

SIR: At the request of Messrs. J. M. Requa & Co., the owners of the steamer Lloyd Aspinwall, the President has selected you to act as the referee on the part of the United States to determine the damages which the owners and the crew of that vessel have suffered by reason of the seizure of the vessel and its detention in the port of Nuevitas, and afterward in the port of Havana, in Cuba. The minister of Spain has selected Mr. Juan Ceballos to act as the referee on the part of Spain.

Your first duty will be to agree upon some disinterested third party to act as the umpire on questions on which the referees fail to agree, and to report his name to this department. You will then, at as early a date as possible, proceed to take proof of the damage in such form and under such conditions as may be determined by the referees. In case the referees agree upon an award you will sign it in duplicate, returning one copy to this department and one copy to the minister of

Spain, at Washington. In case you do not agree you will certify to the umpire the points on which you fail to agree, together with all the evidence taken concerning the same.

I am, sir, your obedient servant,

HAMILTON FISH.

JOHN S. WILLIAMS,
No. 63 Wall Street, New York.

No. 50.

Mr. Fish to J. M. Requa & Co.

DEPARTMENT OF STATE, July 7, 1870.

GENTLEMEN: Your letter of the 2d instant has been received. In reply I have to inform you that a communication has this day been addressed to John S. Williams, esq., of New York, notifying him of his selection by the President to act as the referee on the part of the United States in the case of the steamer Lloyd Aspinwall, and instructing him as to his duties in that capacity.

I am, gentlemen, your obedient servant,

3.—THE CHAMPION.

No. 1.

Mr. Biddle to Mr. Davis.

No. 8.] CONSULATE GENERAL OF THE UNITED STATES,
Havana, March 4, 1870.—(Received March 12.)

I have the honor to transmit herewith, for your consideration, a copy of dispatch No. 4, from the United States consul at Santiago de Cuba to the consul general; also, an extract from his No. 5, and a communication, dated February 24th ultimo, from John W. Parsons, esq., appointed United States consul at that port.

As stated, the seizure of the *Champion* seems to have been somewhat kindred to the case of the *Lloyd Aspinwall*.

Mr. Phillips to Mr. Hall.

No. 4.] UNITED STATES CONSULATE,
Santiago de Cuba, February 23, 1870.

SIR: I have also to inform you that on Sunday, 20th instant, the American sloop *Champion* entered our port in distress from Aux Cayes, bound to Jamaica, in ballast, when six days at sea sprung a leak and made this port.

It appeared that she cleared with one passenger, and when visited by the boarding-officers he was *non est*, which led to the suspicion that he had been landed on the coast of Cuba, and that the sloop was in commission of the rebel cause.

The commander de marina immediately seized her papers, held the captain and crew prisoners, and hauled the sloop under the guns of a Spanish man-of-war, leaking 150 strokes per hour. Permission was asked for by the captain to communicate personally with me, which was refused; he, however, came up this morning and entered his protest, of which I send a copy. I have communicated officially with the local authorities, procured the release and discharged the crew, which consisted of four men, and abandoned the vessel.

In a declaration taken from the crew, under oath, it appears that the sloop waited thirty hours off the port of Aux Cayes for the passenger, and not making his appearance proceeded on her voyage, and, owing to heavy norther blowing, ran into smooth water down the south side of Cuba, fearing to stand across to Jamaica in heavy weather in a leaking condition.

HENRY C. HALL, Esq.,
United States Vice-consul General, Havana.

Mr. Phillips to Mr Hall.

No. 5.]

UNITED STATES CONSULATE GENERAL,
Santiago de Cuba, February 25, 1870.

Per yesterday's mail I forwarded to you the case of the American sloop *Champion*; to-day I continue the matter by sending a copy of my official dispatch to the acting governor, agreeable to the instructions of the captain, to which he replies that he does not feel authorized to accept the terms proposed by the captain, and refers the matter to his excellency the political governor of the island.

The sailors are at present upon expense to the United States government, \$1 25 per day each, exclusive of the captain, and as the case will probably be submitted to the decision of the marine tribunal, these sailors, without doubt, will be required as witnesses; however, if you think advisable, I can take a separate deposition of each, and send them to the United States. I would like your advice upon the subject.

Protest of the master.

UNITED STATES CONSULATE,
Santiago de Cuba, February 22, 1870.

I, William W. Cox, an American citizen, master of the sloop *Champion*, of Noank, Connecticut, declare and make oath that I left Aux Cayes on the 4th instant, my vessel being then in good seaworthy condition; when six days out sprung a leak and was compelled to make harbor at this port upon arrival, and held me prisoner one afternoon, not allowing me to communicate personally with the American consul; after which hauled my vessel under the guns of a Spanish man-of-war, leaking 150 strokes per hour, where she and the crew remain prisoners. Believing it to be an outrage upon the undisputed rights of an American citizen, I not only protest but abandon my vessel to the Spanish government, holding them responsible for damages thereof.

WM. W. COX.

Mr. Parsons to Mr. Hall.

UNITED STATES CONSULATE,
Santiago de Cuba, February 24, 1870.

Dr. Phillips's dispatch particularizes upon the seizure of the sloop *Champion*, cleared from the port of Aux Cayes, bound for Kingston, Jamaica. The captain deposed in his protest as follows: The vessel sprung a leak off this coast, and he was obliged to deviate from the voyage, entering this port to repair the accident. On his arrival the authorities discovered a trifling informality in the ship's papers.

The disappearance of a passenger who was upon the bill of health as in transit, so excited their suspicions that they seized and conveyed her under the guns of a Spanish man-of-war, and imprisoned the crew. Upon the subsequent release of the latter, the captain visited the consul and entered his protest, surrendering the vessel as abandoned property. The case was promptly submitted to the authorities, before whom it is now pending.

No. 2.

Mr. Biddle to Mr. Davis.

No. 19.]

CONSULATE GENERAL OF THE UNITED STATES,
Havana, March 10, 1870.—(Received March 17.)

Referring to the case of the sloop *Champion* at Santiago de Cuba, I

have the honor to transmit herewith a copy of dispatch No. 6, addressed to this office from the United States consul at that port, and await instructions from the department.

Mr. Phillips to Mr. Hall.

UNITED STATES CONSULATE,
Santiago de Cuba, March 4, 1870.

I wrote to you on the 25th ultimo respecting the sloop *Champion*, since which nothing has been done upon the part of the government in the matter. She has sunk in shallow water and is filling up with mud. The captain's books, charts, nautical instruments, clothing, &c., together with the sailors' personal effects, will prove a total loss, and the captain informs me that in a few days her fine rosewood cabin will be eaten up by the worms. The *Champion* was built for a yacht, of the best material, coppered and copper-fastened, and cost some \$10,000. The captain is at a hotel, and the crew under my charge, and upon some considerable expense to the United States government, being necessary to furnish them with all necessary clothing.

The captain informs me that he can prove by the American consul at Aux Cayes, Hayti, that the passenger on his bill of health did not come on board.

I have written him for official information.

No. 3.

Mr. Davis to Mr. Biddle.

[Extract.]

No. 20]

WASHINGTON, *March 23, 1870.*

It appears by Mr. Parsons's dispatch that he is ready and desires to send to the United States the destitute seamen from the sunken sloop *Champion*, but that the Spanish authorities detain them as witnesses, refusing to give them passports. You will please represent to the Captain General that this government cannot acquiesce in the propriety of such a detention. It would seem to be quite feasible to take their testimony and allow them to leave, instead of keeping them there at the expense of this government. It is presumed that, unless they are held for some other purpose than as witnesses, the Captain General will order their early release.

No. 4.

Mr. Davis to Mr. Biddle.

[Extract.]

No. 28.]

WASHINGTON, *April 1, 1870.*

No representations on behalf of the owners of the *Champion* have yet been made to the department. Mr. Parsons has been written to about the crew of that vessel.

S. Ex. Doc. 108—10

No. 5.

Mr. Biddle to Mr. Davis.

[No. 47.] CONSULATE GENERAL OF THE UNITED STATES,
Havana, April 1, 1870.—(Received April 9.)

Referring to your dispatch No. 20, I have the honor to state that owing to the continued absence of the Captain General, I presented a written application to the segundo cabo, or lieutenant governor, as per inclosure, with relation to the liberation of the crew of the embargoed American sloop *Champion*, sunk at Santiago de Cuba.

I was informed by this gentleman that immediately after the depositions of the said ship's company were taken they should be placed at the disposition of the United States consul at Santiago, to be sent to the United States.

CONSULATE GENERAL OF THE UNITED STATES,
Havana, April 1, 1870.

YOUR EXCELLENCY: I have the honor to invite your favorable consideration to the following extract from a dispatch received at this consulate general from the Department of State at Washington, and to which I am instructed to draw your attention:

"It appears by the dispatch of Mr. Parsons, the United States consul at Santiago de Cuba, that he is ready and desirous to send to the United States the destitute seamen from the sunken sloop *Champion*, but that the Spanish authorities detain them as witnesses, refusing to give them passports. You will please represent to the Captain General that this government cannot acquiesce in the propriety of such a detention. It would seem to be quite feasible to take their testimony and allow them to leave, instead of keeping them there at the expense of this government. It is presumed that, unless they are held for some other purpose than as witnesses, the Captain General will order their early release."

I have the honor to be, your excellency's obedient servant,

THOMAS BIDDLE,
Consul General of the United States.

His excellency THE SUPERIOR POLITICAL GOVERNOR, &c., &c., &c.

No. 6.

Mr. Biddle to Mr. Davis.

No. 57.] CONSULATE GENERAL OF THE UNITED STATES,
Havana, April 8, 1870.—(Received April 15.)

Referring to my dispatch No. 47, relating to a verbal communication from the lieutenant governor in the case of the American sloop *Champion*, I have now the honor to transmit to you a copy and translation of a letter since received from that officer upon the subject.

[Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE ISLAND OF CUBA, SECRETARY'S OFFICE POLITICAL AFFAIRS.

I have received your communication of the 1st instant, in which you transmit the extract from a dispatch from the Department of State at Washington, inquiring the cause of the retention of the crew of the American sloop *Champion*, held at Cuba.

I have asked for information from the commanding general of the naval station, who informs me that he has given orders that the matter be investigated at Cuba.

God guard you many years.

CARBO.

HAVANA, April 6, 1870.

The CONSUL GENERAL OF THE UNITED STATES.

No. 7.

Mr. Fish to Mr. Biddle.

[Telegram.—Extract.]

WASHINGTON, April 9, 1870.

* * * * * Ask for the immediate release of the crew of the
Champion.

No. 8.

Mr. Parsons to Mr. Davis.

No. 16.]

UNITED STATES CONSULATE,
Santiago de Cuba, April 16, 1870.—(Received May 7.)

At the remonstrance of the crew of the sloop *Champion*, Admiral Poor protested to the governor of this department against their retention, urging in his communication that, owing to the approach of the sickly season, it would endanger their lives to remain.

Governor Ojeda immediately notified the admiral of their release and delivery into his hands; they proceeded on board the *Severn* by order of Admiral Poor, and sailed for Kingston, Jamaica, from which point they will probably be forwarded to the United States, by the consul, or otherwise disposed of by the admiral.

No. 9.

Mr. Davis to Mr. Biddle.

No. 38.]

WASHINGTON, April 18, 1870.

You are instructed to ask the Captain General for compensation for the schooner *Champion*, seized by the Spanish authorities in the harbor of Santiago de Cuba, and abandoned by the master as a total loss. For the facts in the case you are referred to your No. 8.

No. 10.

Mr. Davis to Mr. Biddle.

[Extract.]

No. 42.]

WASHINGTON, April 20, 1870.

I have to inform you that, on the 15th instant, a telegram was received from our minister at Madrid containing a report of an interview with the minister of state, in which the latter * * * * * stated that no report in the case of the *Champion* had reached the government at Madrid, but promised to telegraph for the same.

No. 11.

Mr. Sickles to Mr. Fish.

[Telegram.]

MADRID, April 21, 1870.—(Received April 21.)

Communication from minister of state shows that *Champion* put into Santiago de Cuba February 20, in distress, and was seized on suspicion of having been engaged in unlawful voyage. Captain protested and abandoned vessel. Report incomplete; forwarded by mail.

No. 12.

Mr. Sickles to Mr. Fish.

No. 94.] MADRID, April 21, 1870.—(Received May 10.)

I have the honor to transmit a communication just received from the minister of state, and copies of documents which accompanied it, purporting to explain the seizure of the *Champion*. These papers you will observe, are entirely inadequate and afford no sufficient explanation of the proceedings in question. I shall take occasion to remark as much to the minister of state.

Mr. Sagasa to Mr. Sickles.

[Translation.]

MADRID, April 20, 1870.

Certain communications having been received in this department under my charge relating to the detention of the American sloop *Champion* in the port of Santiago de Cuba, and conformably to my promise to your excellency in our last conference, I have the honor to transmit to you the accompanying copies, desiring to call your attention to the statement of the authorities, and especially to the communication from the consul of the United States to the commandant of marine.

From this last it at once appears that in the detention of the said sloop there could have been none of the illegal vexations which have been supposed, and above all that in this act no offense whatever to the flag of a friendly nation could be inferred, for in that case it is certain that the consul of the United States would in no way have willingly given his assent, still less have served as a medium for the adjustment of such a reclamation, arranging the receipt for the calking of the vessel and for the expenses of the crew. On the other hand, the marine court, if it had not been convinced of the legality with which it has acted fundamentally as well as in form, would not have rejected the proposition, if only to cut short the annoying controversies which private interests always awake when in conflict with the duties imposed by the exercise of authority in circumstances as extraordinary as those through which the island of Cuba is passing.

I improve this opportunity to reiterate to your excellency the assurances of my most distinguished consideration.

[Translation.]

CIVIL GOVERNMENT OF THE EASTERN DEPARTMENT OF THE ISLAND OF CUBA, SECRETARY'S OFFICE, NAVAL HEADQUARTERS OF THE PROVINCE OF CUBA.

I have in my possession the communication dated yesterday, which your excellency was pleased to address to me, accompanied by the copy of the protests which have been made before the vice-consul of the United States of North America by the captain

and crew of the American merchant sloop *Champion*, arrived in this port on the 20th instant, which vessel presented documents so contradictory and inaccurate that, it appearing in her manifest that she carried ten individuals in the crew and in her bill of health, (without date,) seven individuals in all, she entered port with but five, from captain to cabin boy all included.

For this fundamental cause, for having moreover come unprovided with a log of her long voyage of sixteen days, and from the relative situation of her port of destination and that of her departure, considering the general winds which rule in that zone, suspicions were raised that an illicit object prompted her voyage, and I proceeded, as your excellency and the vice-consul himself know, ample information being given him, to institute an investigation of the case, in accordance with the regulations and as was my duty. But remembering the extreme consideration which I have shown to the captain and crew of the said vessel, and the attention of which they have been the object on the part of this headquarters, I have been caused the highest astonishment and been disagreeably affected by the inexact character of the protests set forth, and the, for me until now, inexplicable determination to abandon the vessel and represent her as given up to the Spanish government, in whose power the American consul says she now is. But it appearing to me advisable to set aside the consideration of the idea which may have led to the adoption of such a measure, and that your excellency might perceive in your wisdom if there might or might not be incongruities of some sort which could give an appearance of foundation to the language used in the protests referred to, I deem it opportune to give your excellency a substantial account of all the occurrences since the entrance of the sloop *Champion* into this port.

This vessel anchored on the afternoon of the 20th instant, as has been before said, and on the health officer going to make his visit he noticed a discrepancy, already referred to, between the certificate and the crew the vessel carried, in consequence of which she was placed under sanitary supervision until free intercourse was granted a few hours afterward.

On the following morning, deputed by the court of this district, I went on board the sloop with the captain and one of the sailors, who was found on shore, and inspected the condition of the vessel, and, the captain having stated that she had made considerable water, and that he was desirous to anchor her in a more sheltered place to repair her with the greater facility, I gave orders that a harbor pilot should at once come on board, in order that the said vessel might be taken to the immediate vicinity of the lighterage wharf, which is the best anchorage in port for this class of vessels, which was done in a short time.

In this state of affairs the proceedings began, but as there was not sufficient room in the vessel for the examination to be held there, I determined to remove it to the captaincy of the port, whither we came with the captain and one of the crew, the others remaining on board to work the pump, as the captain himself requested.

The day thus passed, moving in the matter until 5 o'clock p. m., when the said proceeding was suspended, to be continued on the following day, when the court was again organized, about 8 o'clock in the morning. Half an hour afterward came in the sailor of the said crew who spoke Spanish, who carried already his purchases made in the market-place, leaving the captain with whom he had come on shore in a public house; and, having asked the said sailor at what hour they were in the habit of breakfasting, he said about eleven or half-past eleven. The proceedings were continued for a short time. Being engaged in them, at about half-past nine a young man presented himself, saying that he was the secretary of the American vice-consul, and that he had come to request, on the part of that gentleman, that the captain and crew might be permitted to go with him to his house to draw up a document. I answered him that he would have the goodness to say to the vice-consul that the admiral was receiving with all haste the declarations of the crew and an amplification of that of the captain, in order to cause them the least possible detention, and that as soon as we were through they might go to his house as the said gentleman desired.

The proceedings then went on until a quarter past eleven, when the said captain and crew went to breakfast, being notified beforehand that they should return at 12 o'clock. The admiral was ready at that hour, but it growing to be 1 o'clock in the afternoon and the captain not coming to complete his declaration, I presumed that he was at the vice-consul's house, and sent a messenger of this headquarters to say to the said gentleman that he would have the goodness to allow the captain and crew of the *Champion* to make haste, in order to be able to conclude the investigation. In fact, they were all there at that time drawing up the said protests, and the above mentioned vice-consul answered that within ten minutes the captain and crew would be in the headquarters of the port. In thirty minutes, more or less, the said captain and crew arrived, (it was then about two o'clock,) and the investigation was pursued and lasted until 4 o'clock the same afternoon. The captain having made known to me a few moments before that his men were tired out by reason of having worked the pump so long, and that he desired to find a few men to aid him, I stated to him that which I had the honor to tell your excellency in my letter of yesterday. Lastly, before concluding, I will say to your

excellency that so excessive was the attention shown in all respects to these strangers in this port that they were not subjected to the ordinary period of sanitary supervision, nor were they under the vigilance of the gunboat, as directed by the sanitary regulations now in force; and I believe the behavior shown by them in return for the hospitality they received merits at least that the attention of the authorities should be called to it, in order that silence may not give chance for the repetition of such disagreeable occurrences.

These are, Mr. Governor, the true facts which have taken place respecting the captain and crew of the sloop referred to, and which were done in the presence of all the gentlemen composing the court, of the interpreter of the naval office, and of various other dependents of these headquarters, as also the scene of giving the assistance of other seamen to the sloop before the secretary of the said vice-consul and the commander of the schooner *Huelva*; from all which it is only by seeing with my own eyes the protests referred to that I can harbor the conviction that these facts are represented distorted up to the point of saying that an outrage has been committed upon them, and for that cause they abandon the vessel.

This is what I deem necessary to state to your excellency in explanation of all that has happened in relation to this disagreeable and unexpected incident, of which I shall give information by the next mail to the marine commandant of the apostadero, inclosing the proceedings.

God guard your excellency, &c.
CUBA, *February 23, 1870.*

ANTONIO FRANCO.

The PROVISIONAL GOVERNOR of *this Department.*

A copy.

The secretary of the government,
MANUEL GOMEZ.

A true copy.

[Here follows the rubric of the minister of state.]

[Translation.]

CIVIL GOVERNMENT OF THE EASTERN DEPARTMENT OF THE ISLAND OF CUBA, SECRETARY'S OFFICE, NUMBER 94.

EXCELLENT SIR: I have the honor to transmit to your excellency a copy of an official communication addressed to me by the vice-consul of the United States of America in this place, setting forth that the protest of the sloop *Champion* would be suspended if the vessel were returned to him calked and the payments made which he designates. By my answer, a copy of which is also annexed, your excellency will see that I have not acceded to the request, the case being submitted to the proceedings instituted by the marine court and to your excellency's superior decision. At the same time I transmit to your excellency a copy of the note addressed to me by the naval commandant upon the situation in which the vessel now is, from the causes which he states, in order that your excellency, in view of all the facts, may be pleased to determine what you think proper.

God guard your excellency, &c.
CUBA, *February 24, 1870.*

His excellency the provisional governor,
MANUEL DE OJEDA.

His Excellency the SUPERIOR CIVIL GOVERNOR of *the Island.*

A true copy.

[Here follows the rubric of the minister of state.]

[Translation.]

CIVIL GOVERNMENT OF THE EASTERN DEPARTMENT OF THE ISLAND OF CUBA, SECRETARY'S OFFICE.

[Translation.]

CONSULATE OF THE UNITED STATES,
Santiago de Cuba, February 23, 1870.

SIR: I have received the polite communication of yesterday by which you refuse to accept the abandonment of the American sloop *Champion*, considering such a measure

extreme and unjustifiable, the action of the government being justified by the suspicions created by the papers of the vessel, and that a detention for a few hours in quarantine did not constitute a seizure of a merchant vessel. In answer, permit me to say that, notwithstanding the seizure of the vessel's papers and the moving or changing her from one place to another constitute a capture, virtually or in fact, of the vessel, nevertheless the captain, desiring simply to have free charge of his vessel and to continue his voyage when he sees fit, and not wishing to prosecute or continue a complaint, but to avoid it, if possible, I am led to infer that the captain will withdraw his protest, provided that the vessel be returned to him with the necessary calking which requires to be done, and that he be paid the costs of her detention; and, in the contrary case, his protest will remain in force and the vessel be abandoned. Therefore, while you fulfill your duty in having suspicions respecting the vessel, you will not hesitate to allow me, as well, the right to guard against anything the captain may suffer if it turns out that those suspicions lack foundation.

I am, sir, with esteem, very respectfully, yours,

A. E. PHILLIPS,
Acting Consul.

Colonel OJEDA, *Provisional Governor.*

Which translation, signed and sealed with the seal of my office, is literally from the original, to which I certify and have subscribed, in Cuba, the 23d of February, 1870.

The interpreter of the government and general commandancy,
MARIANO PUERTE Y VILLALON.

There is a seal on the margin, which says: "Interpretation of languages of the government and general commandancy of the department of the east of the Island of Cuba."

A copy:

The secretary of the government,
MANUEL GOMEZ.

CIVIL GOVERNMENT OF THE EASTERN DEPARTMENT OF THE ISLAND OF CUBA, SECRETARY'S OFFICE.

Yesterday afternoon I received the letter you addressed me, stating that the protest of the captain of the vessel *Champion* would be suspended if the vessel should be returned calked and payments made as stated. In response, I can only say to you that, the marine court being cognizant of the facts, and the case being submitted on the part of this government to the decision of his excellency the superior civil governor of the island, I cannot and must not accept other than the determination ordered by that superior power.

God guard your excellency, &c.

JUAN DE OJEDA.

CUBA, *February 23, 1870.*

The VICE-CONSUL of the *United States of America* in this place.

A copy:

The secretary of the government,
MANUEL GOMEZ.

CIVIL GOVERNMENT OF THE EASTERN DEPARTMENT OF THE ISLAND OF CUBA, SECRETARY'S OFFICE.—NAVAL HEADQUARTERS OF THE PROVINCE OF CUBA.

At this moment, 2 o'clock p. m., the head pilot of this port has come to inform me that he had met the captain of the American sloop *Champion* dining in the restaurant of Don Felipe Viejo, and informed him that that vessel was drifting from her anchorage, and that it was necessary to take measures that the vessel might suffer no damage. The captain answered him that he could do nothing in the matter, because he had no sailors at his command; but subsequently one of those of the *Champion*, who acted as pilot, named William Perkins, presented himself in this office asking, in company with the same pilot, that aid might be lent him to extricate the sloop from that situation, and moor her to the lighterage wharf; and thereupon the said pilot, a sergeant of marines, a sailor, and a negro went on board, and, as they did so, found that she had her anchor stocked. The pilot has informed me since then that the sailor, William Perkins, locked the cabin and took the key away with him. The said sloop has

already much water in the hold, and as the seamen of the schooner *Huelva* could not help her in this affair, because she went to sea at 11 o'clock this morning, it follows that, in consequence of being abandoned by her captain, she will very soon fill with water, although she cannot go to the bottom because she is in a secure place, and in the same depth of water as her own draught.

This I have the honor to communicate to you for your information. God guard your excellency, &c.

ANTONIO FRANCO.

CUBA, *February 23, 1870.*

The CIVIL PROVISIONAL GOVERNOR of this department.

A copy :

The secretary of the government,

MANUEL GOMEZ.

A true copy.

[Here follows the rubric of the minister of state.]

No. 13.

Mr. Biddle to Mr. Fish.

[Telegram.]

HAVANA, *April 27, 1870.*—(Received April 27.)

Consul Parsons informs department, in his No. 16, that crew of *Champion* is surrendered to Admiral Poor, of United States steamer *Severn*.

No. 14.

Mr. Biddle to Mr. Davis.

No. 130]

CONSULATE GENERAL OF THE UNITED STATES,

Havana, May 27, 1870.—(Received June 4.)

Referring to your dispatch No. 38, instructing me to ask the Captain General for compensation for the schooner *Champion*, seized by the Spanish authorities in the harbor of Santiago de Cuba and abandoned by the master as a total loss, and referring me for the facts in the case to my No. 8, I have the honor to state that, having written to the United States consul at Santiago upon the subject, in order to obtain the measure of damages, I duly received from him a reply thereto, (his No. 17 to this office,) dated the 11th instant, a copy whereof, and of its inclosures, is hereunto attached.

You will observe that neither in the protests of the master and mariners, nor in the consular correspondence on the subject, is there any specific statement of the value of this vessel, or of the losses sustained, unless it be in the dispatch No. 17, above referred to. Admiral Poor corroborates the statements as to her hopelessly submerged condition. Her crew were shipped by him on vessels at Kingston, Jamaica, and he has no data as to her value or injuries.

Believing that sooner or later the department will receive a formal notification from the parties interested of their claims in this case, and being impressed with the necessity of its early presentation to the Cuban government, as well as with the tenor of the instructions in your No.

38, I have, therefore, of this date, addressed a note to the superior political governor of the island upon the subject, a copy of which is hereto annexed, in which I suggest \$10,000, the sum asserted by the master and owner as the value of the vessel, as a basis for terms for compensation, with accruing damages for detention, &c.

CONSULATE GENERAL OF THE UNITED STATES,
Havana, May 27, 1870.

YOUR EXCELLENCY: I have the honor to transmit to your excellency herewith, an extract from a dispatch which I have received from the Department of State of the United States, instructing me to ask for compensation for the American schooner *Champion*, seized in the harbor of Santiago de Cuba, and abandoned by the master as a total loss.

The said master stated, previous to leaving this island, that the schooner had cost him \$10,000, which sum may be thus understood to form the basis on which the compensation claimed by the United States government may be founded, with accruing damages for detention, &c.

I have the honor to be, your excellency's very obedient servant,

THOS. BIDDLE,
Consul General of the United States.

His excellency the SUPERIOR POLITICAL GOVERNOR of the *Island*.

Mr. Parsons to Mr. Biddle.

No. 17]

UNITED STATES CONSULATE,
Santiago de Cuba, May 11, 1870.

I am in receipt of your communication No. 13, under date of the 4th instant, and in compliance with the request have the honor to inclose herewith desired copies of affidavits of Captain Cox and crew of the sloop *Champion*, protest and official correspondence of Vice-consul Phillips, and report all the information I possess upon the case in question.

The *Champion* was seized upon suspicion of having rendered aid to the insurrection. This suspicion was based upon the discrepancy of the bill of health issued at the port of Aux Cayes, Hayti, her last place of clearance; the number contained therein did not conform to the number of persons found on board upon her arrival at Santiago de Cuba, there being one person less than the number called for in the said bill of health, this person being inserted in said bill of health as a passenger. Captain Cox declared that this passenger did not come aboard either before or after he obtained his clearance, and proffered satisfactory evidence of this fact by a certificate from the American consul at Aux Cayes, who cleared him.

Mr. Phillips wrote to the latter-named person and received the following reply, which I likewise transmit:

The *Champion* was built at Noank, Connecticut, was owned by the commander, and, if my memory serves me, is classed as a second rate yacht of 30 tons burden, and valued by the owner at \$10,000.

Captain Cox is now at Kingston, Jamaica, and has in his possession the original bill of sale of his vessel, together with an inventory of her effects, and bills for additional expenditures for remodeling and perfecting her sea-going qualities—the entire cost of which, he informed me, foots up to the above-mentioned sum.

Declaration of the crew.

UNITED STATES CONSULATE,
Santiago de Cuba, February 22, 1870.

We, the undersigned, crew of the American sloop *Champion*, now abandoned and in possession of the Spanish government, declare, under oath, before A. E. Phillips, acting United States consul at this port of Santiago de Cuba, that we left the port of Aux Cayes, Hayti, on the 4th day of February, A. D. 1870, having waited some thirty hours after being ready for sea for a passenger, who did not come on board—being five of us

on board, all told. When six days at sea the vessel sprung a leak, and we proceeded to this port, as above stated. We also state, on oath, that there were no other persons excepting us five, including the captain; nor did we touch or land at any other point on this island before entering this; that the communication was direct.

DAVID HAMMON.

his
HENRY + THOMAS.

mark.
WM. PERKINGS.

Witness: A. E. VERDEREAU.

Mr. Phillips to Mr. Ojeda.

UNITED STATES CONSULATE,
Santiago de Cuba, February 23, 1870.

SIR: I have received your polite official dispatch of yesterday, in which you object to receive the abandonment of the American sloop *Champion*, considering such measure extreme and unjustifiable, to acts of the government being justified by the suspicions created by the vessel's papers, and not constituting a seizure of the vessel, which was merely detained some hours in quarantine. In reply I would beg to state that, though the seizure of the vessel's papers and her removal from one place to another constitute a virtual seizure of the vessel, still, the captain simply desiring to have free action of his vessel and continue on his voyage when he thinks fit, and not to prosecute a grievance, and, if possible, avoid it, I am led to infer that the captain will raise his protest by the vessel being returned to him, with the necessary calking required to be made and the expenses paid to him by the detention; on the contrary, the protest to remain in force and the vessel abandoned; for, while fulfilling administering your right to entertain suspicions with regard to the vessel, you will no doubt equally concede my right to guard against the suffering by the captain of any prejudice, should such suspicions result to be groundless.

Colonel OJEDA,
Acting Governor.

Consul at Aux Cayes to Vice-consul at Santiago de Cuba.

CONSULATE OF THE UNITED STATES,
Aux Cayes, Hayti, March 22, 1870.

SIR: Your letter of February 25 has just been received and the contents duly noted. In reply, I have to state that I saw the French gentleman to whom you refer as appearing on the bill of health as a passenger by the American sloop *Champion*, and that of my own knowledge I can testify that he was left behind and did not embark on board said vessel. It also appears, from an entry in my ship's daily journal, that the crew of the *Champion* consisted of three men and one boy, one man, viz, John Dashwood, having been left in hospital in Antigua. I have also to certify that the American seamen, viz, John Wright, John Plunkett, and Phillip Cramer, were received on board the said *Champion* by Captain Cox by a private agreement between the said captain and seamen to which I was not privy; that I gave to each of said seamen, at their request, a letter to the American consul at Kingston, setting forth that they had gone to Kingston for the purpose of returning by the first opportunity to New York. I also inclose to you a certificate of the collector of customs for the port of Aux Cayes, stating that the *Champion* was properly cleared on the 4th of February last with six men, which corresponds with the above statement. The custom house at this port is in complete and regular operation.

I am, sir, your obedient servant,

W. A. GOULD,
Consul of United States at Aux Cayes.

A. E. PHILLIPS, Esq.,
United States Consul at Santiago de Cuba.

APRIL 16, 1870.

I, the undersigned, do hereby certify that the foregoing is a true and faithful copy of the original filed in this consulate, and as such is entitled to full faith and credit.

Given under my hand and seal the date above written.

[SEAL.]

R. E. RINES,
For the Consul.

UNITED STATES CONSULATE,
Santiago de Cuba.

SIR: The local authorities officially inform me that your sloop is suspected of giving aid to the rebels, and shall proceed against you if not proved to the contrary. I therefore cite you before me this day, at 12 m. to hear and take note of your statement.

I am, sir, yours truly,

A. E. PHILLIPS.

The CAPTAIN of the Sloop *Champion*.

No. 15.

Mr. Biddle to Mr. Davis.

No. 143.] CONSULATE GENERAL OF THE UNITED STATES,
Havana, June 3, 1870.—(Received June 10.)

Referring to my dispatch No. 130, relating to the demand for compensation for the American sloop *Champion* at Santiago de Cuba, I have now the honor to transmit to you the reply of the Captain General *ad interim*, dated the 1st instant, in which he expresses the intention to communicate the resolve of the government upon the subject to the minister of Spain in Washington in due season.

Acting Captain General to Mr. Biddle.

[Translation.]

BUREAU OF POLITICAL AFFAIRS.

Your communication dated the 27th ultimo, inclosing an extract from a dispatch of the Department of State of the United States, in which you are instructed to ask compensation for the detention of the American sloop *Champion* at Santiago de Cuba, has been received.

When convenient the resolve taken on the subject will be communicated to his excellency the minister of Spain in Washington.

No. 16.

Mr. Fish to Mr. Sickles.

No. 60.] WASHINGTON, June 9, 1870.

I have to acknowledge the receipt of your dispatch of the 21st of April last, No. 94, in regard to the case of the American sloop *Champion*, detained at Santiago de Cuba.

The explanations presented in the note of the 20th of April from the minister of state, and the papers which accompanied it, translations of which you inclosed, are not satisfactory. The idea of sanitary protection by quarantine is quite inconsistent with bringing the vessel immediately into port.

Your proposed representation of the inadequacy of the explanations is therefore approved.

4.—THE SCHOONER LIZZIE MAJOR AND PASSENGERS.

On April 12, 1869, the department telegraphs the vice-consul general as follows:

It is reported that two passengers have been taken from the American brig *Lizzie Major* on the high seas by the Spanish man-of-war *Fernando Catolico*. Is this so? Report full particulars by post.

The vice-consul general in reply reports as follows:

The *Lizzie Major* left Havana on the 5th of March, for New Orleans via Caibarien, with two passengers, viz, A. Annible and Ramon Valdes Rivas. The two passengers were provided with proper passports and appear to have complied with the port regulations before their departure.

On arrival at Caibarien, in company with Master A. W. Giles, they reported themselves to the captain of that port, who reported them to the captain of the district, and this officer, after an examination of their passports, informed them that they could remain in port until the departure of the vessel.

After completing her cargo the vessel sailed for New Orleans, on the 27th of March, and when on the high seas, full thirty miles from Caibarien, the vessel was boarded by the Spanish war steamer *Fernando el Catolico*, and two passengers forcibly taken away by order of her commander, and against the protest of her master. They were carried to Caibarien, subjected to an examination, search of baggage, and then confined in prison at Remedios. The only cause alleged for this conduct was that their names did not appear on the ship's manifest.

On the 19th of April, the consular agent at the Caibarien informs the vice-consul general at Havana that the prisoners were placed at his disposal the day previous, and proceeded to Remedios, and in dispatch No. 39, Mr. Hall reports their sailing for New York, on April 23.

On April 14, 1869, a note was addressed to the Spanish minister informing him of the facts as they had reached the department, and requesting him to obtain and communicate a report of the case. It was further stated that this request was made "in order that if the facts should prove as reported, due reparation may be required of the Spanish government for a trespass of so flagrant a character upon the maritime rights of the United States."

Under date April 21, 1869, a second note was addressed to the Spanish minister, which, after referring to the information concerning the case then in possession of the department, proceeds "in view of the oral assurances of Mr. Roberts to the undersigned, that the act of the commander of the "*Fernando Catolico*," was entirely unauthorized by the Spanish government, the undersigned feels confident that Mr. Roberts will hasten on behalf of his government to cause Messrs. Annible and Rivas to be liberated and placed under the protection of this government, and that he will also on behalf of his government offer a suitable apology for the affront to the flag of the United States."

Under date of June 5, 1869, the Spanish minister acknowledges the receipt of the notes above mentioned and proceeds: "The undersigned hasten to call the attention of the Captain General of Cuba to the matter in order that he might cause the proper investigation to be made. It having appeared from the examination made of the details of the case, that in proceeding to the capture of the aforesaid passengers on board of the *Lizzie Major*, as the commander of the *Fernando el Catolico* did, he acted without law or justification, the undersigned is deputed to make known to the honorable Secretary of State that those passengers have been set at liberty, and that the commanding officer has been duly reprimanded for the irregularity of his conduct.

Moreover, it could never have been the design of the superior authorities of Cuba to sanction an act which in any manner could violate the rights or treat with contempt the sovereignty of a friendly nation."

5.—THE SLOOP FULTON.

In dispatch No. 5 of February 25, 1870, Mr. Biddle states that on the 23d of February, 1870, he received a note from Captain N. Salmon, of her Britannic Majesty's *Defense*, informing him that Captain Franklin had taken refuge on board his vessel from the Cuban volunteers.

Mr. Biddle transmits the deposition of Captain Franklin, as follows:

That the *Fulton* belongs to Key West; arrived at Havana on 20th February; deposited his vessel's papers at the consulate general. On

anchoring, a boat containing several volunteers (whom he recognized by their uniforms) passed round the vessel, one of whom, Señor Gonzalez, threatened Captain Franklin that he should be taken to the cabañas and shot, and that he should not leave Havana alive. That Captain Franklin's consignee told him (Captain F.) that it was not safe for him to go ashore, and believing this he sought refuge on the Defense; that the crews of the smacks Belle of the Cape and Montezuma heard the threats. Gonzalez said that a letter had been sent from Key West that Captain Franklin had taken the murderer of Castanon from that place; which Captain Franklin claims and asserts that he was not at that port at the time; that he understands Spanish but his crew do not.

Mr. Biddle went on board the Defense, and found Captain Franklin in "mortal terror." On his return he called on the political secretary and requested a "safe conduct" for the Fulton. The political secretary said that grave charges were lodged against Captain Franklin for complicity in Cuban expeditions, and commenced reading written accusations from individuals at Key West. Mr. Biddle reminded the political secretary that the United States claimed jurisdiction over all offenses committed on board American vessels on the high seas and in our own ports. He suggested that a police guard be placed on the Fulton and she be towed to sea, and that a copy of the charges against Captain Franklin be given to him for use of his government. To this the political secretary assented, and gave a memorandum (inclosed with the dispatch) to the effect that two American subjects have informed the Spanish government that Captain Franklin is prepared to ship 150 insurgents and bring them to Cuba; that Captain Franklin has previously lent his aid to Cuban "emigrants" against the cause of Spain.

Captain Franklin sent his mate ashore to obtain the Moro pass, but he was driven under threats of his life, and with cries for the blood of Captain Franklin from the warden's office.

The political secretary performed his promise, and the Fulton was convoyed by the guard ship of the port.

On March 7, 1870, Mr. Biddle's proceedings are approved.

II.—LIST OF PERSONS SAID TO BE CITIZENS OF THE UNITED STATES AND TO HAVE BEEN EXECUTED WITHOUT PROPER TRIAL DURING THE HOSTILITIES IN CUBA, TOGETHER WITH THE CORRESPONDENCE SHOWING SOME OF THE STEPS TAKEN IN REFERENCE THERETO.

No. 1.

CHARLES SPEAKMAN AND ALBERT WYETH.

Mr. Plumb to Mr. Fish.

HAVANA, June 24, 1869.—(Received July 3.)

I beg to transmit to you herewith a copy of a letter, under date of the 18th instant, which reached me yesterday from Mr. E. A. Phillips, acting United States consul at Santiago de Cuba, giving information of the summary execution at that place of a citizen of the United States.

The circumstances of the case, as also the situation of affairs at that place, are so graphically described in Mr. Phillips's letter, that it is not desirable I should attempt to recapitulate them here. I await such instructions as you may deem it necessary to give me in the premises.

* * * * *

Mr. Phillips to Mr. Plumb.

SANTIAGO DE CUBA, June 18, 1869.

I have the honor to inform you that a few days since the American schooner *Grape Shot*, from New York, landed men and munitions at Baitiquiri, near Guantanamo, and after a few days had an encounter with the Spanish troops; the Cubans, after sustaining themselves three hours, lost their commander, George Smith, a citizen of the United States, and retired into the interior, leaving a few Americans to the mercy of the Spanish troops. On Tuesday, the 13th, the English vice-consul sent me a note stating that an American prisoner had just passed his consulate for the city prison, and in a few minutes I received a dispatch from the governor, notifying me of the same. I immediately called upon this authority, who gave me a pass to the prison, where I could have a public or private interview with the prisoner. I called the fiscal (attorney general) and a captain of the volunteers, who understood English perfectly, and under oath to me made this declaration, he being unable to write from having had his arms so long pinioned as to have a partial paralysis of his hands. Stated that he was a native of Aurora, Indiana, being married and having a child four years of age. Left New York harbor in the schooner *Grape Shot*; signed the articles as a sailor for Falmouth, Jamaica, in good faith, knowing nothing of the nature of the voyage, save its legitimate object. After anchoring in the lower bay of New York, waiting for a tug to tow her to sea, which arrived at midnight, bringing some fifty armed Cubans, with a good supply of munitions of war, objected to continue the voyage, and desired to return to the city in the tug; the captain assured him that although he had taken the Cubans, he would not risk his vessel to run the Spanish blockade, but would proceed to Falmouth, land the men, and go for a cargo of cocoa-nuts. When off Cape Maysi, the Cubans took possession of the vessel, changed her course, run her inland and discharged.

He insisted upon continuing the voyage, but having had some difficulty with the captain, was left on shore under threat of shooting him if he attempted any resistance. After the subsequent engagement, in which he took no part, not being armed, he sought some place of safety, and finding two unarmed men, gave himself up and requested to be sent to the American consul; was bound and brought here, and, without judge or jury, sentenced to be shot on the following morning; protested against executioners, and declared that the vessel's register and mate's log-book would prove his capacity on board, and other evidence that he could procure from Jamaica would guarantee his innocence.

This declaration I read in English, and made a verbal translation to the fiscal who had pronounced the sentence of death upon him. I immediately sent a copy to the governor, being 10 o'clock p. m., praying for a respite for a few days in order to procure proofs from Jamaica, and requested an immediate reply. I waited nearly all night in the office and received no reply. Early in the morning I visited him again and found the prisoner surrounded by the guards formed for his execution; he appeared calm and assured me he had no fear to die, and again assured me, as a dying man, of his innocence, and only begged for a day or two to furnish proofs. At that moment the English vice-consul kindly came in and offered to go with me to the governor. We found him still in bed; stated the urgency of the case, and asked in the name of mercy and of our countries for a respite, and assured him that the German man-of-war now lying in port would take the letter over. The governor seemed disposed to grant this request, but informed us of his superior instructions, and in order to wash his hands of the blood (in our opinion) of an innocent man, and had the debility to inform us of him impotence as the chief magistrate of this city. My troops will not obey; dissension prevails in the army; General Buceta, commanding officer of the forces, is a fugitive on board of a Spanish man-of-war; the Catalans, a few nights since, attempted to assassinate him, under the pretense of a serenade. General Camara was next selected, who, hearing of the plot, secreted soldiers in his house, which frustrated their plan. His death would have been the signal for a general uprising of the Catalans, and of sacking, plunder, and massacre of the Cubans.

Finding all hopes gone, we retired, and in our exit met the governor's aide-de-camp, with whom we had some conversation; he assured us that anarchy prevailed; the mob rules; the governor is impotent and fears a counter-revolution. So the man was executed, leaving a letter for his wife and child, showing himself to be a man of good and fair education, proclaiming his innocence, and instructing her to sue the owners of the vessel for damages, having left her penniless. The English vice-consul writes the particulars to his consul general, and asks immediately for a man-of-war to protect himself and archives, as he sees the impending danger.

Such is the state of affairs at this place, and I have undeniable proofs that this place will be the theater of action, and in such cases you very well know that this consulate and the American citizens here will be left without protection, and the American flag dishonored, unless steps are taken to have a vessel of war in port, which I deem of the utmost importance. Had there been one, Speakman would not have been shot and

hurled into eternity, and his mutilated remains dumped from an offal cart like an animal, at the so-called cemetery.

I send to-day, to the Secretary of State, an account of the proceedings, and also a copy of the letter of the deceased to his wife, which is painful to read, and hope such outrages will not be permitted to continue, and a suitable protection guaranteed to all citizens of the United States at this place.

The English vice-consul informs me that his letters have been opened. I inform you of this fact in order that your reply may come safe.

Mr. Phillips to Mr. Fish.

SANTIAGO DE CUBA, *June 19, 1869.*—(Received July 6.)

I have the honor to inform you of the existing state of affairs in this city. A few days since two naturalized American citizens and a native of New Orleans, who formed part of the expedition on board of the steamer Peritt, were taken prisoners at Ramon, brought to this city, and within twelve hours, without any trial, publicly shot.

As I did not receive any communication from the authorities, and hearing the fact but too late, I requested the governor to inform in future cases, and allow me to visit the prisoners, in order to ascertain if they have just causes for such proceedings.

I received in due time a favorable and courteous reply.

Wednesday evening, June 16, the governor sent a note informing me that an American citizen had been brought in, taken prisoner at Baitiquiri, and forming part of the expedition which the American schooner Grape Shot had landed on the coast of Cuba, would, according to the laws of the nation, be shot as a pirate on the following morning at 9 o'clock.

Wishing to investigate his case I immediately called upon the governor and requested a pass for the prison, where I repaired, and in the presence of the fiscal, (attorney general,) and a captain of the volunteers, took down in writing the inclosed declaration made by prisoner.

On my return to the consulate I sent a copy to his excellency the governor, praying that before sentence of death be pronounced upon him to grant a respite of a few days in order to procure evidence of his innocence, and after waiting at the office nearly all night I received no reply.

Upon the following morning I again visited the prisoner, who was making an effort to write a farewell letter to his wife, which copy I have also the honor of inclosing, it being a true one. I assured him that all my efforts had been useless; he again protested against his execution, and begged for only a few days to furnish satisfactory proofs. At that moment the English vice-consul came in to offer his services in the matter, and proposed our calling on the governor; we did so, and owing to the early hour were admitted to his bedside, and used all endeavors to stay the proceeding, assuring him that we would request the captain of a Prussian man-of-war, now lying in port, to take over to Falmouth a letter from the prisoner. Our efforts were useless. His excellency gave us to understand that he was impotent in his position; dissension had broken out in the army, his troops reluctantly obeyed his orders, and had no confidence in his officers, and feared a counter-revolution, and was compelled to appease the wrath of the Catalans for his own safety. He further says that the commanding officer, General Buceta, was a fugitive on board of a Spanish man-of-war, for attempts had been made to assassinate him.

After our exit we met his excellency's aide-de-camp, who assured us that perfect anarchy prevailed; that another attempt had been made to assassinate, but this time it was General Camara who was to be the victim. In order to hide their traitorous intentions they went with music, under the pretense of serenading him. Their plot was frustrated, for the general, on hearing of it, stationed soldiers about his house. I have no doubt that it was a prudent measure, because under existing state of affairs a single shot would have been followed by a general plunder, massacre, and sacking of the defenseless inhabitants of this city.

The Spanish government, regarding the patriots of this unhappy country as rebels and traitors, applies the most rigorous and barbarous laws; that is the reason why this has become a war of extermination, which is shocking to every civilized nation. What seems more strange is that Spain having awakened from the lethargy in which her ignorant institutions and despotic kings had prostrated her, when they proclaim a liberal constitution, when they abolish capital punishment, and pardon the true rebels of Malaga and Cadiz, and the assassins of the governor of Burgos, they should grant the just demands of the Cuban people, which are only those granted to all civilized nations.

The country is in complete anarchy; the Catalanian volunteers do not allow the governor to render justice, and he cannot publicly resist them, as he has seen in the case of the unfortunate Speakman, as well as in other cases which have occurred in this jurisdiction. We cannot enjoy personal safety here until some foreign power interferes, and know no other who can have more influence here than the United States, whose citizens have much commercial interest on this island. I therefore consider it not only necessary but urgent that some vessel of war at this moment be stationed in this port to protect the archives of this consulate, and the lives and property of the American citizens in case that the republican patriots should come near the city, and have good reason to believe that they are preparing to do so, owing to their ranks being daily increased and becoming more disciplined, while desertion and sickness prevail in the Spanish army.

From my long residence in the island, and a thorough knowledge of the language and people, I am persuaded that in case of a conflict the archives of this consulate would fall into the hands of the Spanish volunteers unless means are taken to prevent. Under the existing state of political affairs I hope that some vessel of war may be sent to calm the anxiety of American citizens residing here.

Declaration, under oath, of Charles Speakman, at the prison of Santiago de Cuba, Wednesday, June 16, at 9 o'clock p. m.

UNITED STATES CONSULATE,
Santiago de Cuba, June 17, 1869.

I, the undersigned, acting consul of the United States at this city, having been permitted by the civil governor to visit the above-named prisoner at the city prison, and requested him to make a statement of his case in writing, replied that owing to his arms having been pinioned he could not write; and being sentenced to be shot on the following morning, at 9 o'clock, in the presence of Captain Francis O'Callaghan, of the volunteer corps, made the following declaration:

I, Charles Speakman, of the town of Aurora, State of Indiana, lately resident of Florida, thirty-three years of age, having a wife and child, the latter four years of age, left New York Harbor on the last of April, on board of the American schooner *Grape Shot*, in capacity of sailor, bound, as stated on ship's register, for Falmouth, Jamaica. After dropping anchor at the lower bay, during the night a steam tug came alongside and put on board of said schooner fifty armed Cubans; suspecting the object of the voyage to be an expedition for Cuba, protested, and requested the captain to be sent

ashore, who assured me that he should not touch on the coast of Cuba, but land the men at Jamaica, and that the vessel would proceed for a cargo of coconuts; when off Cape Mayzi, (eastern end of Cuba,) the captain keeping on his course, the Cubans took possession of the vessel, changed her course, and landed their men and her cargo at Bailiquiri, near Guantanamo; was compelled to assist in the landing, and when the captain went on board, refused to take me, under threat of shooting if I stepped into the boat. Being compelled to remain, I sauntered about the beach; a short time after they were attacked by the Spanish troops, and after a short encounter they retreated to the interior. Finding myself alone, sought a place of safety for the purpose of surrendering my person to the authorities, and being without arms for personal defense, found a rifle on the road, left by some fallen Cuban, took possession of the same, and upon meeting two unarmed men gave myself up, and in no case used the arms against the government, having never fired a single shot. Previous to the shipping I knew nothing of the expedition, nor did I receive any compensation, more than that of an ordinary seaman's wages. I have prayed for a respite to prove my innocence, which several prisoners before being shot declared and certified to, and offered to procure evidence by the vessel's log-book and by statements made at the custom-house at Jamaica. Having no fear of death, I still find it hard to die innocent, and do solemnly protest against my executors; and I have demanded an opportunity to prove my innocence, having since my captivity had no time or chance to substantiate preceding facts.

Sworn to before me, in the presence of attorney general and Captain Francis O'Callaghan.

A. E. PHILLIPS,
Acting U. S. Consul.

SANTIAGO DE CUBA, June 17, 1869.

MY DEAR WIFE AND CHILD: These are the last lines you will ever receive from me. In four hours *I am to be shot*, having been captured by the Spaniards on the Island of Cuba, where the vessel ran instead of going to Falmouth, Jamaica, where I shipped to go. Now, Maggie, I have no money to leave you, and I am so sorry, darling, as I leave you penniless; but you may get some by getting a good lawyer to sue the owners of the vessel for damages; they have taken my life and deprived you of my support, and ought to support you.

There will be a statement sent to the government that he can see; there is also, I have been told, a contract in New York to land these men in Cuba, and if he can get hold of it, you can get big damages from them. The vessel's name was the *Grape Shot*, schooner, of New York; the owner's names are Henry Wall, a surveyor of New York; one Highdecker, a broker in the same place; one Slowmaker, a liquor dealer; all this can be found out in the New York custom-house. You can get a good deal of money if you get the right kind of a man to take hold of it, and enough to keep you for life. The time is getting short, darling, and if I could only see you and baby once more I could die happy. I have always loved you, darling, whatever you may think to the contrary; God knows it is true. For you and only you I have tried to get along and make you a good living. You have always been a good and true wife to me, and, darling, do forgive all the trouble I have ever given you, and meet me in heaven. Tell Smith that he must let you have some money to help you along; tell him, as a dying brother, I entreat him to take care of you and my little boy. I have one kind friend here, a Mr. O'Callaghan. Darling, I cannot write more; my hand is sore. Tell cousin Fannie and aunt Olden. May God Almighty bless you and keep you and baby, is my last and only prayer.

Tell baby his father's last prayer to him is, that he never drinks one drop, and be good to his mother.

After I am dead Mr. O'Callaghan will cut a lock of my hair, and my handkerchief, and send it to you.

Good-by, darling; I command you to sue the owners; call a witness, one William Craig, of Oliver street, New York, who was on the vessel with me.

God bless you.

Your affectionate and dying husband,

CHAS. SPEAKMAN.

Mrs. MAGGIE C. SPEAKMAN,

Care of Captain J. W. Weaver, Aurora, Indiana, U. S.

Mr. Phillips to Mr. Fish.

SANTIAGO DE CUBA, June 25, 1869.—(Received July 13.)

I have the honor to inform you that per Spanish steamer *Dulce*, which
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left this port for Philadelphia, I sent you a full account of the state of affairs at this city, and of the execution of Charles Speakman, which no doubt will have come to hand before you receive this. It is painful for me to inform you that on the 21st instant, at 9 o'clock a. m., Mr. Albert Wyeth, of Chambersburg, Pennsylvania, lately residing at No. 24 Clinton Place, New York, and an operator at the telegraph office No. 145 Broadway, was also publicly shot, under such peculiar circumstances I feel it my duty to inform you of the facts. Being notified by the governor of his arrest and sentence to be shot, I repaired immediately to the city prison, where he made the declaration, a copy of which I have the honor to forward; also a certificate attesting the innocence of Mr. Speakman. The originals are on file at this office, corroborating my opinion respecting the same. After assuring the former I would use all endeavors to save his life, I called upon the governor, the clergy, and some of the most influential citizens of this city, whose united efforts were unavailable.

The Catalans are so sanguine in their disposition that they could not in any way be prevailed upon to allow the governor to pardon the unfortunate victims of the Cuban revolution. It was truly painful, owing to his extreme youth, being but twenty years of age; his social position and fine education, being an invalid who sought a congenial climate, and in no way (as represented) being privy to the nature of the expedition.

The arbitrary way in which the authorities treat those who are taken or give themselves up, owing to the manner in which they have been deceived by the revolutionary junta in the United States, are without parallel in history, and in view of the efforts I have used to procure a pardon in peculiar cases of this nature, has led to an order being issued that no more prisoners be brought to this city, but to shoot them without any form of trial or examination. Being convinced by the news that is in daily circulation that the patriots purpose an attack upon this city sooner or later, I fear very much that very little attention will be paid to the lives or property of the American citizens residing here, nor will a due respect be paid to the flag of this consulate, unless some protection be given by the presence of a man-of-war at this port, which is the most earnest wish of your most obedient servant.

P. S.—I inclose a copy of the morning papers, (Spanish organ,) containing a letter addressed to Charles S. Olden, esq., and signed by Francis O'Callaghan, and for want of time before the mail closes I do not send a translation. You will perceive that the authorities, conscious of the iniquity which they have committed in sending into eternity an honorable and innocent man, who protested against his executioners and demanded in the name of mercy an opportunity to send to Jamaica, assuring me of his innocence, without avail. It has been made to appear that the protest was made against the owners of the Grape Shot, yet I admit that he said "If he must die the Cuban junta ought to take care of his wife and child, who were left penniless."

I have been called upon by a Spanish priest, a tool of the government, supplicating me to take no steps upon the matter, being better that our government knew nothing about it, and to allow the widow to remain in ignorance.

The Spanish press have made a good story for themselves, and is far from the facts in the case. I shall keep the department informed of the passing events as they appear, and shall send with quarterly reports, ending June 30, a full account of the political state of affairs at the eastern department.

Mr. Wyeth to Mr. Phillips.

SANTIAGO DE CUBA, June 20, 1869.

I, Albert Wyeth, a citizen of the State of Pennsylvania, being out of health, left Hunter's Point, Long Island, in the State of New York, United States of North America, in the schooner Grape Shot, for a voyage to Falmouth, Island of Jamaica, whither a certain Mr. Antonio A. Jimenez offered to take me free of charge. The schooner Grape Shot touched at Turk's Island, and after leaving that point they declared they were going to Cuba, when I energetically protested against taking part in the enterprise, and was told that if I attempted to desert them they would shoot me. I was forced to land with the rest on the Island of Cuba, under fear of death, and compelled to take arms on landing, which arms I threw away as soon as I could do so, without having used them at all, and presented myself in San Antonio to the Spanish authorities there. The above I have written of my own free will and accord, under no influence whatever, and is the truth, the whole truth, and nothing but the truth: so help me God.

Mr. Wyeth to Mr. Phillips.

SANTIAGO DE CUBA, June 20, 1869.

I, Albert Wyeth, certify that Charles Speakman, whom I learn has been shot in this city, was a sailor on board the schooner Grape Shot, bound from New York to Falmouth, in Jamaica, on which vessel I was a passenger, and to my knowledge was compelled to leave the vessel when it reached the island, by the captain, with whom he had a difficulty, under penalty of death if he remained on board, and was of his own accord in no way connected with the expedition.

Mr. Plumb to Mr. Fish.

No. 57.] HAVANA, June 29, 1866.—(Received July 8.)

With my dispatch No. 49, I transmitted to you a copy of a letter from Mr. Phillips, late acting United States consul at Santiago de Cuba, giving an account of the summary execution of a citizen of the United States, one of the unfortunate victims of the Grape Shot expedition.

I have now to transmit herewith a further letter from Mr. Phillips, dated the 23d instant, received yesterday, in which he reports the execution at that place of another citizen of the United States, Albert Wyeth, of Chambersburg, Pennsylvania, taken prisoner with others of the expedition of the schooner Grape Shot.

Evidence given by Wyeth appears to confirm the statements made by the previous victim, Charles Speakman.

I beg to call your attention to the situation of affairs at Santiago de Cuba, as represented by Mr. Phillips, and to the request for instructions made at the close of his letter.

[Inclosure.]

Mr. Phillips to Mr. Plumb.

SANTIAGO DE CUBA, June 23, 1867.

I have the honor of informing you that I have forwarded to your address a letter bearing date 18th instant, manifesting the state of affairs at this city and giving you an account of the fate of the American citizen, Charles Speakman. Since which I have been under the painful duty of recording the unfortunate end of another American, whose declaration before me at the city prison is most painful.

Deposed, that being out of health, was invited by one Jimenz (who subsequently

proved to be the originator of the Grape Shot expedition) to go to Falmouth, Jamaica, for the benefit of his health, and offered a passage free of expense; nothing occurred on the voyage to indicate its true object until they reached Turks' Island, where they declared their intentions, upon which the deceased protested energetically, and was informed that any desertion upon landing would be punished by death. Being compelled to land with arms and enter into service, he did so, but separated upon the first encounter, threw away his arms and presented himself to the Spanish authorities, who brought him to this city, and was shot without trial in company with five others.

The deceased deposed that he belonged to a very respectable and influential family at Chambersburg, Pennsylvania, and had been residing at 24 Clinton Place, New York, and an operator in the telegraph office, No. 145 Broadway.

After taking his deposition, I made every effort to save him, first by calling upon the governor, and manifesting his extreme youth, being only twenty years of age, his social position, the circumstances in which he had been inveigled into the expedition, but to no purpose. I then brought the influence of the clergy and officers of the Catalanian volunteers, (the dread of the local authorities,) but could not save him. Also deposed, that Charles Speakman, to his knowledge, was in no way connected with the expedition, but forced to land under threat of being shot by the captain of the schooner, with whom he had some difficulty on the passage.

This corroborates my former opinion respecting Speakman's innocence. The Spanish government treating the patriots of this unhappy vicinity as rebels and traitors, apply the most vigorous and barbarous laws, and this applies both to Cubans and foreigners.

The mutilated remains, after being shot, are carted off in an offal cart to the so-called cemetery, and dumped into ditches like so many beasts, while those shot in combat are left to fester in the sun, a prey to the carrion birds and dogs. I am persuaded, from facts gathered from reliable sources, that preparations are being made for an attack, sooner or later, upon this city by the rebels. From the knowledge I have of the Catalanian volunteers, I fear that the archives of this consulate and the lives and property of the Americans residing here would fall a prey to the infuriated mob, unless some measures be taken to prevent it, by the presence of some naval force at this port, and unless some protection be given to me from our government, I do not feel disposed to continue in the capacity of acting consul, to be the laughing stock of the community at large, having no power to interfere in such cases as those mentioned, whose lives could have been saved by the presence of a man-of-war in this port, or at least facilities would have been offered them to prove their innocence.

I have been informed by the officers of the Spanish government, that in future cases, owing to the active measures which I have taken in behalf of my countrymen, and to prevent them making any declaration, it is their determination to shoot all American prisoners immediately on the spot, in order that I may be prevented from communicating with them.

I hope, sir, you will represent these facts to Admiral Hoff, and manifest to him the necessity of looking in upon us, at least occasionally, in order to quiet the anxiety of our countrymen.

I shall also transmit to the department a copy of the proceedings, stated by the young man, Albert Wyeth. Please give me explicit instructions how to act in case that others be brought to this city, as it is painful and revolting to be persuaded of their innocence without power to assist them.

Please answer by first opportunity.

I am, most respectfully, your obedient servant,

A. E. PHILLIPS,
Acting United States Consul.

Mr. Davis to Mr. Plumb.

No. 20.]

DEPARTMENT OF STATE,
Washington, July 7, 1869.

* * * * *

I read your No. 49 (inclosing a copy of the report of the consul at Santiago de Cuba, upon the execution of Speakman) to the President, who immediately ordered a vessel of war to proceed to Santiago to investigate the case.

* * * * *

Mr. Fish to General Sickles.

No. 9.]

WASHINGTON, August 10, 1869.

On the 3d day of July last information was received at this department from Dr. Phillips, vice-consul of the United States at Santiago de Cuba, that Charles Speakman, a citizen of the United States, who had, against his will, been forced to accompany an expedition against Cuba, in the Grape Shot, and had voluntarily surrendered himself to the Spanish authorities as a non-combatant, had been cruelly murdered, with a formality of trial that amounted only to a farce. The details of this are so fully set forth in the dispatch of Mr. Phillips, a copy of which is inclosed, that it is needless for me, in this connection, to do more than refer to it.

On the receipt of this information the President directed Admiral Hoff to proceed at once to Santiago de Cuba, and to investigate the case in person.

By direction of the President, Dr. Phillips's dispatch was also, on the same day, read to Mr. Roberts by Mr. Davis, and that gentleman, on hearing it, assured Mr. Davis that he would inquire into the case, and that a proper compensation should be made by the Spanish government to the family of Mr. Speakman.

A few days afterward another dispatch was received from Mr. Phillips, a copy of which is inclosed, containing an account of the execution of Albert Wyeth, another American citizen, under circumstances of equal barbarity and cruelty. For the details of this, also, I refer you to the consul's dispatch, confining myself in this connection to calling your attention to the fact that Mr. Wyeth's dying declarations fully confirm Mr. Speakman's assertions of his own innocence.

Admiral Hoff, upon the receipt of his instructions, sailed as soon as possible for Santiago de Cuba, and arrived there on the 11th of July, with the flag-ship, the steamship Gettysburg, and monitor Centaur. He proceeded at once to make a thorough investigation of these cases, and reported in detail to the Navy Department, with full inclosures, copies of all which are inclosed, in support of the conclusions to which he arrived.

Those conclusions are, "that these men were cruelly murdered, owing entirely to the weakness of the Spanish official at this city, (Santiago de Cuba,) in yielding to the demands of the Catalan volunteers, and in misconstruing or acting upon the cruel decree of the 24th of March, 1869."

In this opinion, and in the forcible language in which it is expressed, the President fully concurs. You are accordingly instructed to demand of the Spanish government full reparation to the families or representatives of Charles Speakman and Albert Wyeth, for their murder by the Spanish authorities, so far as pecuniary compensation can make reparation therefor.

You will observe, also, that Admiral Hoff says that "Great Britain's laws of citizenship have enabled her to obtain from Spain the entire revocation of this proclamation, which fact seems to be known and observed by the Spaniards throughout the island, and certainly gives British subjects greater consideration when captured or wrecked upon the Cuban coast."

I do not know what peculiarity in the British laws Admiral Hoff refers to. You will, however, call the attention of the Spanish minister for foreign affairs to this fact, and will say that we shall expect citizens of

the United States to be treated with as much consideration, and to enjoy as broad rights, as the citizens of any other country.

You will also, in the name of the President, solemnly protest against any longer carrying on this war in Cuba in this barbarous way. For now nearly a year the insurgents have maintained themselves against all the forces which Spain and the Catalan volunteers have been able to put into the field against them. In the judgment of the President, in which I believe the whole civilized world will coincide, the time has come when this struggle should be carried on in a more humane way. To shoot prisoners of war, simply because they are taken with arms in their hands, is not in accordance with the customs of the Christian world. This country is deeply interested in the proper solution of this question. Our relations with Cuba are so many and so intimate that we cannot regard this struggle, in all its details, with anything but intense interest. Our earnest wish has been and is to do our whole duty as a neutral nation toward Spain in this emergency. Feeling that we have done so; that under circumstances of peculiar difficulty we have enforced our laws and maintained our neutrality, we think that we have a right on our part to insist that Spain shall carry on this war hereafter in a manner more in accordance with the humane and Christian sentiment of the age.

General Sickles to Mr. Fish.

No. 15.]

SEPTEMBER 8, 1869.—(Received September 23.)

I have the honor to forward you a copy of my note to Mr. Becerra, the minister of state *ad interim*, in relation to Charles Speakman and Albert Wyeth, executed at Santiago de Cuba. In the further execution of your instructions No. 10, I have, in the same communication, formally protested against these deplorable excesses, demanding, in the name of humanity, that the war in Cuba, if prolonged, shall not be conducted in disregard of the customs and usages of Christian nations.

* * * * *

General Sickles to the Minister of State.

MADRID, September 6, 1869.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, in obedience to the instructions of his government, has the honor to request the attention of his excellency the minister of state to certain quite recent transactions at Santiago de Cuba, in which, by the orders of the governor of that place, two American citizens, who had committed no crime, and who had voluntarily sought the protection of the Spanish authorities, were put to death without trial.

On the 3 day of July last, the Department of State was informed by the American vice-consul at Santiago de Cuba that Charles Speakman, a citizen of the United States, who had voluntarily surrendered himself to the Spanish authorities as a non-combatant, had been executed by order of the governor after an *ex parte* proceeding, not to be called a trial.

On receipt of this information the President directed Admiral Hoff to proceed at once to Santiago de Cuba and to investigate the case in person.

By direction of the President the consul's dispatch was, on the same day, read to his excellency the Spanish minister at Washington by the acting Secretary of State, when Mr. Roberts assured Mr. Davis the matter should be investigated and a proper compensation made by the Spanish government to the family of the deceased.

A few days afterward the vice-consul at Santiago de Cuba reported to the Department of State the execution of Albert Wyeth, another American, under circumstances equally summary, groundless, and cruel.

Admiral Hoff, as soon as he had received his instructions, sailed for Santiago de Cuba, where he arrived on the 11th of July, and after a thorough investigation, reported in detail all the material facts relating to both of these deplorable occurrences.

It appears from these official reports and the accompanying documents, that Charles Speakman, a citizen of the United States, residing in Aurora, Indiana, where he has a wife and child, being by occupation a sailor, about the end of April shipped as seaman on board the schooner Grape Shot, of New York, signing articles for Falmouth, in Jamaica, in good faith, knowing nothing of the objects of the voyage. While lying in the Lower Bay of New York, the tug-boat which was to tow the Grape Shot to sea arrived at midnight, bringing some fifty armed Cubans, with a considerable supply of munitions of war. Speakman objected to continuing the voyage, and desired to return to the city in the propeller; but the captain assured him that, although he had taken the Cubans on board, he would not risk his vessel by attempting to run the Spanish blockade, but would proceed at once to Falmouth, land the Cubans, and go for a cargo of fruit. When off Cape Mayzi the Cubans took charge of the vessel, ran her ashore, and disembarked.

Speakman who had had a quarrel with the captain about the engagement, was forcibly put on shore with the Cubans. They were soon attacked by the Spanish troops, routed, and dispersed, Speakman taking no part in the fight. He took the first opportunity to give himself up to the Spanish authorities, and on the 16th of June was brought to Santiago, subjected to a private examination before the fiscal, in the presence of an interpreter, and condemned to death immediately. The consul of the United States made application to the governor of the place by letter to grant a reprieve of a few days, to enable Speakman to obtain from Jamaica the proofs necessary to establish his innocence. The letter of the consul was never answered. He then, in company with the English vice-consul, made a personal application to the governor. The governor replied that his orders were positive, alluding to Captain General Dulce's proclamation of the 24th of March, 1869, and added that, owing to the dissensions prevailing in the Spanish forces, the dissatisfaction of the Catalan volunteers, and the danger of a counter-revolution against himself, it would be entirely impossible to grant even a short reprieve. Consequently Speakman was executed on the morning of the 17th June, within fourteen hours after he was brought to the city.

These facts are derived from the official reports of the acting United States consul, Dr. Phillips, Admiral Hoff, and the dying statements of Speakman, and of those who were executed with him, who united in declaring his innocence of all complicity in the objects of the expedition.

And it further appears that Albert Wyeth, of Pennsylvania, a young man of only twenty years of age, and very respectably connected, sailed in the same schooner Grape Shot for Falmouth, Jamaica, for the benefit of his health. On learning the real destination of the schooner, he energetically protested against taking part in the enterprise. When the expedition disembarked he was forced to land with the Cubans, and took the first opportunity to surrender himself to the Spanish authorities. He was shot on the 21st of June, and so far as can be ascertained, without even the pretense of a trial. The acting consul of the United States, in a personal interview with the governor, urged in vain the extreme youth of the prisoner, his respectable social standing, and his innocence of any criminal intent, as reasons for a commutation or reprieve of the sentence.

Admiral Hoff, in his report to the Navy Department, which is accompanied by all the evidence necessary to support his conclusions, declares that these men were sacrificed through "weakness of the Spanish official at this city (Santiago de Cuba) in yielding to the demands of the Catalan volunteers, and in misconstruing or acting upon the cruel decree of the 24th day of March, 1869.

In this opinion and in the forcible language in which it is expressed the President fully concurs, and the undersigned is instructed to demand of the Spanish government full reparation to be made to the families or representatives of the said Charles Speakman and Albert Wyeth, in so far as pecuniary compensation can make reparation for these unjustifiable homicides.

It also appears by the report of Admiral Hoff that Great Britain has been enabled "to obtain from Spain the entire revocation of the proclamation of 24th March, 1869, which fact seems to be known and observed by the Spanish authorities throughout the island, and certainly gives British subjects greater consideration when captured or wrecked upon the Cuban coast." The undersigned, in bringing this circumstance to the notice of the minister of state, is instructed to say that the United States claim for their citizens the same consideration and the same rights enjoyed by the citizens or subjects of any other power.

The government of the United States has heretofore remonstrated against certain proclamations of the Captain General of Cuba, that threatened a mode of warfare at variance with the recognized customs of civilized nations. It has been the earnest hope of the President that these friendly representations would not be disregarded by Spain. The United States, in dealing with a rebellion of vast proportions, which was

not a struggle for self-government, emancipation, or ameliorated forms of administration, nevertheless accorded to the insurgents all the amenities of warfare. No life was sacrificed, not even among the conspicuous and responsible actors in the insurrection, unless in battle, and in accordance with the usages of war. Nor was any discrimination made between those citizens of the United States who took part in the insurrection and the citizens or subjects of foreign nations who joined the rebel standard; all, when captured, were treated alike as prisoners of war, and when non-combatants were accused of military offenses within the Union lines, and a trial by the ordinary tribunals was impracticable, they were arraigned before a military commission, in which all the safeguards essential to the administration of justice were carefully observed; the accused were allowed a reasonable time to prepare for trial, the privilege of counsel to assist in their defense, the attendance of witnesses as well as the right of cross-examination; and it was necessary to the validity of sentences pronounced by these tribunals, that the proceedings should be reviewed and sanctioned by superior authority.

It has been, and is now, the sincere wish of the United States to perform all their duties as a neutral nation toward Spain in this emergency. Under circumstances of peculiar difficulty, the United States have enforced their laws and maintained their neutrality throughout the contest. Their relations with Cuba are so many and so intimate, that they cannot but feel an intense interest in a struggle for independence which derives so much of its inspiration from the example of their own free institutions and the past intercourse between Cuba and the republic, not to speak of the recent illustration Spain herself has given of the love of liberty cherished by all Spaniards. For nearly a year the insurgents have maintained themselves against all the force Spain has been able to put into the field against them. In the judgment of the President, in which it is believed the whole civilized world will concur, the time has come when this struggle should be carried on in a more humane way. To shoot prisoners of war simply because they are taken with arms in their hands, is not in accordance with the customs of Christian nations. Hostilities so conducted, besides increasing the sympathy felt for the Cubans, can only aggravate and protract a contest involving questions in which the United States have interests too important to be disregarded.

In view of the foregoing facts and considerations, the undersigned is instructed to protest with all solemnity, in the name of the President of the United States, against the deplorable excesses which have thus far characterized the war in Cuba, and to insist, as the President believes he may rightfully insist, in the name of humanity, that hereafter, while hostilities are prolonged, the war shall be conducted in a manner more in accord with the humane and Christian sentiment of the age.

The undersigned avails himself of this occasion to renew to his excellency the minister of state the assurances of his most distinguished consideration.

D. E. SICKLES.

Gen. Sickles to Mr. Fish.

No. 17.] SEPTEMBER 14, 1869.—(Received October 5.)

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His excellency then informed me that a report from the Captain General of Cuba had been called for in relation to the cases of Speakman and Wyeth, and if the facts were as alleged, full reparation would be made to the families of the deceased; and he added that orders had been given to prevent such scenes of cruelty in the future conduct of the war.

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Gen. Sickles to Mr. Fish.

No. 29.] MADRID, November 2, 1869.—(Received November 17.)

I have the honor to transmit a translation of the note of the minister of state, Mr. Silvela, of the 11th of October, in reply to my note of the 6th of September, in relation to the Speakman and Wyeth murders, and a copy of my rejoinder, dated October 30th.

Mr. Silvela to Gen. Sickles.

[Translation.]

MADRID, October 11, 1869.

SIR: This ministry received in due time the note of your excellency, dated 6th of September, relating to two American citizens upon whom the penalty of death was inflicted in Santiago de Cuba, as you affirm, without their having committed any crime, and when they had voluntarily given themselves up to the authorities, asking for protection.

Circumstances and events which it is necessary to mention have caused some delay in my answer, but I believe no prejudice to the object of the note referred to has resulted from this, as, in the meanwhile, information has been received from the Captain General of the Island of Cuba in regard to what took place in the case cited by your excellency.

One fact results from the documents belonging to the matter, to which I will, in the first place, call your attention, and this is, that in the cordial and frank interviews which Admiral Hoff held with the authorities of Santiago de Cuba, to inform himself, in accordance with the orders of his government, of the considerations which might have justified the punishment inflicted upon Charles Speakman, this officer of the American navy expressed himself, as it appears, satisfied with the explanations which he had received from the governor of Santiago, without making any objection to the statements adduced by the latter in support of his conduct, and only when he was preparing to leave the island he directed to the above-mentioned governor a protest against his acts with respect to the American citizens in question.

This proceeding of Admiral Hoff permits the supposition that, in making a protest in that form, he yielded to other causes foreign to the subject rather than to his convictions of right, since, in the other case, he would at least have announced his purpose during the interview, contradicting the observations of the Spanish authority, which so freely offered to furnish all the facts conducing to the manifestation of the justice with which he had acted.

The presumption favorable to the Spanish authority which arises from this is fully confirmed, if the facts are examined with care and impartiality.

A preliminary consideration necessary to be taken into account is the bloody character of the insurrection, and the cruelty and ferocity of its titular chiefs, who have gone so far as to openly order, as it appears from an edict of the leader Cespedes, arson, pillage, and murder. In this way was produced a just indignation among the government forces, and among the numerous islanders who assist them in the defense of the principle of authority against the felonious excesses of undisciplined bands; the desire was aroused among all to avenge injuries and insults which they had not provoked, and the civil war came to assume a character which the mother country deplores, and for which they are solely responsible, who, not contented with rushing to arms at a time when, more than ever, the way of realizing all legitimate aspirations was open to them, still sought to destroy their own country with fire and devastation.

Hence the necessity of rigorous measures, which, although they have subsequently been subjected to essential modifications in a lenient sense, could not be applied at that time, by the authorities, without distinction of natives and foreigners, even when in reality these last were much more culpable, taking an attitude of hostility to a government whose acts in no way affected them.

To these dispositions to which I allude, justified by the necessity of depriving the insurrection of the assistance which it received from abroad, the governor of Santiago had to conform in the case under discussion, being compelled to treat Speakman, taken with arms in his hands, as an enemy of Spain with regard to his nationality, which disappeared in presence of the crime for which he had made himself responsible. That the law was justly applied is shown by the confession of the accused, as appears from the letter which he addressed to his unfortunate family shortly before his death. I send you a copy of this document, and by reading it you will see that the unfortunate Speakman begins by declaring that he was captured by the Spanish forces, and this is sufficient, in my judgment, to remove all the force of the exculpation alleged in the supposition that Speakman had been forcibly landed in Cuba, and had afterward given himself up voluntarily to the authorities of the country. You will also observe that when about to suffer the final penalty, and when writing to his wife and child, Speakman makes no protest of his innocence, and only shows resentment against those who compromised him in the enterprise which cost him his life, whom he makes responsible for his misfortune, urging his family to institute proceedings against them.

In this connection I call your attention to the paragraph of the letter referred to in which he says, literally, "Claim damages of the ship-owners; they have taken my life, and have deprived you of my support, and they ought to aid you. There will be a statement here, which will go on to the government, and, by what I have been told, you will be able to see a contract between them and the Cuban junta in New York to

land these men in Cuba, and if you can obtain it you will recover large damages." These words need no comment. The victim himself indicates where the responsibility lies, and addressing himself at the last moment to the object of his greatest affection, completely exempts the Spanish government and accuses the ship-owners and the Cuban junta, who have deprived him of his life, and mentions the contract to land those men in Cuba. The ship-owners and the Cuban junta, whose mission is notorious, reside in the territory of the United States, and it is most just that that government, following the suggestion of the unfortunate Speakman, should endeavor to exact of them the responsibility which the last will of the accused throws upon them, and upon them exclusively. A case is impossible, therefore, in which the irresponsibility of the Spanish authorities could be more clearly proven. Still further it appears, as proof of his culpability, that Speakman was found armed with a gun when he came into the possession of the Spanish authorities; for, if, victim of a deception as you affirm, he had wished to give himself up voluntarily, nothing obliged him to preserve in his hands the surest proof of his participation in the fight.

With this becomes inadmissible the exculpation which rests upon the supposition of a moral or material compulsion; because, if it were sufficient to allege such an exoneration to elude responsibility in cases like the present, the impunity of filibusterism would be almost absolute, it being always easy to declare one's self deceived or forced into taking part in filibustering expeditions.

In fine, it appears and is evident that Speakman formed part of a piratical expedition against Cuba, and that he disembarked in the island with re-enforcements en route for the insurrection, and that he was taken with arms in his hands; so that all the circumstances concur which are necessary to constitute the responsibility required by the law which was brought into action; and this being so, the charge which you make against the governor of Santiago, of a lack of energy to resist the animosity of the volunteers against the unfortunate Speakman, is destitute of foundation, as the officer in question only complied with an order—severe, if you please, but necessary to prevent the coming of foreigners—the principal element which keeps the insurrection alive, and which most contributes to the devastation of the Island of Cuba, whose ruin is to them entirely indifferent.

Referring to the observations of your excellency in respect to the character assumed by the fratricidal struggle which exists in that transatlantic province, I think proper to state that the government earnestly desires to establish all possible conditions of humanity in the struggle, in spite of the persistence of the insurgents in committing indescribable outrages; and if we have hitherto not seen realized our desire to mitigate the horrors of war, it is owing to the conduct of our enemies, who poison the minds of the many islanders who are attacked and injured in their families and their interests; the cause of the rigorous measures sometimes resorted to being also the just anxiety to prevent the coming of foreign re-enforcements, which have so much contributed and still contribute to prolong the insurrection.

As a proof of the humane disposition by which the government is actuated, I call your attention to the measures which, in accordance with this, have been already adopted. The first is (among others of less importance) the order given by the Captain General of the Island of Cuba, that in the cases of the imprisonment of a foreigner, the proper dispatch shall be drawn up at once to be sent to that official, if the case does not require to be submitted to the decision of a court-martial, and even then the necessary report must be sent for final action.

Among these measures figures also the circular of the 23d of September, emanating from the government, in which it is provided that the conquered enemy who surrenders under the faith which is pledged to respect his rights, is a sacred object which Spain covers with her ægis, and it belongs to the tribunals alone to judge his conduct, without it being permitted to any one to invade the power of justice. It is also forbidden in all cases to employ reprisals against the barbarous devastation which, as a means of attaining an impossible victory, is resorted to by the rebels; and, in fine, mercy and humanity are generally recommended in the conduct of the war.

These are the sentiments which animate the Spanish government, which, representing in Spain the most liberal ideas for the government of a state, cannot represent in Cuba principles which would be the negative of these, and I therefore trust that your excellency, convinced of the loyalty of our views, and persuaded on the other hand of the justice with which the law has been applied in the case which was the occasion of your note to which this is a reply, will see that the subject in question shall not give rise to any misunderstanding.

I improve this opportunity to renew to your excellency the assurances of my most distinguished consideration.

MANUEL SILVELA.

General Sickles to Mr. Silvela.

MADRID, October 30, 1869.

SIR: I have received your excellency's note of the 11th instant, in reply to mine of the 6th ultimo, demanding indemnity for the families of Charles Speakman and Albert Wyeth, two American citizens summarily put to death, without cause, by the Spanish authorities at Santiago de Cuba, in June last, and protesting against the repetition of such acts in the further prosecution of hostilities in Cuba.

My government will receive with due consideration the statement of your excellency that the Spanish government desires to establish all possible conditions of humanity in the fratricidal struggle which prevails in that island, and that, in proof of this humane disposition, the Captain General has ordered reports to be made to him of the imprisonment of foreigners, if the case does not require to be brought before a court-martial; that in such cases the proceedings are to be submitted to him for final action; that the circular of the 23d September ultimo, emanating from the Spanish government, has provided "that the conquered enemy who surrenders under the faith which is pledged to respect his rights, is a sacred object which Spain covers with her aegis, and that it belongs to the tribunals alone to judge his conduct, without it being permitted to any one to invade that jurisdiction;" that acts of retaliation are forbidden in any case; that mercy and humanity are enjoined in the conduct of the war; and that the government which upholds in Spain the most liberal ideas cannot represent in Cuba principles in conflict with these.

Proceeding to the consideration of the particular cases to which I had the honor to invite the attention of the Spanish government, I cannot fail to observe that your excellency makes no allusion whatever to the case of Wyeth, from which I trust I may assume that the demand of my government in respect to him is admitted to be just.

It is not without regret that I note the avowal of your excellency, that Speakman was executed in conformity with the law and the orders in force in Cuba; and that the fate of this unfortunate man was no other than had been decreed by competent authority against all enemies of Spain taken with arms in their hands; for, although the demand for indemnity in this case rests upon the ground that Speakman was innocent of any hostile act or intent against the Spanish authority, I must reject as repugnant to all the sentiments of our advanced civilization any assumption that appears to tolerate the indiscriminate slaughter of prisoners of war. I prefer, indeed, to discuss the question presented on the basis of the more benign code your excellency informs me has been lately adopted in Cuba.

Nor can I pass without emphatic dissent the inadmissible inference drawn from the courteous forbearance of Admiral Hoff in waiting until he had obtained all the testimony in relation to the execution of Speakman and Wyeth before addressing his formal protest to the authorities of Santiago de Cuba.

I must also note the significant omission of your excellency to affirm that Speakman was tried by a competent tribunal, and sentenced upon due proof of the commission of a capital crime. And although it is insisted that his offense consisted in the violation of a law, neither the tenor of the law nor the authority sanctioning it is mentioned. It may, however, be presumed that your excellency refers to the decree of the Captain General of Cuba of the 24th of March, 1869, a copy of which was furnished to Admiral Hoff by the governor of Santiago de Cuba, as the authority under which he acted. It will be sufficient for me to repeat the purport of this decree as given to the consul of the United States by Mr. De la Torre, in his letter of the 13th of June last, in reply to inquiries made by the consul in relation to the fate of certain American citizens. The governor, quoting the words of the general commanding the department of the east, says that, "by the national laws, every foreigner setting foot in Spanish territory in attitude of war, and who is taken with arms in his hands, is liable to the penalty of death without process, (*sin formacion de causa*;) consequently the prisoners in question have suffered this punishment *without ascertainment of their nationality.*"

Your excellency, in the absence of any trial of the accused, relies upon the letter Speakman is represented to have written to his wife a few hours before he was shot, to prove that the law of Spain was regularly and justly applied to his case. It is a conclusive answer to any attempt to sustain the sentence by the contents of that letter, that it was written on the morning he was executed and after he had been condemned to death; so that, whatever might have been the force and effect of the testimony under other circumstances, it is impossible that the letter could have been in any way considered by the authorities in determining their action upon the case.

But I am quite prepared to maintain that Speakman's letter, so far from justifying the accusation against him, discloses a state of facts altogether inconsistent with any purpose of taking part in an expedition against Cuba. Your excellency cites the declaration of Speakman that "he had been captured by the Spaniards" as sufficient to remove all the force of the exculpation claimed in his behalf on the ground that he had been forcibly landed in Cuba, and had voluntarily given himself up to the authorities.

I must observe that the actual declaration of Speakman, as contained in the copy of his letter sent to me with your excellency's note, differs materially from the words attributed to him, as the foundation of this argument. Speakman says: "I have been captured by the Spaniards on the Island of Cuba, *where the vessel went in*, instead of going to Falmouth, Jamaica, where I had shipped to go." It thus appears, beyond all question, by this accurate quotation from the very document so much depended upon by your excellency, that this unfortunate sailor was innocent of any intent to embark for Cuba, having expressly shipped for another destination.

Your excellency proceeds to make further deductions from another part of Speakman's letter, in which he says to his wife, "I am leaving you without a penny, but you will be able to recover something by getting a good lawyer to claim damages of the ship-owners. They have taken my life and deprived you of my support, and they ought to aid you. There will be a statement here which will go on to the government, and, *by what I have been told*, you will be able to see a contract between them and the Cuban junta in New York, *to land these men in Cuba*, and, if you can obtain it, *you will recover large damages*." Before commenting on the observations made by your excellency on this part of the letter, I wish to invite attention to the force with which it repels the assumption of Speakman's culpability. It is plain that all his instructions are predicated upon his belief that having, as he declares, shipped to go to Falmouth, Jamaica, and having been deceived by the supposed collusion between the owners of the vessel and the parties who chartered her, his family will be entitled to recover damages for the injury suffered from the deceit thus practiced upon him. But with what color of pretense could he have urged his family to claim damages if, as your excellency contends in justifying his execution, Speakman voluntarily embarked in an expedition against Cuba, and landed on the island in conformity with the conditions on which he shipped for the voyage? How could he declare that "they," the ship-owners, "have taken my life," if he had himself engaged in the fatal enterprise? But his meaning is too plain to be misunderstood; he says, "by what I have been told you will be able to see a contract between them," the ship-owners, "and the Cuban junta in New York, to land *these men in Cuba*." What men? Not the crew, of which he formed part; not the innocent passengers, like Wyeth, who was seeking a change of climate for his health; but the party who came aboard secretly, after the vessel cleared from New York, and who subsequently effected their landing in Cuba; and if anything could add to the force of those considerations, it is the appeal he makes in the last words of his letter, before invoking the divine blessing on his family, to the testimony of William Craig, of New York, one of his shipmates, for the confirmation of his innocence of all complicity in the real objects of the voyage.

Your excellency gravely suggests that the United States government has mistaken its remedy in demanding indemnity from Spain. This point appears to be seriously urged, and I shall, therefore, treat it with respectful consideration. Whatever may be the liability of the parties in New York, in relation to the voyage of the *Grape Shot*—whether it be to the government of the United States for a violation of the neutrality laws, or to individuals for deceit practiced upon the crew—these questions are completely distinct from the responsibility of the Spanish government for acts committed within its jurisdiction by its authorized agents. Spain is none the less bound to make indemnity in this case because there are other wrong-doers in the transaction. By the action of the authorities of Santiago de Cuba, now justified by the Spanish government, the innocent shared the fate of the guilty. If it be true that the ship-owners and the Cuban junta, in New York, should be held responsible for offenses committed within the jurisdiction of the United States, it does not follow that Spain may escape her share of responsibility for the unjustifiable sacrifice within her lines of the unfortunate Speakman—victim as he was of fraud on the one hand and of outrage on the other.

Having shown, as I trust plainly, that the testimony relied upon by your excellency to prove the guilt of Speakman furnishes, in truth, the most satisfactory proof of his innocence, I proceed to examine the only additional consideration suggested by your excellency to establish his culpability. Your excellency states that it further appears that Speakman was found armed with a gun when he came into the hands of the Spanish authorities, and it is argued that if he had been deceived in shipping for the voyage or constrained to join the insurgents on landing, as has been affirmed, "nothing obliged him to preserve in his hands the surest proof of his participation in the fight." To this it may be fairly replied that nothing was easier to one who desired to conceal evidence of guilt than to throw away a gun; keeping his gun until he surrendered himself to the Spanish authorities, Speakman gave the surest pledge of his sincerity, and the most convincing proof of the truth of his representations. We are not left to conjecture to ascertain how it happened that Speakman had a gun in his possession. He explains this fact himself in his examination before the attorney general and the notary, which took place in the prison at Santiago de Cuba, the day before he was executed. In the course of this proceeding, the only prelude to his sentence and execution, the following question was put to the accused: "How is it you say you remained under arrest, and

had refused to take arms, when you had a gun when you were captured?" To which Speakman answered: "The gun he had when they took him prisoner was the one the captain of the ship, Mr. Welch, had." [In a note to the official copy of this document, furnished by the governor, it appears that Captain O'Callaghan, the interpreter, stated this was a mistake for the "captain of the expedition, G. B. Smith:"]

It is a recognized principle of the law of evidence that a party is bound by the testimony of the witness he produces; another maxim, not less imperative, requires that all the declarations of a witness must be taken together, for it is not permitted to a party to avail himself of so much only as benefits his case and reject the remainder. I must therefore remind your excellency of the testimony of Speakman in his formal examination already mentioned. In this examination Speakman stated that "he shipped as a sailor;" "the number of men disembarked was some five and thirty, more or less;" that he "staid on shore because they stove the boat they landed in;" and after a quarrel with the captain "they put him under arrest and he remained under arrest seven or eight days;" "he saw two men, to whom he gave himself up, delivering also the gun which he had." This testimony is not contradicted; it is consistent with all the declarations of Speakman himself, and is confirmed by the dying declarations of Wyeth and others, who were on board the *Grape Shot*. The American and British vice-consuls, satisfied of the innocence of Speakman, appealed in vain to the governor to grant a respite of three days to obtain from Falmouth, Jamaica, conclusive testimony of the innocence of the accused. Refusing to postpone the execution of the sentence, which swiftly followed the accusation, and was pronounced without any opportunity afforded the accused to exculpate himself, the Spanish authorities have imposed upon themselves the obligation to establish indisputably the guilt of Speakman, at once their victim and their witness, and falling in this, his blood is upon their heads. No judicial tribunal in the world could pronounce a sentence of death on the meager testimony produced against this man.

The enlightened statesmen who now administer the government of Spain have themselves denounced the summary and sanguinary code which consigns to instant death a prisoner of war taken with arms in his hands. Regarded with the most lenient disposition toward the Spanish authorities, the case presents no feature of mitigation to screen them from denunciation. Concede all that is alleged against Speakman, and he was a prisoner of war put to death by his captors in obedience to a decree of the Captain General, against which the United States government had not alone remonstrated as contrary to the usages of nations; a brief respite of the sentence was refused to the consul of the United States; the same appeal from the British consul, made in the name of humanity, was impeded; no mercy was accorded in consideration of a voluntary surrender; instantly shot in cold blood, the mutilated remains of this sacrifice to a code of war not recognized by any civilized nation were refused a decent burial.

In conclusion, dismissing from the discussion all that is irrelevant, it is enough to recapitulate the facts, as they are derived from official sources. The United States consul at Santiago de Cuba, in a dispatch to the Secretary of State of June 18, 1869, immediately after the occurrence, reports the whole transaction fully and circumstantially; and on this testimony I rest the case presented on the part of the United States to the government of Spain. He says:

"On Tuesday, 13th, the English vice-consul sent me a note stating that an American prisoner had just passed his consulate for the city prison, and, in a few minutes, I received a dispatch from the governor notifying me of the same. I immediately called upon this authority, who gave me a pass to the prison, where I could have a public or private interview with the prisoner. I called the fiscal (attorney general) and a captain of the volunteers, who understood English perfectly, and under oath to me the prisoner made this declaration, he being unable to write from having his arms so long pinioned as to leave a partial paralysis of his hands, stated that he was a native of Aurora, Indiana, being married, and having a child four years of age; left New York Harbor in the schooner *Grape Shot*, signed the articles as a sailor for Falmouth, Jamaica, in good faith, knowing nothing of the nature of the voyage save its legitimate object. After anchoring in the lower bay of New York, waiting for a tug to tow her out to sea, which arrived at midnight, bringing some fifty armed Cubans with a good supply of munitions of war, objected to continue the voyage and desired to return to the city in the tug. The captain assured him that, although he had taken the Cubans, he would not risk his vessel to run the Spanish blockade, but would proceed to Falmouth, land the men, and go for a cargo of cocoa-nuts. When off Cape Mazi the Cubans took possession of the vessel, changed her course, ran her to land, and discharged.

"He insisted upon continuing the voyage, but, having had some difficulty with the captain, was left on shore under threat of shooting him if he attempted any resistance. After the subsequent engagement, in which he took no part, not being armed, he sought some place of safety, and finding the unarmed men, he gave himself up and requested to be sent to the American consul, was bound and brought here, and, without judge or jury, sentenced to be shot on the following morning; protested against his executioners, and declared that the vessel's register and mate's log-book would prove his capacity on

board, and other evidence that he could procure from Jamaica would guarantee his innocence.

"This declaration I read in English, and made a verbal translation to the fiscal, who had pronounced the sentence of death upon him. I immediately sent a copy to the governor, being 10 o'clock p. m., praying for a respite for a few days, in order to procure proofs from Jamaica, and requested an immediate reply. I waited nearly all night in the office, and received no reply. Early in the morning I visited him again, and found the prisoner surrounded by the guards formed for his execution. He appeared calm, and assured me had no fear to die, and again assured me, as a dying man, of his innocence, and only begged for a day or two to furnish proofs. At that moment the English vice-consul kindly came in and offered to go with me to the governor. We found him still in bed, stated the urgency of the case, and asked, in the name of mercy and of our countries, for a respite, and assured him that the German man-of-war now lying in port would take the letter over. The governor seemed disposed to grant this request, but informed us of his superior instructions, and in order to wash his hands of the blood (in our opinion) of an innocent man, had the debility to inform us of his impotence as the chief magistrate of this city. 'My troops will not obey; dissension prevails in the army; General Buceta, commanding officer of the forces, is a fugitive on board of a Spanish man-of-war. The Catalans, a few nights since, attempted to assassinate him, under the pretence of a serenade. General Camara was next selected, who, hearing of the plot, secreted soldiers in his house, which frustrated their plan. His death would have been the signal for a general uprising of the Catalans, and of sacking, plunder, and massacre of Cubans.'

"Finding all hopes gone we retired, and in our exit met the governor's aide-de-camp, with whom we had some conversation. He assured us that anarchy prevailed; the mob rules; the governor is impotent, and fears a counter-revolution.

"So the man was executed, leaving a letter for his wife and child, showing himself to be a man of good and fair education, proclaiming his innocence, and instructing her to sue the owners of the vessel for damages, having left her penniless."

This evidence, which is not contradicted in a material statement by any testimony which has been produced, presents so plain a case for indemnity that I trust the Spanish government will not fail to respond without delay to the just demand made in my note of the 6th ultimo, and which is now repeated.

I avail myself of this occasion to renew to your excellency assurances of my most distinguished consideration.

D. E. SICKLES.

Mr. Fish to Mr. Sickles.

No. 30.]

DEPARTMENT OF STATE,

Washington, February 18, 1870.

You are instructed to call the attention of the Spanish government once more to the claims of the heirs of Charles Speakman and of Albert Wyeth, murdered at Santiago de Cuba by order of the Spanish authorities.

The justice of the claims of the heirs of Wyeth appears to be admitted by Mr. Silvela in the discussion with you. It is therefore supposed that the cabinet at Madrid will not be unwilling to instruct Mr. Roberts to arrange with me the amount of the reparation to be made to the family. You will ask to have such instructions forwarded at an early day, accompanied by authority to pay such sum as may be agreed upon.

As to the case of Speakman's heirs, your note of the 30th of October, (which has already been approved by the department,) remaining unanswered, it is supposed that no further objection will be made to that claim, and you will ask to have it disposed of in the same manner with the Wyeth claim.

You will further say that the President regrets that Spain withholds so long the just reparation in these cases, which was promised by Mr. Roberts in July last.

Mr. Fish to Mr. Sickles.

No. 35.]

DEPARTMENT OF STATE,
Washington, March 9, 1870.

Referring to the cases of Charles Speakman and Albert Wyeth, I have to inclose for your information a transcript of an affidavit which was left with me by Mr. Roberts, the Spanish minister, of one William Edward Welch, claiming to have been the captain of the *Grape Shot*, the schooner on board of which the above-named persons were embarked.

As the deponent is regarded as an interested person, having an object in disproving the dying declarations of Speakman and Wyeth, and having himself been engaged in knowingly violating the laws of the United States, the department is not supposed to give credence to his statements, nor to modify the instructions heretofore transmitted to you upon the subject.

P. S.—I deem it proper to add that the inclosed affidavit was taken without notice to this department, and without an opportunity for any one representing the United States to be present:

General Sickles to Mr. Fish.

No. 69.]

MADRID, March 15, 1870.—(Received March 31.)

I have the honor to transmit a copy of a note which, in obedience to your instructions No. 30, of the 18th of February, I have addressed to the minister of state, demanding reparation for the murder of Charles Speakman and Albert Wyeth by the Spanish authorities at Santiago de Cuba.

Mr. Sickles to the Minister of State.

LEGATION OF THE UNITED STATES,
Madrid, March 9, 1870.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor, in obedience to instructions from his government, to recall the attention of the government of his highness the Regent of Spain to the claims of the heirs of Charles Speakman and of Albert Wyeth, two citizens of the United States, shot at Santiago de Cuba in June last by order of the Spanish authorities of that place.

And the undersigned is instructed to state that the President regrets that the government of Spain so long withholds the just reparation in these cases which was promised by Mr. Roberts in July last. The justice of the reclamation made in the case of Wyeth has not been denied in the discussion that has taken place in Madrid. In his reply to Mr. Silvela's note of the 11th of October last, the undersigned pointed to the silence of the minister of state respecting the case of Wyeth, and remarked that the demand as to him seemed to be admitted; an assumption that has not since been controverted. It is therefore supposed that the cabinet of Madrid will not be unwilling to instruct the Spanish minister at Washington to arrange with the Secretary of State of the United States the amount of the indemnity to be paid to the family of the deceased, and the undersigned has to request that such instructions may be forwarded at an early day, accompanied by authority to pay such sum as may be agreed upon.

The undersigned is informed unofficially, from a disinterested source entitled to perfect respect, that young Wyeth was a most worthy person, and the main support of aged parents, one of whom, his father, is blind. Of industrious and frugal habits and blameless life, impaired in health by excessive application to a laborious pursuit, he sought relaxation and strength in the innocent voyage which had for him so fatal a termination.

And the undersigned is also instructed to ask that the same disposition be made of the case of Speakman. The reply of the undersigned to the note of Mr. Silvela in that case, which has been approved by the President, having remained unanswered more than four months, it is presumed that no further objection will be offered to that demand.

Aside from the manifest injustice of any further delay in making such atonement as can be made in money for the irreparable loss suffered by the families of these victims of a cruel vengeance and a weak official, there is danger that such outrages may be repeated unless the Spanish government hasten to mark their sense of the great wrong done to a friendly nation in the slaughter of its unoffending citizens. Nor can the undersigned represent too strongly the impression that will be left on the government and people of the United States, if it shall appear that the government of his highness the Regent remain indifferent or approving spectators of crimes for which no justification has been found in any code of war.

The undersigned improves this occasion to renew to his excellency the minister of state the assurances of his most distinguished consideration.

D. E. SICKLES.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, *March 25, 1875.*—(Received March 26.)

To FISH, *State Department:*

Minister of state, in reply to my note of 9th instant, refuses indemnity in Speakman case. As to Wyeth, minister says Captain General will be ordered to report extract given from letter of Mr. Roberts, dated August 12, denying any promise of indemnity in these cases.

SICKLES.

General Sickles to Mr. Fish.

No. 78.]

LEGATION OF THE UNITED STATES,
Madrid, March 27, 1870.—(Received April 13.)

I have the honor to forward inclosed herewith a translation of the reply of the minister of state to my note dated 9th instant, renewing the demand for indemnity in the cases of Charles Speakman and Albert Wyeth.

You will observe the frivolous pleas now set up to avoid the implied admission of the justice of the claim in behalf of Wyeth. In my dispatch No. 17, of the 14th of September last, I informed you of the assurance given me by Mr. Becerra, then minister of state *ad interim*, that a report from the Captain General of Cuba had been called for in relation to both cases; that if the facts were as alleged full reparation would be made, and that orders had been given to prevent such acts of cruelty in the future conduct of the war.

It appears from Mr. Sagasta's communication of the 23d instant that nothing has been received from the Captain General in regard to Wyeth's case, and that a report is now to be ordered.

Mr. Sagasta to Mr. Sickles.

[Translation.]

DEPARTMENT OF STATE,
Madrid, March 23, 1870.

I have had the honor to receive your excellency's note, dated the 9th instant, in which, under instructions from the government of the United States, you take occa-

sion to again call the attention of the government of his highness the regent of the kingdom, to the reclamation in the case of Charles Speakman and Albert Wyeth, shot in Santiago de Cuba in June last.

The brief time that has elapsed since I have had the honor to occupy the ministry of state, as well as the wish to attentively examine the record to which your excellency's note refers, have prevented me from sooner taking it up, and also answering that which you were pleased to address to my worthy predecessor, Mr. Silvela, on the 30th of October last, in response to that gentleman's dispatch of the 11th of the same month. In doing so to-day, I deem it necessary before all, to rectify a point and an opinion, the one mistakenly set up, and the second founded upon incorrect information.

Your excellency regrets in the beginning of your note that the government so long delays the just reparation promised in July last by Mr. Roberts, with respect to the occurrence in question, and I in my turn have to make known to your excellency that the representative of Spain in Washington, anticipating the erroneous interpretation which might be given to his words, writes to this department under date of August 12, as follows:

"I have heard that in a communication of the Secretary of State, allusion is made to an interview which was held with that gentleman to treat of this affair, stating the assurance given by me, that I would inform myself about the matter, and that the Spanish government would duly compensate the family of Mr. Speakman. I believe it unnecessary," adds Mr. Lopez Roberts, "to say to your excellency on this point that I have not given, nor could have given, any such assurance. Having heard the official letter of Mr. Phillips, (American consul in Santiago de Cuba,) which was read to me by the Secretary of State, and without other data at hand, I confined myself to stating, in general terms, that the case should be investigated, and that, in the supposition that Speakman should prove to have been an innocent victim, the Spanish government would not omit to take account of it for the reparation which should be just and suitable."

As your excellency sees, the minister plenipotentiary of Spain, before a promise could be appealed to, which was erroneously attributed to him, and which he had no authority to make without previous consultation with the government of his highness, establishes the exactness of the facts, giving to his words the interpretation most conformable with the character and nature of official action.

Further, your excellency deduces that as the Spanish government has not refuted the observation made on the silence of Mr. Silvela, respecting the case of Albert Wyeth, it therefore appears to have admitted the demand with regard to the latter. I have to remark to this proposition that the principle that gives ground for your excellency's inference cannot in good logic be accepted as a tacit consent in treating of a case of such importance. This silence has, moreover, a very simple explanation, to which I must call attention. The efforts actively made in favor of the unfortunate Speakman, from the moment that the American vice-consul was informed of his capture, the steps he took, and his action in union with the English consul toward all the authorities of Santiago de Cuba up to the moment of execution, and those measures which have since followed to protest against his unfortunate end, form a noticeable contrast to the conduct shown with regard to Albert Wyeth, although the latter was executed several days later. It is true that his name is associated with that of Speakman in the demand for indemnity for the respective families, but beyond this it remains isolated, and is left out altogether, while allegations and arguments are made in favor of the exculpation of Speakman. In the notes from your legation, and in the remarks made in answer to those of this department in this particular, your excellency will find the proof of this strange circumstance.

Consequently the Spanish government might easily deduce from this singular omission with respect to Albert Wyeth a conclusion equal or similar to that which your excellency is pleased to infer from the silence of my honorable predecessor in this department; but this is not, nor could have been, the intention of the government of his highness. The real explanation is, that until now neither the authorities of Cuba nor, for its part, the government of the United States, have submitted sufficient evidence in the case of the unfortunate companion of Speakman to judge it impartially and attentively as it deserves.

Passing now to the principal object of your excellency's note, (that is to say, to the case of Charles Speakman,) it would be difficult to express the regret I feel on seeing that the wise and rational communication of Mr. Silvela has not succeeded in carrying conviction to your excellency's mind. This regret is for me increased by the conviction I have acquired that I cannot regard this matter in any other light after having examined the record and all the circumstances of the case, even while taking into account, as I have carefully done, the statements contained in the note of your legation of the 30th of October last. To the Spanish government the culpability of the unfortunate Speakman is proved in a patent manner, and as it would have resulted from the most prolix and minute investigation. No other way can be conceived of where one who believed himself to be the victim of a judicial error, of an act of violence, or

of arbitrary haste, but a few moments before yielding up his life, should not have had a single word of indignation, nor an expression to protest in his last letter against those who, in case of his not being guilty, were unjustly leading him to execution. Neither is it comprehended why, in indicating to his unhappy wife the means of obtaining some pecuniary reparation, he did not direct her to the Spanish government, which should have been held the sole responsible cause of his death—the real party bound to make reparation. Far from this, the unhappy dying man set his family on a road leading in the opposite direction: to New York, where were those who, in concert with the Cuban junta, in manifest violation of the laws of neutrality, and offending against the government of the United States, had taken his life and deprived his wife and child of the only support they had. How, therefore, can any one challenge the testimony of the victim, when he so explicitly designates what he considers the cause of his misfortunes?

The refusal of the authorities of Cuba to postpone the execution for the time necessary to obtain and present proofs of the innocence of Charles Speakman has been characterized as cruel and precipitate, and to this proposition I ask your excellency to permit me to make a simple observation: How is it that, after several months, that has not been accomplished which, according to the American consul, would have been a matter of a few days? Why have these data, which are said to be unimpeachable, not been brought forward in support of the reclamation and as proofs of the error committed by the authorities of Cuba in condemning an innocent man? Would it not be more suitable to join the question to the consideration of the documents which affirm the guiltlessness of Speakman than to submit it to a discussion dependent upon indications, inductions, and infinite reasonings? Nor is it said that, the execution of the unfortunate man once consummated, it was now useless to advance the necessary proofs to obtain his pardon, although on them alone can be to-day legally grounded the pecuniary indemnification solicited for his family against the injustice or the mistake which may have counseled his sentence.

For these reasons, and insisting for their effect on those set forth by Mr. Silvela in his note of the 11th of October last, I am compelled to state to your excellency that, while not weakening with new proofs the reasons which forced the authorities of Cuba to regard Charles Speakman as a felon, convicted of having taken up arms against the peace and integrity of the Spanish territory, the government of his highness, painful as its decision may be, cannot accede to the demands of the government of the United States. In so much of the case as relates to Albert Wyeth, proper orders will be sent to the Captain General of Cuba to forward, with all possible promptness, the testimony and data concerning it, and as soon as they are received by this department I shall have the honor to make them known to your excellency.

It only remains for me, minister, in taking up the last paragraph of your note, to state to your excellency that the Spanish government holds too elevated an idea of the government of the United States, and of the great qualities of wisdom and nobleness which distinguish the North American people, to believe for one instant that either one or the other will obey the impressions of the moment and suppose (even hypothetically) the Spanish government capable in any case of being the indifferent spectator of crimes, and much less of giving them its approbation. Such a judgment would be, moreover, a gratuitous injustice on the part of a friendly nation which has had occasion in its relations with Spain to recognize the rectitude and good faith with which it has ever acted.

I improve this occasion to reiterate to your excellency the assurances of my most distinguished consideration.

Mr. Fish to Mr. Sickles.

No. 44.]

DEPARTMENT OF STATE,
Washington, April 18, 1870.

I have received your dispatches Nos. 77 and 78, the latter inclosing a translation of a note from the minister of state concerning the cases of Speakman and Wyeth. In my instruction No. 35, referring to these cases, and inclosing for your information a copy of an affidavit of one William Edward Welch, claiming to have been the captain of the Grape Shot, I stated that the department was not disposed to modify the instructions already given to you upon the subject, and I repeat the statement now.

Mr. Roberts to Mr. Fish.

LEGATION OF SPAIN,
Washington, June 1, 1870.—(Received June 2.)

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to call the attention of the honorable Secretary of State of the United States to the annexed declaration, (affidavit, one of the originals of which is on file in the Department of State,) made by the captain of the American schooner *Grape Shot*, which, during the months of April and May of last year, conveyed a piratical expedition from the port of New York and that of Beaufort, North Carolina, to the Island of Cuba, in contravention of the laws and statutes of the United State, as well as of the law of nations.

This document is of the highest importance, not only because from it arise grave charges against high officers of the federal government at Beaufort, who, having knowledge of the destination and illegal character of the expedition, permitted its departure, when they had an abundance of time and means to detain it, but because it destroys, as manifestly untrue, the testimony given and the exertions made before the vice-consul of the United States at Santiago de Cuba in June, 1869, by the individuals named Speakman and Wyeth, who belonged to the expedition, in saying that they had not voluntarily taken part therein, and that they had not landed in Cuba with the intention of joining the handits who, in the eastern department, were seeking to resist the legitimate authority of Spain, and to assassinate its agents and legitimately appointed delegates.

In view of this declaration it is further proved in a clear and precise manner that Speakman and Wyeth had knowledge of the true object of the expedition, and that if they had really intended to abandon it they would not have lacked opportunities of doing so, not only at Beaufort but also at Turk's Island, where they were in presence of the United States consul, Mr. Mungen, which functionary forgot the duties imposed upon him by his official position toward a friendly nation so far as to applaud and even to encourage those who, having recently violated and infringed the laws of their own country, were preparing for a similar course with respect to those of Spain.

The owners of the schooner, who furnished the means to carry out the filibustering enterprise in question, reside in New York, and are within the judicial proceedings on the part of the government of the United States.

The undersigned avails himself of this occasion to reiterate to the honorable Secretary of State the assurances of his highest consideration.

MAURICIO LOPEZ ROBERTS.

Hon. SECRETARY OF STATE of the *United States*.

CITY AND COUNTY OF NEW YORK, ss :

William Edward Welch, being duly sworn, deposes and says :

1. That he was captain of the schooner *Grape Shot* on her voyage from Beaufort, North Carolina, to the Island of Cuba and Falmouth, in the early part of the month of May, 1869.

2. That on the 29th day of April, 1869, this deponent was employed by one George Heydecker, doing business at No. 144 Pearl street, in the city of New York, and Otto Schloemer, doing business at No. 71 Pine street, in said city, to take charge of the schooner *Grape Shot*, then represented by them to be lying in the port of Beaufort,

North Carolina, and which had cleared from the port of New York a few days previously for Falmouth, Jamaica; that thereupon this deponent proceeded forthwith to Beaufort aforesaid, found the schooner lying there, and took charge of her as captain on the 4th day of May, 1869.

3. That the aforesaid schooner was of about fifty-three tons burden, new measurement, and was represented to be owned by the aforesaid Heydecker, Schloemer, and one Henry Wall, doing business as engineer at No. 249 Pearl street, in the said city of New York; that this deponent found on board as officers and crew a mate and two seamen, named Charles Speakman and a German called Bill, and as passengers, a number of persons, chiefly Cubans, whose names are appended hereto; that among the passengers was one Albert Wyeth.

4. That this deponent, soon after his arrival, ascertained that the passengers were a military expedition for the island of Cuba, of whom Antonio Jimenez was chief, and that he, the said Jimenez, would indicate the place on the island of Cuba at which the schooner was to land passengers and cargo.

5. That after the arrival of this deponent at Beaufort, North Carolina, and taking charge of the schooner aforesaid, as captain, the said schooner remained in said port up to the 17th day of that month; that during all this time not only the passengers but the two sailors, Speakman and Bill, were permitted to go ashore, and did go ashore frequently, and as often as they pleased, and while lying at Beaufort as aforesaid this deponent had frequent conversations with Albert Wyeth, who distinctly informed this deponent that he had started from New York with the expedition, with the intention of landing with it on the island of Cuba; that he, the said Wyeth, had boarded or lived in New York for some time with the said Jimenez, and knew him well.

6. That on leaving Beaufort the schooner aforesaid proceeded to Turk's Island, in the Bahamas, coming to anchor in that port on the 27th day of May; that the American consul, Oliver Mungen, came on board; that while on board the passengers had a demonstration in favor of Cuban independence, at which speeches were made by a number of persons, and among others by the aforesaid consul and by the aforesaid Albert Wyeth.

7. That on the evening of the 28th of May the aforesaid schooner departed from Turk's Island, and made land at or near Guantanamo, on the extreme southeastern portion of the Island of Cuba, on the night of the 30th of said month of May, and straitway began to land the cargo and passengers; that said cargo consisted chiefly of arms and ammunition.

8. That during all the passage from Beaufort to the Island of Cuba and when the landing began this deponent understood, from the aforesaid Speakman and Wyeth, that they intended to land with the expedition at the Island of Cuba; that the said schooner was lying about two hundred yards from the beach, which made it necessary to tow the cargo ashore in small boats; that this deponent, on the evening of the 30th day of May aforesaid, overheard Speakman, in conversation with Jimenez and others of the expedition, suggest that the quickest way to land the cargo and for them to get ashore would be to ship the anchor, run up the jib, and beach the schooner; that this deponent, alarmed thereat, not only for the safety of the schooner, but for himself, and, judging the said Speakman to be the leader of the plan, made an assault upon him to prevent him from carrying it into execution; that the night of the 30th and all the next day were occupied in putting ashore the cargo and passengers, and the schooner sailed therefrom on the morning of the 1st day of June, 1869, for Falmouth, Jamaica, where she arrived June 3, 1869, and was seized by the custom-house authorities of that island for having on board a small portion of the cargo of arms and ammunition which she was unable to land on the coast of Cuba.

9. That this deponent did not go ashore on the island of Cuba at all while the schooner was lying there, as the aforesaid Speakman falsely swears in his pretended declaration, under oath, of June 17, 1869; but that the aforesaid Speakman and Wyeth did go ashore with the expedition, and did throughout act as a part of the expedition.

10. That the declaration in the pretended affidavit of Charles Speakman before Acting Consul Phillips, at Santiago de Cuba, dated June 17, 1869, that he was compelled by this deponent to assist in landing the cargo, is utterly false; also the declaration in the said affidavit that "when the captain went on board he refused to take me (Speakman) under threat of shooting if I stepped into the boat."

11. That if the statement pretended to have been made by Albert Wyeth to the aforesaid Consul Phillips, at Santiago de Cuba, June 25, 1879, in these words: "I was forced to land with the rest on the Island of Cuba, under fear of death," refers to any force or authority exercised by this deponent over the said Wyeth, it is utterly false. On the contrary, the aforesaid Wyeth could, if he had seen fit, have continued in the Grape Shot on her voyage to Falmouth, but he indicated to this deponent no purpose or wish to remain on board the schooner, and appeared to act of his own free will and accord in going ashore with the expedition.

12. That so much of the purported declaration of Albert Wyeth, dated June 20, 1869, at Santiago de Cuba, to the aforesaid Consul Phillips, as states that Charles Speakman,

to the knowledge of the aforesaid Wyeth, was compelled to leave the vessel when it reached the island, by the captain, with whom he had difficulty, under penalty of death if he remained on board, and was of his own accord in no way connected with the expedition, is utterly false in so far as it states that the said Speakman "was of his own accord in no way connected with the expedition." This deponent did have a difficulty with said Speakman, as before stated, arising out of a conspiracy by said Speakman, detected by this deponent, to beach the schooner for the purpose of assisting the expedition in landing its arms and munitions of war. If the schooner had been beached as Speakman had proposed it would have been impossible to get her off and for the aforesaid Speakman to leave in her for any place.

13. That this deponent has no personal knowledge of what happened on board said schooner or in respect to her during her voyage from Hunter's Point to Beaufort, North Carolina, and therefore cannot say whether the aforesaid Speakman requested to be sent back to New York when the Cuban passengers came aboard; but this deponent does aver that while lying at Beaufort there was no possible difficulty in the aforesaid Speakman leaving the schooner and the expedition if he had desired to do so; that while the schooner was lying at Turk's Island the American consul was on board, and there would have been no difficulty in his representing the facts to the said consul and obtain a release from the schooner at that port if he had desired to do so.

14. That while the schooner was lying in the port of Beaufort the steward on board, a white man, protested that he did not wish to continue on such an expedition to Cuba, and would like to leave at that point, whereupon a subscription was raised by the passengers and he left the schooner at Beaufort aforesaid. All of which shows that no restraint was put upon any person desiring to abandon the expedition.

15. That while the aforesaid schooner was lying at the port of Beaufort, several of the expedition, and among others Eugene Castner, of New York, who represented himself to have been a telegraphic operator, and was a friend of the aforesaid Wyeth, left the schooner for New York.

16. That this deponent is informed and believes that the aforesaid schooner was chartered by her owners, the aforesaid Wall, Heydecker & Schloemer, to the aforesaid Jimenez, the leader of the expedition, to transport the latter to the Island of Cuba; that after the schooner was seized at Falmouth, an agent of the Cuban Porto Rico central junta, established at Kingston, Jamaica, arrived at Falmouth aforesaid, and from him the deponent borrowed a sum of money to procure his passage to Kingston aforesaid, at which latter place he procured from the said junta the sum of \$100 50 in gold to pay his passage to New York City; that on arriving at New York this deponent had a difficulty with the owners of the schooner in relation to compensation for his services as agreed upon, and in the end the Cuban junta, of New York, reserved a sum of money due to the aforesaid owners, which was given to this deponent, out of which he repaid the sum so borrowed of the junta in Kingston.

17. That while the schooner was lying in the harbor of Beaufort, North Carolina, aforesaid, the character, purposes, and objects of the expedition became well known in that place, and the captain of the revenue cutter and collector of said port of Beaufort had also knowledge of the same, as this deponent knows by conversation with each.

W. T. WELCH.

Personally appeared before me, Joseph Gutman, jr., a commissioner appointed by the circuit court of the southern district of New York to take affidavits, William Edward Welch, to me personally known, and made oath that the above deposition, by him signed, was voluntarily made and is correct and true in every particular.

JOSEPH GUTMAN, JR.,

United States Commissioner Southern District of New York.

Esta conforme.

LOPEZ ROBERTS.

Names of persons on board schooner Grape Shot referred to in the third paragraph of the affidavit hereunto annexed.

Pablo A. Galibat, general; Francisco Lamago, general; Frederico Barreras, general; Vicente Amao, Gregroni Rodriguez, José Pena, José Dumay, Teodora O'Halloran, Juan Antonio, Casinino Porbello, left Beaufort, North Carolina, for New York; Eugene Catter, left Beaufort, North Carolina, for New York, friend of A. Wyeth; Albert Wyeth, Fredrico Osma, Carlos Guñones, Guermido Gomez, Antonio Perez, Carlos Diaz, George B. Smith, captain; Jacob Naher, major; C. Menning, Joseph L. Lemes, Juan B. Sarriol, Ramon Marion, Ricardo Servin, Domingo Velez, José Buccella, Martin Hustiz, José Etein, Antonio Jemenez, chief; Thomas Handley, ex-soldier from Fort Macon; Charles Speakman, ex-seaman, of schooner Grape Shot.

No. 2.

GEORGE BODEL.

In his No. 144, of June 3, Mr. Biddle incloses a copy of a communication, not dated, which he received from the Acting Captain General, written by George Bodel, who was shot at Najava, to Johannes Rudolphie, in New York.

The Acting Captain General says, in his note accompanying the same, that he received it from the commanding general of Puerto Principe, under date of May 24, who states: "His excellency, commanding the army of operations against Najava, on returning to this post, has delivered to me the letter, which I inclose to your excellency, which the American citizen, George Bodel, wrote a few moments before being shot to death, with the request that it be forwarded to its destination."

On June 15, the department telegraphed Mr. Biddle to ascertain the full particulars.

No. 3.

SAMUEL ALEXANDER COHNER.

The United States vice-consul general at Havana, in his dispatch, No. 130, of January 29, 1869, reports that during an attack made on the Louvre, a public café, in Havana, on the evening of the 24th of January, by Spanish volunteers, Mr. Cohner was shot and killed in a side street, some six hundred yards from the main attack. He was a citizen of the United States, a photographer by occupation, and believed to be a resident of New York.

On February 11, the department, in a note to our minister at Madrid, informed him of the circumstances of the case, as narrated by the vice-consul general, and instructed him to inform the minister of foreign affairs that a thorough and impartial investigation would be expected, and that if it should appear that Mr. Cohner was killed designedly, and without justifiable cause, due reparation should be made.

No. 4.

VICENTE DAUNI (OR DAWNEY.)

A citizen of the United States, said to have been shot in a coffee-house brawl, in Havana, on February 2, 1870. (See dispatch No. 47, of February 5, 1870, from Vice-Consul General Hall.)

No. 5.

JUAN FRANCISCO PORTUONDO.

The United States vice-consul at Santiago de Cuba, under date of February 12, 1870, dispatch No. 9, states that Portuondo was a naturalized citizen of the United States, and that his papers are on file in that consulate. He was arrested, with other prominent Cubans, on February 10, bound and conducted some twelve miles inland, under pretense of being taken for trial before General Carlos Boet. The vice-consul requested, in writing, that Portuondo be tried in his presence, in accordance with an understanding which, as the vice-consul claims, was made

between the governor and the United States naval commander, in the summer of 1869.

Under date of February 15, and in the same dispatch, the vice-consul adds that he had just learned from an eye-witness that the prisoners had no form of trial, but that a portion of them being assured that they would be tried at Santiago, were, while being conducted back, shot by the guard from behind, and left where they fell—Portuondo being among them.

Mr. Hall, vice-consul general at Havana, in dispatch No. 61, referring to this case, says that Portuondo was a native of Santiago de Cuba, but had been several years in the United States, where he had been naturalized; that he returned to Santiago four or five years since, and permanently resided there. He adds that the statements of the vice-consul "appear to be corroborated by other sources."

In the same dispatch he incloses a translation of a memorandum from the political secretary of a communication from the military governor of Santiago, confirming information of the arrest of Portuondo, and admitting his United States citizenship; and that he was taken from the city and carried inland for trial. The interposition of the vice-consul is admitted. He says nothing, however, of the subsequent killing of the prisoners, but alleges that they were arrested on a charge of complicity with the insurrection.

On March 7, 1870, Mr. Biddle was informed that a report from Mr. Parsons, the new consul to Santiago, was awaited before laying the case before the Spanish minister here.

On March 16, 1870, Mr. Biddle, in dispatch No. 29, states that dispatch No. 11, in relation to the killing of Portuondo, had been received, and a copy sent to Mr. Parsons, at Santiago.

On April 18, 1870, Mr. Biddle was instructed to present the facts to the Captain General, and ask an explanation of the arrest and execution, and to report any facts he may obtain with a view to future action, if warranted by the facts.

In dispatch No. 93, of May 4, Mr. Biddle incloses a copy of his letter to the Captain General, asking for an explanation of the arrest and execution.

In his No. 103, of May 7, Mr. Biddle incloses a copy of a note from the superior governor *ad interim*, dated May 6, referring him for information in Portuondo's case to the Spanish minister in Washington.

On May 18 Mr. Biddle was informed that on the receipt of his No. 103 a note was addressed to the Spanish minister asking information.

In his 127, of May 23, Mr. Biddle incloses a copy of No. 18, from Santiago de Cuba, giving details of Portuondo's case, as far as he could ascertain them.

Under date of June 17, 1870, Theo. H. Oehlschlager transmits a duplicate of the naturalization papers of Portuondo, dated July 16, 1847.

No. 6.

CHARLES J. POLHAMUS.

A native of Nuevitas, but long a resident of New York City. He was a naturalized citizen of the United States, as appears from papers received since his execution and forwarded to the consul general.

He arrived at Nuevitas about the middle of May, 1869, and went into

the country, where an uncle resided. He was arrested on June 13, and executed at 3 a. m. the following day. No opportunity was allowed the United States consular agent to appeal to the governor in his behalf, nor was he informed of his arrest, or had any knowledge of the affair until after the execution.

In a later communication, made at the request of the consul general for further particulars, the consular agent states that the above contains all the information he has of the case, but adds that the trunk of the deceased, with \$170 in gold, is in the hands of the governor of Nuevitas.

Mr. Plumb, in his dispatch, No. 215, of November 8, 1869, states that, from information derived from the authorities in Havana and an examination of the official proceedings in the trial at Santa Cruz, it appears that Polhamus remained two or three weeks at Santa Cruz, seeking to send some communication to Facundo Aguerre, a relative of his, and a leader in the insurrection. Failing in this he took a boat, with two men and was absent several days. On his return he was arrested with his companions, who afterward gave evidence against him. They testified that he landed and went inland, and on his return he was accompanied by a man on horseback.

Polhamus, on his trial, denied landing, or that he had held communication with any one. It does not appear from these proceedings that Polhamus was a United States citizen, or asserted that character.

No. 7.

ERNEST MACARTY.

Attention was first called to the case in a dispatch from Mr. Washburne at Paris, dated August 23, 1869. A copy was sent to Mr. Plumb with instructions, who, on writing to the acting consul at Santiago de Cuba, received a reply to the effect that the father of Macarty was a native of New Orleans, but that the son was born at Santiago, and resided with Mr. Courau, who is a prominent leader of the insurrection.

An official communication to the Bandera Espanola from Antonio Canalejo de Mena, in charge at that time of Spanish troops operating against the insurgents on the river Brazo de Cauto, states that Ernest Macarty, a principal leader of the party of Curo, (an insurgent officer,) was surprised and shot near the hill called Gato, on July 11, 1869.

III.—LIST OF PERSONS, SAID TO BE CITIZENS OF THE UNITED STATES, WHOSE PROPERTIES ARE SAID TO HAVE BEEN CONFISCATED OR EMBARGOED DURING THE HOSTILITIES IN CUBA.

No. 1.

JOSÉ GARCIA ANGARICA.

In a memorial dated at New York, March 23, 1870, he represents that he came to the United States from Cuba (of which he is a native) in 1850, when only twelve years old. He was educated in Massachusetts, and declared his intention to become a United States citizen in 1854, and was fully admitted on February 16, 1869. He incloses his certificate.

On completing his education he established himself in business, first at New York, afterward at Cardenas, Cuba, as a commission merchant. His business at the latter place became extensive and remains so at the present, and he has acquired a large property at Cardenas. That since his absence he has been publicly threatened by the Spanish volunteers of the place in order to prevent his return, and with a view to divert his business into other hands. His valuable house on the Plaza de la Yglesia has been seized by the Spanish authorities without accusation, trial, or order of embargo, and a part rented to the Casino Español, and other portions of it are now advertised for rent. He incloses the published advertisement.

He further represents that he is the legal guardian of the minor children of his brother Joaquin G. de Angarica, deceased about six years since, also an American citizen, (his certificate being inclosed.) His widow registered herself as a United States citizen at the consulate at Havana, on January 8, 1869. The Spanish authorities have seized all the valuable property left by the brother, and his widow and family are wholly without resources. He affirms that he has never taken part in the political trouble or insurrection now prevailing in Cuba. He asks the interposition of the United States government.

The memorialist is the son of Joaquin Garcia Angarica, whose property has also been embargoed, and he represents that in the execution of the embargo upon the latter his own property has been seized.

No. 2.

JOAQUIN GARCIA ANGARICA.

In a communication to this department, of August 14, 1869, Angarica states that he declared his intention to become a United States citizen in 1853, but did not receive the certificate of full citizenship until August 14, 1868; that he resides in New York City and owns property in the United States; that he also owns large property in Cuba, and lately has spent some time in that island on account of the ill health of his daughter; that he has never resigned his business in the United States and visits Cuba only to administer the affairs of his estates there; that he left Havana in March, 1869, without opposition from the authorities; that he has never taken part in any way with the insurgent cause, and has kept true allegiance to the United States; that he appears in the "registry book" of a public notary in Cuba as an American citizen.

On August 18, a note was addressed to the Spanish minister requesting an investigation of the case and that the result be communicated to the department. On the department's referring the case to Mr. Plumb, he replies in dispatch No. 146 that he called on the political secretary and was informed that the embargo was laid upon Angarica's property because of supposed aid given the insurgent cause in New York; that the authorities supposed Mr. A. to be a Spanish subject; that he came and went on a Spanish passport.

Mr. Plumb further states that he is of the opinion that the immediate cause of the embargo was the \$8,000 in Cardenas Bank stock brought to Havana by Mr. Machado and taken from him at the time of his arrest, a part of which stock stood in the name of Miguel Garcia Angarica, whose property had already been embargoed.

Mr. Machado, informed Mr. Plumb that this stock was handed him by Antonio F. Bramasio, supposed to be an active partisan of the insurrection. A copy of this dispatch was given to Mr. Angarica, who replies under date of October 11, as follows: That it is not true that he has given aid to the insurgent cause; that he came to New York in 1852 and has resided there since that time; and from 1859, when he retired from active business in New York, he has spent his winters in Cuba and summers in New York; that he completed his citizenship on August 14, 1868, and that his "whole family" are naturalized citizens of the United States. He admits that in September, 1868, he took a Spanish passport, but alleges it was "for convenience only," it requiring some three days to obtain one from Washington; that himself and brother (Manuel Garcia Angarica) were original owners of a portion of the Cardenas Bank stock; that he purchased previous to his brother's death his interest, the transfers of which were in blank, and that these shares are alleged to be in the name of Miguel Garcia Angarica; that he knows of no such Angarica; that for the purpose of collecting the dividends he desired to send the stock to his agent, J. C. de la Rúa, at Havana, and placed them in the hands of A. F. Bramasio to be handed to the agent. He, however, handed them to Machado, who was just then leaving for Havana, and in this way the stock was found on Machado's person.

That his deceased brother left a son named Manuel Garcia Angarica, a minor, and upon his advice the son came to the United States and applied to become a citizen in 1867; and he presumes that this nephew's leaving Cuba without a passport is the cause of the embargo of his (the nephew's) property. He claims the interposition of this government.

On the 19th of February, 1870, Angarica files in this department an affidavit that he has conducted himself since he became a citizen and resident of the United States in accordance with its laws, and especially in reference to its relations with foreign powers; that he has never, by covert or open act, given aid to the Cubans in their present insurrection; that because reports to the contrary have been circulated, to his great pecuniary injury, he requested from Miguel de Aldama, the president of the Cuban junta, a statement denying any complicity on his (Angarica's) part with the insurrection, which was furnished by Aldama and is embodied in the affidavit.

On August 19, 1869, Mr. Plumb was instructed to investigate the facts of the case.

On January 4, 1870, Mr. Hall was instructed to present the case to the Spanish authorities, and on February 23 to request release of the property.

In No. 33, of January 15, 1870, Mr. Hall says that he has presented the case to the authorities.

In No. 38, of January 20, 1870, Mr. Hall embodies a translation of a memorandum, handed him by the political secretary, to the effect that Angarica is a native of Havana and resided there; that on February 18, 1869, he obtained a passport as a Spanish subject, and that he is registered as such; that from information received he has been in intercourse with the Cuban junta, and taken part in acts hostile to Spain; that if he will make it appear that this information is incorrect "the charge of delinquency, occultation, and dual citizenship may be considered as one of remissness." Mr. Hall is of the opinion that if Angarica will disprove the charges his case will be favorably considered.

In dispatch No. 21, of March 10, 1870, the consul general incloses a copy of a communication from J. C. de la Rúa, attorney for Angarica, requesting delay in presenting the case to the Spanish authorities.

On February 23, 1870, the department transmitted further papers from Mr. Angarica to Mr. Hall, and directed him to present them to the proper authority, and again ask the release of the estate.

Under date of June 7, Mr. Biddle telegraphs that the government has "seized the Angarica property, and will sell the personal effects unless immediate intervention."

On June 8 the department telegraphs Mr. Biddle as follows:

"Call attention to article 7 of treaty of ninety-five, in Angarica's case; protest against sale if provisions not complied with."

With No. 153, of June 10, 1870, Mr. Biddle gives a copy of his protest against the sale of Angarica's property.

INOCENCIO CASANOVA.

A native of the Canary Islands, but naturalized in New York in 1859, and residing in the United States a portion of each year, and retaining a part of his large interests in Cuba.

He was arrested at Regla, opposite Havana, on the night of March 30, 1869. The political secretary, in replying to the request of the vice-consul general to be informed of the reason for his arrest, says that it was done at the instance of the fiscal, or prosecuting officer, but assigns no cause. The secretary also intimates that Mr. Casanova has heretofore avoided judicial process by flight from the island, which Mr. Hall says is denied by Mr. C.'s friends.

On April 3 Mr. Hall telegraphs that Casanova's arrest is connected with the affair of the steamer Comanditario, now under investigation.

Under date of April 23, Mr. Hall, vice-consul general, informs the department of Mr. Casanova's release, and that he had secured a passport for him to leave the island.

On December 7, 1869, Mr. R. D. Mussey, attorney for Mr. Casanova, requests the interposition of the department for the protection of the latter's property in Cuba, which he says it is the purpose of the Spanish government to destroy.

On December 13 the department instructed the vice-consul general to take such steps as were necessary to protect the property of Mr. Casanova.

Under date of December 31, 1869, the vice-consul general reports that he believes the suspicions of Mr. Casanova to be groundless, and incloses copies of stringent orders of the Spanish government for the prevention of outrages upon estates in Cuba.

No. 4.

JOSÉ N. CASANOVA.

In a memorial to the Secretary of State, dated 30th March, 1869, Mr. Casanova represents that he became a naturalized citizen of the United States in 1857, and resides a part of each year upon his estate in Virginia, and that, in connection with his father, Inocencio Casanova, he is largely interested in business between the United States and Cuba; he also has large interests in Cuba, and resides a portion of each year in the island.

He states that, owing to the gradual emancipation of his slaves, he has been regarded with great disfavor by the Spanish government, and he believes this to be the moving cause of the hostility which it has shown toward him.

While on his plantation near Cardenas, in December last, he learned that an order for his arrest had been issued, but after an interview with the Captain General, and after appearing to answer the charges of a military commission at Matanzas, he was permitted to return to his estate with a "safe conduct." On his return he found that government agents had carried away from his house certain valuable papers, which he has so far been unable to secure.

He remained unmolested upon his plantation until the 4th of March, 1869, when the police appeared and arrested and, without trial, shot the engineer of his estate, who also held a "safe conduct" from the government; and seeing how little protection it secured, he became alarmed and abandoned his home, leaving his wife and brother-in-law, both native Americans, in charge.

On the same day, a band of police came upon his plantation in search of him, insulting and abusing his wife and family, and doing great damage to his crops and buildings, one of the latter of which they burned. He escaped to Havana and sought the protection of the American flag-ship, and was brought to the United States. He was thus compelled to abandon interests to the amount of \$2,000,000, and to leave his family to such indignity and spoliation as might be offered.

He further states that his brother was arrested by the Spanish authorities, tried by a military commission, and acquitted, but nevertheless has been and is now confined in prison and not permitted intercourse with his family. He estimates his personal losses and damages for the detention of his papers, and inability to care for his estate, at \$50,000, and he asks redress and indemnity. He also urgently asks the intervention of the government for the release of his brother.

On April 22, 1869, a note was addressed from the department to the Spanish minister, reciting the statements of Mr. Casanova, and requesting such information as might be in his possession concerning the case.

No. 5.

RAMON FERNANDEZ CRIADO Y GOMEZ.

Hon. William M. Evarts, under date of August 31, 1869, transmits the memorial of Criado: That he is a native of Cuba, but for many years past has resided in the United States "a great part of the time;" that he became a citizen of the United States on April 15, 1869; (his certificate of naturalization is inclosed.) That he owns considerable real and personal estate in Cuba, and that the same was embargoed on May 4, 1869, by the Spanish authorities of the island; that he is in consequence deprived of its possession, and his resources and credit are greatly impaired; that no judicial proceedings either of information, accusation, or condemnation have been taken against him; and that the seizure of his property was made without opportunity of defense by him. He prays the protection of this government.

In a further memorial, dated February 25, 1870, Mr. Criado reiterates the above statements, and again requests the intervention of the United States. He claims indemnity for all losses and injuries to which he has

been subjected by the action of the Spanish authorities as above stated. On June 22, he files a memorial alleging his unlawful arrest in Cuba, and claims indemnity for the indignity to his person.

No. 6.

JOAQUIN DELGADO.

Mr. Plumb, in his No. 141, says that his attention was first called to the embargo of the property of Delgado by a letter from Spring & Wetmore, attorneys of New York, in which it is stated that Mr. Delgado is an American citizen, long a resident of the United States, and that he has never taken part in the present insurrection; that he visited Cuba in January last, "on a Spanish passport in regular form," and met with no difficulty on leaving Havana.

The attorneys state that the cause of the embargo seems to have been that Delgado had not fulfilled all the requisites the law prescribes for "passing beyond these dominions," which phrase is a translation of the words "traspaso de dominio," in the order of embargo.

Mr. Plumb, in commenting upon this, says that the translation is erroneous in its most essential point, and that these words "refer to the transfer of property," not "to the departure from the country," and informs the attorneys that the embargo will be found to be based upon supposed complicity with the insurrection.

No. 7.

DANFORD, KNOWLTON & CO.

Mr. Plumb, in dispatch No. 106, of August 10, 1869, incloses a copy of a letter from the above firm, which transmitted a memorial from them to the Captain General, to the effect that they had received information of a decree of embargo on the property of José de Zayas, a resident of Nuevitas; that they had business connections with the house of José de Zayas & Co., of that place; that in consequence of advances made to the house previous to the outbreak of the insurrection, that house was indebted to them in the sum of \$35,450 81; that they apply to the Captain General for the satisfaction of this debt out of the proceeds of the embargoed property, and authorize George P. Bell, of Havana, to represent them.

Mr. Plumb states that he is unwilling to take any steps in cases of this character until so instructed by the department, and in his reply to Danford, Knowlton & Co. he refers them to this department.

On August 24, 1869, Messrs. Danford, Knowlton & Co. were informed that no action could be taken until he had tried and failed to obtain justice in the Spanish courts.

No. 8.

FELIX GOVIN Y PINTO.

In his memorial, dated 15th February, 1870, he states that he is a naturalized citizen of the United States, and incloses his certificate, issued by the court of common pleas of New York City, on July 10,

1868; that he has resided with his family "near" a year in that city, where he owns property; that he expects to remain such citizen; that his property in Cuba was embargoed under a decree of January 31, 1870. He prays the interposition of the government to secure its release.

Mr. Hall, vice-consul general at Havana, was requested, on February 18, to examine into the case and report to the department.

Mr. Hall, in a postscript to his vice-consul's dispatch No. 107, from Matanzas, says, under date of February 22, 1870, that Govin, up to within a few months, has been a practicing lawyer at Matanzas, of which place he is a native and where he has his permanent residence. Where or how he became a citizen of the United States is not known to me or to the authorities of the island.

In a sworn protest, dated February 26, 1870, Govin enumerates the property subjected to the embargo, and declares that he has in no way or manner acted or taken any part in or contributed toward the civil conflict now raging in Cuba, nor given aid, comfort, or protection to the insurgents. He demands the restoration of his property and indemnity for losses from the embargo.

In a further petition, dated at New York March 12, 1870, he states that he has not pursued his profession of lawyer at Matanzas within a few months, but that he has resided in New York with his family since April, 1869; that he went to Europe in 1868, (before the outbreak of the insurrection,) returned to New York in the same year, and afterward went to Matanzas on his private business, and returned to New York on its conclusion, and has resided there continuously since; that in February, 1868, he became and now is a member of the house of Esteves, Govin & Brother, doing business in New York. He then proceeds to argue the question of his citizenship, and requests the department to instruct the consul general at Havana to file the deed of manumission of certain of his slaves, which Hall at Matanzas had refused to do.

On April 6 the department transmitted to Mr. Biddle a copy of Govin's memorial of 12th March, and requested further information and to learn the present condition of the case with the Spanish authorities.

In dispatch No. 69, of April 15, Mr. Biddle says the case will have immediate attention from him.

In dispatch No. 81, of April 27, Mr. Biddle incloses a copy of a communication addressed to the Captain General by him, calling attention to the case.

With dispatch No. 123, of May 20, Mr. Biddle incloses a full and important statement from the United States consul at Matanzas, the general purport of which is that Govin has no claim for the protection of this government.

Mr. Biddle in his No. 95, of May 5, incloses a copy of a note from the acting governor, which states that Govin's case would be submitted to the Spanish minister at Washington by the first steamer.

On May 18th Mr. Biddle, the consul general, was informed that a note had been addressed to the Spanish minister in Washington, requesting information concerning the case.

No. 9.

JOSÉ GOVIN Y PINTO.

In his memorial, dated February 15, 1870, he states that he is a naturalized citizen of the United States, and transmits his certificate,

issued from the court of common pleas for New York City on August 12, 1867; that it has been his intention to continue an American citizen; that he is registered as such in the United States consulate at Matanzas; that he resides in New York, and owns property there; that he left the city of Havana in March 1869; that his property was embargoed under a decree of January 31, 1870. He requests the interposition of the government to obtain its release.

Vice-Consul General Hall at Havana, was requested to examine and report on the case, on February 17, 1870.

In a further memorial, sworn to on February 25, 1870, he enumerates the property made subject to the embargo, and affirms that he has never taken any part whatever in the revolt of Tara, nor been hostile toward the Spanish government. He claims the restoration of his property and indemnity for his losses from the embargo.

In a further memorial, dated March 12, 1870, he requests that the previous one (of February 25) be sent to Havana, to be presented to the Spanish government.

In dispatch No. 82, of April 27, Mr. Biddle transmits a copy of a letter addressed by him to the Captain General, directing attention to the case.

Mr. Biddle's No. 95, of May 5 incloses a copy of a note from the acting governor, which states that Govin's case would immediately be submitted to the Spanish minister at Washington.

On May 14 the department requested of the Spanish minister to be informed whether the circumstances of the case had been presented to him by the authorities of Cuba, and that he would acquaint the department with them.

On May 18 the consul general was informed that the department had addressed a note to the Spanish minister here concerning the case.

No. 10.

EUSEBIO GUITERAS.

On June 28, 1870, Mr. Guiteras informs the department that he has seen a notice in the Official Gazette at Havana of the confiscation of certain of his property in Matanzas. He states that he is a citizen of the United States, and was naturalized before the outbreak of the insurrection, in which he has never taken part, either directly or indirectly. He formerly resided at Bristol, Rhode Island, but now at Philadelphia, Pennsylvania. He hopes that justice will be done him.

On the 30th of June a note was addressed to the Spanish minister in Washington, reciting the facts as they are before the department and requesting that the case may be investigated, and if Mr. Guiteras's statements should be found correct, that his property may be restored and such amends made as the circumstances may call for.

On June 30 the consul general at Havana was instructed to make inquiry concerning the case and report to the department.

No. 11.

JOSÉ DE JESUS HERNANDEZ Y MACIAS.

On April 25, 1870, he makes affidavit that he was born in Cuba, is now twenty-six years of age, and was naturalized in Brooklyn, on September

16, 1869. He inclosed a certified copy of his papers. He has resided permanently in the United States since 1858; that he owns certain estate in Cuba, which he describes particularly, and states that it was embargoed by a decree of February 24, 1870. He asks the restoration of his property, and \$12,000 damages.

In a letter dated May 30, 1870, after inclosing a letter of 28th May, from John L. Flagg, esq., requesting attention to the case, Hernandez states: That in the fall of 1869, being desirous of selling a part of his property in Cuba, he forwarded to his uncle a power of attorney for the purpose, but owing to delays interposed by the Spanish authorities the transfer was not made, and finally prevented altogether by the embargo decree of February 24, 1870. He further states that he has resided in the United States since he was twelve years old, and has been in Cuba since that time only on visits to his relatives; that he has never had any connection whatever with the insurrection, but is willing to observe any law of Spain not inconsistent with his United States citizenship. He prays the interposition of this government in his behalf.

In a letter to the department, of June 8, he acknowledges department's letter of June 4, relative to the non-receipt of his papers, and states that they are said to have been left with the Secretary of State, by Hon. John Hill, on May 26th last.

On June 15 a copy of Hernandez's papers was sent to Mr. Biddle, with instructions to inquire into the case and report the result to the department.

On June 18 a note was addressed to the Spanish minister, which, after referring to the communication made to him under date of June 9, containing a list of those citizens whose properties in Cuba had been arbitrarily embargoed, requests that the case of Mr. Hernandez be added thereto, and also the release of the embargo, and that steps similar to those asked for in the other cases may be taken for ascertaining and paying the injury which he has suffered from the seizure.

No. 12.

CRISTOBAL MADAN.

On August 5 the department, at the request of the Spanish minister here, telegraphed to the consul general to interpose in behalf of Mr. Madan, whose property was embargoed by order of July 28 last. On presenting the subject to the political secretary, the consul general was informed that the decree of embargo was based upon information that Mr. Madan was actively engaged in New York in aiding the insurgent cause. He added that Mr. Madan, who now claims to be a naturalized citizen, was compromised at the time of the Lopez expedition, and was expelled from the island, but subsequently pardoned.

On August 11 the department inclosed to the Spanish minister a copy of a letter from Mr. Madan's attorney, and proceeds:

I beg, sir, that you will have the goodness to call upon those authorities (of Cuba) for a statement of the facts of this case, and the grounds of their proceedings, in the event of their having been correctly stated in these papers.

With every disposition to avoid hasty action upon *ex parte* statement, I think proper to express the opinion that the case, as presented to me in the inclosed memorial, seems to involve the authorities referred to in serious responsibility; and it indicates a policy which, if carried out toward citizens of the United States, whether native or naturalized, residing in Cuba, would, in my judgment, prove itself to be very detrimental to the interests which they seek thereby to protect.

In a communication, dated September 24, 1869, Madan, by his counsel, B. D. Silliman, esq., after referring to the remission of the embargo of his property, (information of which had been received at the department on September 4, from the Spanish minister,) states that the property was still held by the Cuban authorities. Mr. Silliman also incloses a memorial from Madan, complaining that his attorney in Havana had been removed from the care of the estate, and a Spanish officer appointed in his place.

On September 29 the consul general was instructed to endeavor to obtain the restoration of Mr. Madan's agent in the care of the estate.

Mr. Plumb, under date of October 27, reports that the Captain General informed him that he had ordered the removal of the embargo on Madan's property, and that no obstruction had been or would be interposed by him to the action of such agent as Mr. Madan might select. Mr. Plumb also states that no agent of Mr. Madan had ever called upon him, and he has no information as to the obstructions claimed to have been met with.

On October 26 the department telegraphs the consul general, inquiring whether Mr. Madan's property had been placed in the hands of his agent, and if not, when it would be.

Mr. Madan, under date of October 30, writes to the department that notwithstanding his attorney had seen an official communication from the Captain General to the political governor raising the embargo, the efforts of the attorney had been unavailing to obtain its execution up to September 24.

Mr. Plumb, under date of October 30, says that, at his request, the political secretary had caused the order remitting the embargo of Madan's property to be published in the Official Gazette, and incloses a copy of the publication.

Under date of November 12, Mr. Silliman requests the interposition of the government to secure to Mr. Madan the sugar and money taken and held by the Cuban authorities.

No. 13.

THOMAS J. MORA.

In his memorial to the Department of State, dated April 27, 1869, Mr. Mora states that he is a native of Cuba, but came to the United States when nine years of age, and remained at school until he was fourteen. He returned to the United States in 1863, where he declared his intention of becoming a citizen of the United States, and was subsequently duly naturalized. The revenue from his property in Cuba has been regularly transmitted to him, until the Spanish government placed an embargo upon it. He declares that he has never taken part in the difficulties now pending in Cuba, and claims the protection of the United States for prompt redress.

On May 1, 1869, a note was addressed to the Spanish minister, requesting that inquiry be made concerning the case, and the department informed of the result.

No. 14.

FAUSTO MORA.

On March 5, 1870, Mr. Mora transmits his memorial of the same date, as follows: That he is a naturalized citizen of the United States, S. Ex. Doc. 108———13

having been admitted to citizenship on January 13, 1859; that he has constantly resided in the United States for the past sixteen years, and has been absent from the Island of Cuba, of which he is a native, for over eighteen years; that about three months before the date of this memorial, his father, Maximo J. Mora, also a naturalized United States citizen, and resident in New York, died, leaving a large estate in Cuba, and appointing, in his will, the memorialist as executor; that his said father left seven heirs, three of whom are of age, and the others minors—all American citizens—resident in the United States; that by the afore-said will a guardian was named for the minor heirs, who in execution of his trust proceeded to Cuba, but was prevented from landing by the Spanish authorities, and his property in Cuba confiscated by them; that the Spanish authorities, on February 18, 1870, issued an order of embargo on all the interest of the memorialist in the estate of his said father, to his own great pecuniary loss and embarrassment, also to the great damage and injury of the minor heirs; that he belongs to no association or body of men engaged, either directly or indirectly, in measures hostile to Spain, and that he is in no way connected with the Cuban junta, in proof of which he appends the sworn statement of Miguel de Aldama, the president thereof; that he holds the Spanish government accountable for all losses inflicted upon him personally and in his capacity of executor by their action as above stated, and prays the interposition of the United States government for his relief.

On March 8, 1870, Mr. Biddle was furnished with a copy of the memorial, and instructed to lay the papers before the Spanish authorities.

In dispatch No. 28, of March 16, 1870, Mr. Biddle states that he has presented the case to the intendente general de hacienda, with a strong recommendation, and incloses a copy of the communication.

On March 12 Mr. Mora was informed by the department that his case had been presented to the Spanish minister at Washington, and telegraphed to Havana.

On March 31 a note was addressed to the Spanish minister, requesting his prompt and serious attention to the case.

No. 15.

MARTIN MUESES.

In a memorial, dated April 5, 1870, Mueses states that he is a native of Cuba, but naturalized as a citizen of the United States, on October 27, 1848. He incloses his certificate of naturalization; he also incloses a United States passport, dated December 22, 1848. He has been engaged for several years in business with Cuba, but has resided in the United States "most of the time" since his naturalization. He incloses further a passport from the Spanish authorities, (received on leaving Havana,) in which he is recognized as an American citizen. He registered himself as such citizen in December, 1868, in the United States consulate general at Havana. His property, of which he gives a list, was embargoed by a decree of March 8, 1870; also a house belonging to his niece, Gertrudis Mueses y Perez, has been seized under the same order of embargo. He affirms that he has "never aided or abetted in any way the insurrection" in Cuba, "nor had intercourse in any respect with any one for that purpose." He prays the interposition of the government to secure the restoration of his property, with the rents and income that may have accrued since the embargo.

On May 11, 1870, a copy of the memorial was sent to Mr. Biddle, with an instruction to lay the case before the Spanish authorities, and ask release of the estate.

In No. 117, of May 18, Mr. Biddle incloses a copy of a communication, addressed by him to the Spanish authorities, requesting the release of the estate.

In No. 138 Mr. Biddle incloses copy of a note from the Acting Captain General, dated 30th of May, which says that he will inform the Spanish minister at Washington of the result of the investigation of the case.

No. 16.

RAMON RIVAS Y LAMAR.

Mr. Hall, United States consul at Matanzas, in his No. 102, incloses a copy of a letter from Augusto Claret, the agent of Mr. Rivas, to the effect that the latter is a native of Cuba, a naturalized citizen of the United States, and a permanent resident at New York since 1851. He has not visited Cuba since that year; his property was embargoed on September 29, 1869.

On February 2, 1870, Mr. Hall, at Havana, was instructed to present the case to the Spanish authorities. On February 12, No. 54, he replies that he has done so.

On March 7, 1870, Mr. Rivas files the following affidavits:

First, of Ramon Rivas y Lamar, (the complainant,) that he has resided in the United States for the past eighteen years; that he declared his intention of becoming a United States citizen in 1853, and was admitted to full citizenship in 1864, and that he has not been in the Island of Cuba for the past ten years. That he has taken no part in the political affairs of the island since his naturalization, and has never been a member of the Cuban junta, or of any association opposed to the Spanish government, and has never in any way aided the Cuban rebellion.

Second, of Carlos Marti, confirming the statement of Mr. Rivas.

Third, of Anastasio Herques, the business manager of Mr. Rivas, in confirmation of his statements.

Fourth, of Miguel de Aldama, president of the Cuban junta, that Mr. Rivas has never taken any part in the Cuban revolution, nor contributed money or influence, nor in any manner furthered the objects of that association.

In dispatch No. 27, of March 16, 1870, Mr. Biddle states that he has presented the case in person to the intendente general de hacienda, and incloses copy of his communication.

On March 8 the department transmitted to the consul general the further papers of Mr. Rivas, and instructed him to renew the efforts for the prompt restoration of the property.

No. 17.

JOHN C. ROZAS.

In a communication addressed to the secretary of foreign affairs, Washington, D. C., from the Island of Fernando Po, dated June 20, 1869, Rozas states that he is a citizen of the United States, and for the

past two years a resident of Cuba. That on February 3, 1869, he was made a political prisoner by the lieutenant governor of Santa Maria del Rosario, while preparing to leave his estate to collect the advances made by the partnership of Rozas & Co. on tobacco leaf. He was confined without trial or examination, first at the Morro prison, afterward at the Cabañas fortress, and on March 21 was put on board the Spanish transport San Francisco de Borgia, for transportation to Fernando Po. He claims that the sufferings of the prisoners on the voyage were intense, and that they were robbed of their money. Since his arrival at the Island of Fernando Po he read in *La Epoca*, of April 20, 1869, a newspaper published at Madrid, that "General Dulce has ordered that the American citizens, Dudley, Lanza, Rozas, and others, be placed at liberty." He asserts that he was naturalized at New Orleans, in July, 1865, and received an honorable discharge after three years' service in the Union army. While in prison at Havana, United States vice-consul general, Mr. La Reintrie, sent him word that General Dulce had promised him to put him (Rozas) at liberty, but it was not done. He trusts that the government will give its attention to his case.

Under date of December 17, 1869, he transmits a sworn memorial, dated December 7, 1869, inclosing a certified copy of his naturalization certificate, bearing date August 3, 1865. He then repeats the statements above made at great length, adding that he went to Cuba and entered business in 1865, and had registered himself in the United States consulate general at Havana as an American citizen. He was arrested near Guanabacoa, and his papers taken and not returned. He escaped from Fernando Po on August 4, 1869, in an open boat, and fell in with the English steamer Congo, which brought him to Liverpool, whence he reached the United States. He incloses the certificate of a physician to the effect that he has contracted a chronic disease from exposure to the fever and malaria at Fernando Po. He makes a claim for personal outrages and destruction of property and business for \$200,000.

In a further memorial, dated March 24, 1870, Rozas refers to the preceding, and discriminates between the personal outrage and seizure and destruction of his business. He then states that his tobacco store and stock in Aguila street, between Reina and Esbretta, in Havana, were worth \$20,200, and asks an immediate demand upon the Spanish government for this amount, without prejudice to his claim in satisfaction of personal damages.

No. 18.

MOSES TAYLOR & CO.

Hon. William M. Evarts, under date of September 8, 1869, transmits a memorial of Moses Taylor & Co., to the effect that on or before the 3d of April, 1869, A. F. Bramosio sold to their firm certain real estate and personal securities in Cuba, of which a schedule is annexed, and the sale was complete in all respects on that date; that on the 15th of April, while they were in full possession, through their agents, of the estates and securities, an order of embargo was issued and the property taken from them. They pray that they may be restored to their rights through the intervention of this government.

Mr. Plumb, to whom the case was given with instructions to secure the release of the property, in dispatch No. 221, reports that he presented it to the superior political governor, and gave him a copy of the

papers; and that he received a reply, on November 10, from the secretary, that as soon as an examination could be made the decision would be given to him.

On March 31, 1870, Mr. Biddle was instructed by telegraph "to represent the case" to the Spanish authorities, and ask release.

In dispatch No. 46, of April 1, 1870, Mr. Biddle acknowledges the above telegram, and incloses a copy of his note to the Captain General, again calling attention to the case.

In dispatch No. 58, of April 8, 1870, Mr. Biddle incloses a copy of the acting governor's reply to the above, to the effect that the embargo cannot be raised until certain examinations, now in progress in New York, are concluded, and that the Spanish government has grave suspicions in the case.

No. 19.

LOUIS C. MADEIRA, FOR HIMSELF AND THE FIRM OF MADEIRA & CABADA.

In a memorial to this department, dated May 16, 1870, Mr. Madeira states that he is a citizen of the United States, and resides in Philadelphia, and is a partner of the firm of Madeira & Cabada. The principal business of the firm consists in the purchase and sale of sugar and molasses from the Island of Cuba, and in the conduct of the business it is necessary for a representative or member of the firm to make an occasional visit to that island. In November, 1868, Mr. E. F. Cabada, his partner, went to Cuba in the interest of the firm, and was arrested, imprisoned, and afterward released, upon condition of going to Spain, and not direct to the United States, as is fully set forth in the protest of Mr. Cabada. In consequence of his imprisonment and banishment from the island, the business of the firm was very seriously embarrassed, not only from the loss in debts due the firm, which it was Mr. Cabada's intention to collect, but also from the failure occasioned by these proceedings to purchase sugar, which had also been the object of his visit. For loss in debts due the firm he claims indemnity in the sum of \$50,000, and for further losses from the embarrassment of their business, the sum of \$200,000.

No. 20.

AURELIO ARANGO.

In his memorial to this department, dated May 12, 1870, he sets forth that he was naturalized as a citizen of the United States on August 25, 1853, and annexes a copy of his certificate. He represents himself as a general partner of the firm of Mora & Arango, doing business in the city of New York; and that the business of the house is almost entirely confined to the products of the Island of Cuba.

On the 13th of April, 1870, the Spanish authorities of Sagua la Grande issued an order directing the seizure of the property of the firm of Mora & Arango, to its serious injury, and the only reason assigned for the act is the decree of embargo against the property of Fausto Mora. No decree of embargo has been issued against him, (Arango,) nor has

any charge or complaint been made against him by the Spanish authorities. He asserts that the seizure was made arbitrarily and unlawfully, and that already large sums have been taken by the Spanish authorities under the decree. He protests, in his own name and the name of the firm, and prays the protection of the United States and such reparation as he is entitled to.

IV.—LIST OF PERSONS, SAID TO BE CITIZENS OF THE UNITED STATES, WHO ARE SAID TO HAVE BEEN UNLAWFULLY IMPRISONED AND HELD (INCOMUNICADO) DURING THE HOSTILITIES IN CUBA.

No. 1.

JOSÉ VICENTE BRITO.

Hon. John P. Stockton, under date of March 18, 1869, communicates to the department the printed protest of Mr. Brito, dated at New Brunswick, New Jersey, on March 1, 1869. In this document it is stated that he is a citizen of the United States; that while near Pinar del Rio, in January and February last, his correspondence was violated by the district governor, Bartolome Ruiz; that he was arrested in the city of Havana on February 12 by the political governor, and confined in a dark dungeon, without communication with his friends and in ignorance of the charge against him; that no trial was given him in accordance with the law; and that he was released after four days' imprisonment and forbidden to return to the island. He claims damages for loss in health and business in the amount of \$20,000.

On December 22, 1869, the vice-consul general at Havana was instructed to present the case to the authorities, and endeavor to obtain such reparation as the case might require. A copy of Brito's printed memorial of March 1, 1869, was inclosed at the same time.

In No 24, of December 31, 1869, Mr. Hall states that the case has his attention.

In No. 36, of January 15, 1870, Mr. Hall reports that he has not been able to obtain any information that does not tend to confirm Mr. Brito's statements, further than that he seems to have been suspected by the authorities of Havana and Pinar del Rio, and was not known to them as a United States citizen. He incloses a letter for Mr. Brito containing questions, the replies to which will enable him to make a fuller investigation of his case.

Under date of January 24, 1870, in reply to Mr. Hall's letter above mentioned, Mr. Brito states that he is a native of Cuba, but naturalized as a United States citizen on January 14, 1850; that he has not resided in Cuba as a native of the island since his naturalization; that he never visited Cuba with a Spanish passport since his naturalization; that he was known to the Spanish authorities as such citizen in 1856; and that he proved his citizenship in Havana on his arrest in February, 1869; that he has never known of any charge of "infidencia" pending against him at Havana; or that his arrest had any relation to such a charge.

With dispatch No. 56, of April 5, Mr. Biddle incloses a report of Consul Hall at Matanzas, dated March 25, on Brito's case, and generally confirmatory of his statements, and accompanied by copies of papers relating to the case.

No. 2.

THEODORE CABIAS.

He was naturalized as a citizen of the United States at New York, on September 3, 1867. He is first reported by Mr. Hall, vice-consul general at Havana, in dispatch No. 9, of March 20, 1869, as condemned to ten years' imprisonment for being engaged in the Puente de Chavez riots.

Mr. Plumb, under date of July 12, dispatch No. 70, says that Cabias was arrested the January previous, at Matanzas, and confined in a close cell from the 12th of that month to the 2d of February, under charge of complicity in the Leon and Medina conspiracy. It was proved on his trial, which took place on March 11, that he was not present at the time of the riots. On the 10th of April Cabias was notified that the supreme court of justice had absolved him, but he was still confined to his cell up to April 17. From this date he was held as a "vagrant." Mr. Plumb also reports that General Dulce had informed Mr. Hall, vice-consul general, that Cabias had been released, (without mentioning any date,) but he was still in prison on May 28, at which time he addressed a letter to this department, requesting its intercession, and stating that the charge now alleged against him was that of vagrancy.

On June 5, 1869, the department instructed the United States consul general with reference to this letter, to take such action to secure his release as he thought necessary and proper.

The political secretary, Mr. Fernandez, on July 10, informed Mr. Plumb, consul general, that a further report concerning Cabias had been sought at Matanzas.

In dispatch No. 72, of July 12, Mr. Plumb adds:

There seems some strong reluctance to release Cabias; and it has been reported that he was acquitted under the Leon and Medina prosecution, only because his execution was not desired for the reason that he held papers as a citizen of the United States.

On July 17 he informs the department that the case of Cabias had been removed to the care of the Captain General, and he would be placed at Mr. Plumb's disposal to leave the island.

No. 3.

EMILIO F. CABADA.

The department was informed in a letter dated 19th February, 1869, from Mrs. Emilie Dutton, of Philadelphia, of Mr. Cabada's arrest and imprisonment, and was requested to interpose for his release.

On the 20th February a note was addressed to the Spanish minister, which, after referring to the absence of any official intelligence of the event, said:

I will thank you to endeavor to ascertain the correctness of the report, and also, if it should turn out to be well founded, the charges that may have been preferred against Mr. Cabada.

On the 22d of February the department instructed our minister at Madrid to present the case to the minister of foreign affairs, and request the charges against Mr. Cabada. It also expressed the hope that the

Spanish government might not find it incompatible with its safety to release the prisoner and restore him to his family.

On February 23 the department instructed the vice-consul general to inquire concerning Mr. Cabada's arrest, and ascertain the charges against him and report.

On February 24 the Spanish minister in reply stated that he had no information of the arrest of Mr. Cabada, but would seek it and communicate it to the Secretary of State.

Under date of February 26 the vice-consul general at Havana, in his No. 140, reports that Cabada left Cienfuegos on February 7, and on his arrival at Havana was arrested, his person and papers searched, and the latter taken from him, but afterward returned. He was taken to Morro Castle, and after eight days' imprisonment was released, without any trial, on condition of going to Spain and not direct to the United States.

Mr. Cabada, in his protest, dated at Philadelphia, November 4, 1869, states that he is a native of Cuba, but naturalized on September 27, 1850; that "at the date of his naturalization and part of the time since," he has resided in Philadelphia, where he did business as one of the firm of Madeira & Cabada, of that city; that in November, 1868, he went to Cuba on business of the firm, and for no other purpose, and that he interfered in no way with political matters; that he obtained a certificate that he was a United States citizen at Trinidad de Cuba, and with this in possession he went to Havana, and was there arrested on the 7th of February, his papers searched, and himself confined in Morro Castle; that after eight days he was released on condition of going to Spain, and that "he would not go back to the United States." He arrived at Cadiz on March 21, 1869.

That he has never been informed of any charges against him; that he lost by this interruption to his business about \$40,000 in debts due him, and a large amount which would have been made from the rise in sugar, had he been allowed to make his purchases. He therefore prays indemnity in \$150,000.

Under date of April 14, 1869, the vice-consul general incloses a copy of a note, dated April 12, from the political secretary, which states that Mr. Cabada was arrested upon supposed complicity with the insurgents at Cienfuegos, but no cause for proceedings against him being found he had been released.

No. 4.

LUCAS A. DE CASTRO.

He became a naturalized citizen of the United States on September 18, 1850. His arrest took place at Trinidad de Cuba, in March, 1869, and he was transferred, without examination or trial, and without notice to the United States consul, to Havana. The consul general appealed for his release in August, to which the political secretary replied that he was held on grave charges, and the case was still pending. It is not alleged that he had concealed his citizenship or held office since his naturalization under the Spanish government.

On August 5 it was decreed by the government that he be transported to Spain for the disposition of the supreme government at Madrid.

No. 5.

JOSEPH DUANY.

The consul general at Havana, in his dispatch No. 154, of June 10, 1870, reports that Duany, who is a naturalized citizen of the United States, residing with his family in New York, was arrested on the 8th previous, while obtaining his passport to leave Cuba. Upon an interview, he represented that he was wholly unaware of the motives for his arrest. He brought dispatches from the consul at Santiago de Cuba, to the United States consul general at Havana. On the day of his arrest his effects were searched, and his naturalization papers and United States passport taken from them. On June 10 the consul general addressed a note to the superior political governor, in which he presented the facts of the case, and protested against the action of the authorities, and requested the return of the naturalization papers and passport.

In his No. 166, of June 17, the consul general reports Duany as still in prison, and that the cause of his arrest was that he was thought to be the son of Count Duany.

The consul general incloses the reply of the superior political governor to his note of the 10th of June, in which it is stated that the Spanish authorities wished to ascertain if the prisoner was the son of Count Duany, against whom there are serious accusations. He admits the taking of the naturalization papers, and asserts that Duany was naturalized in September, 1869, which fact was sufficient to make him suspected. He states that the government will release him after proper investigation.

On June 12 the consul general telegraphed the department that he had demanded Duany's release.

On June 13 the consul general addressed a note to the superior political authority, regretting that Duany was still imprisoned. He narrates the antecedents of Duany at Santiago de Cuba, and claims that whatever may be the case of the father of Duany, the innocent son should not be punished, especially after the expiration of years and a change of nationality. He, therefore, renews the application for his release, and informs the governor that the case will be represented to the department, as one requiring exemplary damages.

On June 22 he telegraphs that Duany is released.

No. 6.

GABRIEL SUAREZ DEL VILLAR.

A citizen of the United States by naturalization, June 28, 1854. He was arrested and imprisoned at Trinidad de Cuba, in March, and, without trial or notice to the United States consul there, sent to Havana. The governor of Trinidad refused to give the consul any particulars of the offense, but referred him to the Captain General at Havana.

On May 10 the consul at Trinidad with reference to this case, and such similar ones as might arise, was furnished for his guidance with a copy of the following instructions to the vice-consul general at Havana, dated May 3:

I have to acknowledge the receipt of your dispatch No. 30, stating that in several cases native-born Cubans, after having been naturalized as citizens of the United

States, have returned to Cuba, have resided there permanently without disclosing the change in their allegiance, and in some cases have accepted offices that can only be held by Spanish subjects; and asking instructions to guide you in such cases, should your official interference be asked. In reply I have to say that it is manifestly impossible to lay down rules to govern your proceedings in every such case that may arise.

Naturalized and native-born citizens are entitled to the same protection from the government when in a foreign country; and both in such case are ordinarily subject to the laws of such country, and are bound to observe such laws to the same extent to which its own citizens or subjects are bound.

If they reside in such foreign country so as to become domiciled there, they further take upon themselves the duties and obligations toward the government of that country which attach to permanent residents.

It is also possible for a naturalized citizen, by returning to his native country and residing there with an evident intent to remain, or by accepting offices there inconsistent with his adopted citizenship, or by concealing for a length of time the fact of his naturalization and passing himself as a citizen of his native country, until occasion may make it his interest to ask the intervention of the country of his adoption, or in other ways which may show an intent to abandon his acquired rights, to so far resume his original allegiance as to absolve the government of his adopted country from the obligation to protect him as a citizen while he remains in his native land.

In the cases that may come before you, you must exercise a sound discretion in determining whether each applicant for your interference has in good faith maintained his allegiance to the United States, assured that this department will sustain you so long as you adhere to the principles of this instruction.

I am, &c., &c.,

HAMILTON FISH.

On May 12 the department addressed the consul at Trinidad as follows:

No. 49.]

DEPARTMENT OF STATE,
Washington, May 12, 1869.

SIR: Your despatch No. 5, inclosing copies of a correspondence between yourself and the governor of Trinidad de Cuba, relative to the arrest and detention of four certain persons, all of Spanish origin, who (you claimed) were entitled to your official intervention, has been received.

It appears that in April last, José M. Valdespino, Rafael Vingut, Gabriel Suarez del Villar, and Francisco de Yraragorri were arrested by order of the authorities at Trinidad de Cuba; that you interfered in their behalf, asking for the motives of 'their arrest,' claiming, as vice-consul of the United States, that they were American citizens; that correspondence in regard to this claim ensued, in the course of which you forwarded to the governor copies of the naturalization papers of each of these gentlemen; that the governor replied to this that he had examined the papers forwarded by you, and it appeared that only Mr. Suarez del Villar was a naturalized citizen of the United States, and that each of the other gentlemen had only declared his intention to become such citizen; that the governor thereupon conceded that Mr. Suarez del Villar was entitled to the prerogatives of United States citizenship, unless he had broken the laws of Cuba, or had renounced his adopted citizenship; and that as to the three other persons, the governor demanded to know whether you still claimed for them the rights of citizens of the United States; that you replied, reasserting the right of these gentlemen to your official intervention and protection, (referring to the case of Martin Kosta,) and further saying that the case was submitted to your government, and you must abide by its decision; and that the governor replied, reasserting his position, and denying the applicability of the Kosta precedent.

In reply, now, to your dispatch, I have to say that your action touching Mr. Gabriel Suarez del Villar is approved, and that your action in regard to the other gentlemen named in the correspondence is not approved.

The late distinguished Secretary of State, Mr. Marcy, was very careful in his elaborate letter concerning the case of Martin Kosta not to commit this government to the obligation or to the propriety of using the force of the nation for the protection of foreign-born persons who, after declaring their intention to become at some future time citizens of the United States, leave its shores to return to their native country. He showed clearly that Kosta had been expatriated by Austria, and required to reside outside her jurisdiction; that at the time of his seizure he was not on Austrian soil, or where Austria could claim him by treaty stipulations; that the seizure was an act of lawless violence, which every law-abiding man was entitled to resist; and he took especial care to insist that the case was to be judged, not by the municipal laws of the United States, not by the local laws of Turkey, not by the conventions between Turkey and Austria, but by the great principles of international law. It is true that in the concluding part of that masterly dispatch he did say that a nation might at its pleasure

clothe with the rights of its nationality persons not citizens, who were permanently domiciled in its borders. But it will be observed by the careful reader of that letter that this portion is supplemental merely to the main line of the great argument, and that the Secretary rests the right of the government to clothe the individual with the attributes of nationality, not upon the declaration of intention to become a citizen, but upon the permanent domicile of the foreigner within the country.

To extend this principle beyond the careful limitation put upon it by Secretary Marcy would be dangerous to the peace of the country. It has been repeatedly decided by this department that the declaration of intention to become a citizen does not, in the absence of treaty stipulations, so clothe the individual with the nationality of this country as to enable him to return to his native land without being necessarily subject to all the laws thereof.

In the present unhappy state of things in Cuba the Secretary of State can see no reason for departing from so well established and so wise a rule. He sees with horror the barbarous proclamations of the Spanish authorities, and hears with regret of the great destruction of property caused by the civil war. He earnestly exhorts you, and all other consuls of the United States, to spare no effort to protect the lives, the property, and the rights of American citizens in this emergency, and he will see with satisfaction any unofficial efforts you may make to shield the persons of those who have declared their intentions to become citizens from the barbarities of the Spanish volunteers, but he desires me to direct you hereafter in your official action to observe the rule laid down for your guidance in this instruction.

I am, sir, your obedient servant,

J. C. B. DAVIS,
Assistant Secretary.

HORATIO FOX, Esq.,
U. S. Consul, Trinidad de Cuba.

He was still in prison on July 12, when Mr. Plumb appeals for his release. The political secretary informed him that "grave charges were still pending against" Suarez, and claimed that he had lost his nationality by accepting an office requiring an oath, viz: justice of the peace. His case was referred to the ordinary tribunals, and on August 5 a decree was issued against him "for having accepted the offices of justice of the peace and member of the common council of Trinidad without having renounced his American citizenship, to which he appealed at the moment of being committed to prison, for which reason he has to legalize the validity of his acts in the exercise of his functions."

No. 7.

JAMES M. EDWARDS.

A native of Bordentown, New Jersey. An engineer by profession, and for the last three years employed on the sugar estate of Silverio Valerino, three miles distant from Manzanillo. On the outbreak of the insurrection and the establishment of martial law in Manzanillo, through the influence of his employer, who was commander of the militia cavalry of the town, he was provided with a pass from the governor for his free entrance and exit in attending to the business of the estate. The insurgents frequently made their appearance on the estate, but left him undisturbed in his work.

On the 22d of November, when in Manzanillo in the transaction of his business, he was arrested by the commissary of police, and without examination or charges made against him committed to prison in a close cell. He was not allowed communication with the acting United States consular agent until November 30. On that day he was arraigned before the military commission of which Colonel Villars was president, on the charge of connivance with the insurgents and, in the deputy

governor's words, of "carrying drinkables in abundance to and from the town, which could have no other object than for the insurgents."

On the conclusion of the trial, in which, as was admitted by the prosecution, the charge of complicity with the rebellion was in no way confirmed, Colonel Villars informed Mr. Bithorn, acting United States consular agent, that Mr. Edwards's "innocence was fully established, and he could see no reason for his imprisonment, and on the following day would send the whole proceedings (sumaria) to the governor, with the recommendation that he be set at liberty." On December 1 the governor informed Mr. Bithorn that he had received the proceedings of the trial, and would forward the same to the Captain General at Havana, but meanwhile would keep Mr. Edwards in prison.

He was confined until January 2, 1869, when he was released. He afterward discovered that his effects had been appropriated by the Spanish soldiers, who had visited the estate during his imprisonment.

Under date of January 5, 1869, the vice-consul general was informed that his efforts to secure the release of Mr. Edwards were approved.

Under date of February 15, 1869, (inclosed by Senator A. J. Cattell,) Edwards repeats his statements, and demands indemnity in the sum of \$50,000.

In acknowledging the receipt of dispatch No. 131, the department said:

However innocent the conduct and purposes of Mr. Edwards, the fact that he was frequently passing and repassing between the lines of the insurgents and a town garrisoned by loyal troops exposed him to such necessary suspicion as to excuse his temporary detention for the purpose of examining the case. Many foreigners were subjected by the agents of this government to the exceptional police of war during the late rebellion, and it is indisposed to encourage any claim which could be cited as a precedent against us for vindictive or exaggerated damages. There are some inconveniences attending residence in a country which is the theater of rebellion, which are practically irremediable, and must be borne as a share of the common misfortune. It is to be hoped, therefore, that Mr. Edwards will be sufficiently moderate in his demands as to justify the hope of a speedy settlement when tranquillity shall be restored to Cuba.

No. 8.

CHARLES JEMOT.

Mr. Plumb's dispatch No. 70, dated July 12, reports that Jemot is a native of the United States, but has resided at Trinidad de Cuba. He was arrested in the beginning of May at that place, and accused of conveying information to the insurgents. A letter said to have been written by him, containing information of military movements, was found among effects he was forwarding to his farm in the country.

But there are proofs that on account of a nervous affection of the hand he can hardly write, and certainly not in the handwriting of the letter. At the same time no proof exists that he had any knowledge whatever of the letter, or of its being sent through such a channel. His farm had already been laid waste by the insurgents, and he had no reason to feel well disposed toward them. He was tried and sentenced to ten years' imprisonment. His release was solicited through Mr. Plumb by José M. Morales, colonel of volunteers in Havana.

In reply to the appeal of the consul general for his pardon and release, the political secretary, under date of July 10, says that "it is not within the faculties of the captain general to alter the sentence."

Mr. Plumb, in dispatch No. 236, of November 26, refers to his No. 70.

Mr. Jemot is spoken of as a native of the United States resident at Trinidad, and sentenced by a military court to imprisonment for life for complicity with the insurrection. In consequence, however, of Mr. Plumb's exertions in his behalf, he has been released and placed at his disposal, on condition of leaving the island, without permission to return. Mr. Jemot leaves for Jamaica on December 6, 1869.

No. 9.

DOUGLASS MCGREGOR.

Mr. Fox, United States consul at Trinidad de Cuba, in his dispatch No. 23, of September 24, says that on the 12th previous he was informed of the arrest of McGregor, an engineer by occupation, upon charges brought by a negro employed on the same estate. The owner of the estate, who is "intimately" known to Mr. Fox, assured him that the charge of complicity with the insurrection was instigated by malice, Mr. McGregor and the informant having had personal difficulties on several occasions. On Mr. Fox's stating the case to the governor at Trinidad, his communication was returned. On September 29 Mr. Fox informed Mr. Plumb that McGregor had been condemned to death.

Mr. Plumb, in dispatch No. 178, of October 11, states that on bringing the subject to the notice of the political secretary on September 30, he was told that they had no information concerning the case further than of the arrest. The case was ordered to be sent to Havana.

Under date of November 6, in dispatch No. 214, Mr. Plumb states that the case had been examined and Mr. McGregor placed at his disposal upon condition that he leave the island. His release dates from October 31, 1869.

On November 24, 1869, the department approved and thanked the consul general for his action in the matter.

No. 10.

THOMAS MIRANDA.

Mr. Plumb, in his dispatch No. 99, of August 5, informs the department that his attention was directed to the case by a paragraph from the New York Tribune, of July 8 last, in which Mr. Miranda is represented as a citizen of the United States, born at St. Augustine, Florida, in 1822. At the time of his arrest he was residing on his farm at Mariel, about thirty-three miles west of Havana. It is stated in the extract from the Tribune, which purports to be a letter from his sister, that he was arrested in his own house, and conducted to prison at Guanajay, on the 9th of June, and transferred to Havana on the 17th following. He was placed in an iron cage of the prison, which is ordinarily assigned to great malefactors.

On presenting the case to the Captain General, Mr. Plumb was informed by the political secretary that Miranda was arrested on suspicion of complicity with the insurrection, and that at that time (August 5) his case was before a military court.

Mr. Plumb, in his No. 235, of November 26, 1869, refers to his No. 99, of August 5, and adds that, while Miranda is said to be a native of

Florida, he has resided in Cuba since early life. The trial resulted in a sentence of expulsion to Spain. Mr. Plumb applied, however, at the request of Miranda's friends, for permission for him to reside on the Isle of Pines, which was granted.

No. 11.

JOHN E. POWERS.

In dispatch No. 64, of April 13, 1870, from Havana, Mr. Biddle incloses a dispatch, also No. 64, of April 8, from the United States consul at Trinidad, containing a copy of a letter from Ferdinand Duncan, dated April 4, at Sancti Spiritus, stating that Powers was taken on April 3, and imprisoned. He (Ferdinand Duncan) was refused permission to see him. Requests the consul's intervention.

The consul at Trinidad states that Powers is registered at the consulate as a native-born United States citizen, by occupation an engineer, and has been employed for over a year on the "road" (apparently railroad) from Sancti Spiritus to Las Tunas. He has known Mr. Powers for a number of years, and describes him as a worthy, respectable man.

Mr. Biddle, on April 11, applied for Powers's release, to the superior political governor.

Mr. Biddle's action was approved by the department on April 27, and he was requested to keep the department informed of the case.

In dispatch No. 92, of May 4, Mr. Biddle incloses a copy of a letter addressed by him on that date to the United States consul at Trinidad de Cuba, asking for further information, and adds that, as far as he has been informed, the case of Mr. Powers does not seem to be complicated with questions concerning the insurrection, but arises from his conduct as engineer.

In dispatch No. 115, of May 18, Mr. Biddle gives an extract from No. 79, from Trinidad de Cuba, which states that "Mrs. Powers writes to her mother that her husband has been tried and pronounced by the court 'not guilty.'"

Under date of May 30, Mr. Biddle telegraphs that Powers has been released.

In his No. 136 Mr. Biddle gives an extract from No. 82, from Trinidad de Cuba, which says:

I have the satisfaction of informing you that the charges against Mr. Powers have not been proved, and that he is at liberty.

With his No. 149, of June 8, 1870, Mr. Biddle incloses a copy of his No. 21 to the consul at Trinidad de Cuba, of same date, requesting to be informed if Mr. Powers makes any claim for damages.

On June 1 the department directed the consul general to communicate any claim which Mr. Powers might make for his imprisonment.

No. 12.

MRS. WILLIAM S. LYNN, MRS. PRATS, AND ELIZA AND AURELIA CUDLIPP.

The consul at Trinidad de Cuba, in dispatch No. 39, of February 17, 1870, transmits the protest of William S. Lynn.

The protest states that on February 12, 1870, his house was invaded

and searched, with great indignity to the occupants, by the police of the city, without any show of authority or explanation; that his wife—an aged woman—and her step-daughter were arrested and confined in the public jail, and that no communication was allowed with them; that both the prisoners were in poor health, and that the step-daughter has a young family needing her attention; that he is ignorant of the cause of these proceedings, and he does not perceive any good reason for not confining them to their own house.

In dispatch No. 63, dated February 26, 1870, Mr. Hall, vice-consul general, states that on receiving notice of the case he immediately brought it before the authorities, and received in reply a memorandum (which he incloses) to the effect that the lieutenant governor of Trinidad, on the 20th of February, says that the military fiscal has instituted proceedings against eight women, including Eliza and Aurelia Cudlipp, daughters of an American citizen, and two men, "in consequence of sundry effects taken from a negro, which were sent by them to the insurgents;" that among them is the Mrs. Lynn referred to, who is alleged to be the mother of the Chief (cabecilla) Sportuno, and of another son, a captain in the insurgent army.

On March 8, 1870, Mr. Biddle was informed (dispatch No. 12) that the case of Mrs. Lynn had been laid before the Spanish minister.

Under date of March 10, (No. 20,) Mr. Biddle states that he was informed on that day by the political secretary that an order for Mrs. Lynn's release had been issued, but that a police surveillance would be maintained over her.

In his dispatch No. 32, of March 17, 1870, Mr. Biddle informs the department that Mrs. Lynn was released on Monday, March 7. The daughter-in-law (Mrs. Prats) had not been released, and Mr. Biddle was informed by the political secretary that the government had "irrefutable" proof of her complicity with the insurrection. An order would be given to try the case as soon as possible.

With dispatch No. 37, of March 23, 1870, Mr. Biddle incloses copy of dispatch No. 58, from Trinidad de Cuba, which states that the prisoners have been notified to name their counsel, (defensores,) and would soon be tried.

With dispatch No. 63, of April 13, Mr. Biddle transmits a copy of No. 65, from Trinidad de Cuba, which informs him that the decision of the military court is, that Mrs. Lynn be set free, and her daughter (Mrs. Prats) be imprisoned during the insurrection.

The consul at Trinidad de Cuba further states that he has received a letter from Mr. Lynn, saying his wife is very desirous of leaving the island, but does not wish to do so with her daughter in prison, and begs that he will endeavor to secure her release.

Mr. Biddle also incloses another communication from the consul at Trinidad de Cuba, dated April 12, giving an account of the trial. The witnesses, he says, for the prosecution were of notoriously bad name.

With dispatch No. 71, of April 16, Mr. Biddle transmits a copy of a letter from Mr. William S. Lynn, requesting him, when the case comes before the Captain General, to endeavor to secure the release and departure of the two females from the island.

On April 19 the consul general was instructed to do all in his power for the relief of the prisoners, and the instruction was repeated on April 27, after their condemnation.

In his No. 85 Mr. Biddle incloses a copy of his appeal to the Captain General for the remission of the sentence against Mrs. Prats and the Cudlipp sisters.

In his No. 106, of May 11, Mr. Biddle incloses copy of the reply of the acting Captain General to his appeal, which states that no further orders will be given in the cases until the decision of the Captain General is made known.

In his No. 112, of May 14, Mr. Biddle quotes the remarks of the Captain General as reported by the consular agent at Nuevitas, (who had had an interview with the Captain General,) to the effect that he had received the appeal of Mr. Biddle for the release of the prisoners, and that it would receive attention.

Under date of May 18, Mr. Biddle telegraphs that orders had been given for the liberation of the prisoners.

In his No. 118, of May 18, Mr. Biddle incloses the formal notice from the acting Captain General of the release of the prisoners on condition of their leaving the island.

In his No. 128, of May 25, Mr. Biddle gives a copy of No. 81, from Trinidad de Cuba, narrating the release of the prisoners; also, a copy of the official order from the local governor.

No. 13.

AUGUSTIN SANTA ROSA.

In a letter without date, but received at this department December 26, 1868, Rosa states that he was confined at the time of writing, previous to November, 1868, in Moro Castle, on a charge of being "chief of insurrection," and that he was arrested in Vuelta Abajo. He denies the charge, and alleges that he was arrested only because he was an American citizen. He complains that no attention was paid to his case by the vice-consul general, (La Reintree,) whom he had twice addressed.

The vice-consul general was instructed, on January 14, 1869, to interpose in his behalf.

No. 14.

F. A. SCHULTZ.

Mr. Plumb, in dispatch No. 140, of September 3, incloses a copy of a letter from Manuel Aguren, addressed to the local justice of the peace at Madruga, and containing the only charges upon which Schultz was arrested. These are, that in a general conversation upon the insurrection he said that he "would bet \$200 that it would not terminate, because it was gaining ground;" and that "on speaking of giving a patriotic ball, he remarked that for that purpose he would give nothing, but that he would do so for the poor."

Some marks tattooed on his arm were also represented as suspicious.

Mr. Hall, consul at Matanzas, in representing the case to Mr. Plumb, says that Schultz was a contractor for furnishing cross-ties to the Havana Railroad Company, and was arrested on August 28, 1869, and placed in close confinement for several days. He was under treatment for a bronchial affection, and was hurried away and refused permission to take a change of clothes or the necessary medicines, and was imprisoned in a damp cell. Mr. Hall adds:

"It seems incredible that any one should be subjected to such harsh treatment on charges so trivial, or that which he is alleged to have said could be tortured or construed into subversive language."

As soon as Mr. Plumb received notice of the imprisonment, he called upon the Captain General, and upon presenting the case, a release was at once granted.

Mr. Plumb in commenting upon it, says :

I wish to call your special attention to this case as illustrating the insecurity that now exists for foreigners throughout the interior of this island, away from the immediate protection of the chief authority, and the danger they are in of arrest upon unfounded charges instigated by the prejudice or malevolence of ignorant and vicious persons. The case is one that appears to demand that redress should be made.

No. 15.

DR. A. T. SIMMONS.

Dr. Simmons, in his letters to Mr. Gibbs, the United States consular agent at Nuevitas, states that he is a native of North Bristol, Ontario County, New York; that he came to Cuba in 1856 for his health, but has resided there only during the winter months since that time, his place of residence being Puerto Principe. In February last he was accosted in the street by a policeman, arrested, taken into a store, and searched; then conducted to his house. Here his trunk and goods were examined, and all his private papers taken and all his money—some \$1,500 in gold. He was then confined in prison, in a close cell, for ten days, when he was removed to the larger quarters of the prison. At the end of six months he was brought up for trial on a charge of subversive language, the party who denounced him being the one who discovered the amount of money he had in his possession. He declares that he has committed no crime.

On Mr. Plumb's presenting his case on the 8th of July to the Captain General, the political secretary informed him that a further report had been asked from Puerto Principe concerning Mr. Simmons, and that his arrest had been made on suspicion of holding communication with the insurgents.

On August 23 Mr. Plumb informs the department that Dr. Simmons arrived at Havana on August 14, and left for New York on the 21st.

On August 20 the department, in a dispatch to the consul general, expressed the hope that his interposition would secure the release of Dr. Simmons, and the restitution of the money alleged to have been taken from him.

In reply to the department's No. 33, of August 20, the consul general, on September 1, refers to his previous dispatch announcing the release of Dr. Simmons, and adds :

Whatever may have been the previous course of Dr. Simmons, I was led to infer from his expressions before leaving here after his release, that it is his intention now to take an active part in favor of the insurgent cause.

No. 16.

JAMES TATE.

In dispatch No. 90, of May 4, 1870, Mr. Biddle incloses a copy of dispatch No. 77, of May 1, from the United States consul at Trinidad de Cuba, which states that Mr. Tate is an American born citizen, about

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seventy years of age, in bad health for many years past; that he was arrested on April 30, at night, and thrown into jail. No reasons are given for the arrest. It has caused great surprise and astonishment, Mr. Tate being of good character and very reserved.

In his dispatch to the department, No. 52, of May 2, the United States consul at Trinidad de Cuba repeats the above.

In his despatch No. 98, of May 6, Mr. Biddle states that on that day the United States consul at Trinidad de Cuba appeared at the consulate general, and assured him of the excellent character of Mr. Tate, and that it was feared that the confinement and disgrace would prove fatal to him in his impaired health.

On that date Mr. Biddle addressed the superior political governor, (and incloses copy,) stating the facts of the case, and asking immediate attention.

On May 18 Mr. Biddle was instructed to keep himself informed concerning the case, and report the facts for the action of the department.

On June 1 the department again instructed Mr. Biddle to watch the case and report, and expressed the hope that Mr. Tate might be released, if innocent.

In his No. 105, of May 11, Mr. Biddle incloses a copy of a note, dated May 10, from the acting captain general, which states that Mr. Tate is not an American citizen, from information from the lieutenant governor of Trinidad de Cuba, and that Mr. Tate has resided there for more than fifty years.

In No. 116, Mr. Biddle gives an extract from No. 79, from consul at Trinidad de Cuba, which says:

Mr. Tate still remains "incomunicado." I have called upon the governor and upon the fiscal; the latter does not hesitate to tell me that he was convinced of the innocence of Mr. Tate of the charge against him, but that all the usual formalities of "incommunication," trial, &c., must be gone through with before he could be released.

In his No. 131, of May 27, 1870, Mr. Biddle states that he had received from Admiral Poor a dispatch from the commander of the Nantasket, which states that Mr. Fox, United States consul at Trinidad de Cuba, had made several efforts to procure Mr. Tate's release, but was informed that, though acknowledged innocent, a trial must be had; also that Mr. Tate himself refused release except by the court declaring him innocent, because of his fears of the volunteers. A request was made that Mr. Tate be released for his removal to his own house, which the governor promised to grant, provided a medical certificate to his illness could be obtained.

In his No. 135, of May 30, Mr. Biddle extracts from No. 82 of the consul at Trinidad de Cuba as follows:

May 27, 1870: Mr. Tate became quite unwell at the jail, and, upon the recommendation of the physician, has been taken to his own house.

In No. 148, of June 8, 1870, Mr. Biddle gives an extract from No. 83, from the consul at Trinidad de Cuba, to the effect that Mr. Tate has not yet been tried, although the governor informed him that he would be tried immediately.

V.—LIST OF PERSONS SAID TO BE CITIZENS OF THE UNITED STATES WHO ARE SAID TO HAVE BEEN UNLAWFULLY IMPRISONED DURING THE HOSTILITIES IN CUBA, BUT NOT HELD “INCOMUNICADO.”

No. 1.

GEORGE ABD.

The United States consul at Trinidad de Cuba, in dispatch No. 10, of July 2, 1869, states that Abd was at that time in prison at Cienfuegos, on a charge of complicity with the insurrection. Upon the arrival there of the United States ship Nipsic, the governor assured her commander that Abd would receive a fair and impartial trial, and that it was not likely that the death penalty would be inflicted.

In his No. 132, of August 30, 1869, Mr. Plumb, consul general at Havana, states that Abd was arrested on June 10, 1869. After some proceedings he was sent to Havana, and upon his case being presented to the Captain General, an order was issued for his release, upon condition of leaving the island, and he sailed on August 28.

No. 2.

EMILIO DE SILVA.

Attention was first called to the case by Hon. G. W. Hotchkisson, April 14, 1869, and the vice-consul general was instructed on April 16 to inquire into the facts of the case, with a view to afford to Mr. De Silva such protection as he might be found entitled to.

Mr. Plumb, in his No. 142, of September 4, reports that De Silva is a native of Puerto Principe, but has been naturalized as a United States citizen. He was arrested at Nuevitas, the place of his residence, on August 4, 1869, upon charges of complicity with the insurrection, and brought to Havana on August 21.

After several interviews with the political secretary, Mr. Plumb, on the 2d of September, received a note placing Mr. De Silva at his disposal “while awaiting the result of the proceedings against him.”

No. 3.

RAFAEL ESTRADA.

Under date of April 13, 1869, Hon. Simon Cameron referred a letter of Barcroft & Co., in reference to the arrest and imprisonment of Estrada at Guanajay.

The department, on the 15th following, telegraphed the vice-consul general at Havana to use his good offices toward his release.

On application to the Captain General, Mr. Hall was informed that no notice of his arrest had been received at Havana, but his release was promised “unless grave charges should be pending against him.” Mr. Hall, in his dispatch No. 31, of April 17, communicating the above, says that he has learned that Estrada was imprisoned at Guanajay, about thirty miles from Havana.

No. 4.

HENRY FRITOT.

R. D. Mussey, attorney, under date of February 17, 1870, files Fritot's memorial: that he is a United States citizen, born of American parents; that in February, 1869, he was master machinist on the Bay of Havana and Matanzas Railroad, and had been employed there some two or three years, his residence being at Guanabacoa; that on the night of the 11th-12th of February, 1869, he was arrested by the "police and civil guards," confined at Guanabacoa, and thence taken to Havana, and imprisoned one month and one day; that through the influence of Admiral Hoff and Mr. Hall, vice-consul general, he was released, but was arrested on the same day and put on board the United States ship Contocook, which brought him to the United States; that his health was seriously injured by this treatment, and his business ruined; that his arrest was groundless, and that no accusation was ever laid before him, and no trial had; that \$250,000 will be a just compensation, and he requests the government to interpose.

On February 25th the department acknowledged the receipt of the memorial.

No. 5.

GREGORIO GONZALEZ Y CURBELO.

On April 16, 1869, the department received information from the friends of Gonzalez of his imprisonment at Havana.

On the 17th April, the vice-consul general at Havana was instructed by telegraph to inquire and report in full concerning the case.

Under date of May 14, the vice-consul general, whose inquiries had been delayed by a misunderstanding with respect to the full name of Gonzalez, reports that Gonzalez was one of the passengers of the British schooner Galvanic, captured by the Spanish gunboat Venadito, near Lobos Key, in February previous.

In company with twenty other passengers, he was taken to Havana and imprisoned. Gonzalez is represented to have been commissioned to Cuba in the fall of 1868 by the commercial house of Duqué & Curbelo, and to have been naturalized as a citizen of the United States on November 5, 1868. A certified copy of his naturalization certificate is filed in the department.

In reply to letters of 25th October and 23d November, 1869, from Thomas L. Ojier, esq., the department gave the following resumé of the proceedings in the case:

DEPARTMENT OF STATE,
Washington, November 27, 1869.

SIR: In reply, you are informed that no time was lost by this department upon the receipt from Mr. Henry C. Hall, the vice-consul general of the United States at Havana, of a statement of the facts of the case, in requesting the British government, through the legation of the United States at London, and through the British minister accredited to this government, to take such steps as would secure the release of Curbelo.

In the instruction to the minister at London, under date of the 22d of June, 1869, it was stated that it was the "province of the British government to vindicate its own flag, but that if, for reasons which might be satisfactory to itself, it should decline to adopt that course in this instance, this government would demand the release of the prisoner, whose capture is deemed to have been clearly illegal, even in respect to the United States."

On the 21st July last, the Earl of Clarendon, the British secretary of state for foreign affairs, addressed a note to Mr. Motley, the minister of the United States at London, informing him that the British minister at Madrid had been instructed to bring the matter at once to the notice of the Spanish government, and to represent to them that her Majesty's government were very anxious, on considerations of comity toward the United States, to obtain Curbelo's immediate release. A copy of that note having been communicated to this department by a dispatch of the 24th July last, from Mr. Motley, he was instructed on the 10th of August last, in view of this proceeding of her Majesty's government, to refrain from further proceedings until he should have learned from the Earl of Clarendon the result of the application directed to be made at Madrid, or until he should receive further instructions from this department.

On the 31st of July last Mr. Motley forwarded to this department a copy of a note of the 29th of that month from the Earl of Clarendon, to the effect that Señor Silvela, the minister of foreign affairs for Spain, had promised to use all his efforts to obtain the release of Curbelo, although he was believed to be a Cuban, naturalized in the United States, but that some time must elapse before that event, Curbelo having been removed to the Canary Islands, and it being necessary that inquiries be made of the authorities in Cuba as to his nationality.

On the 17th August last Mr. Benjamin Moran, in charge of the legation at London, in the absence of Mr. Motley, transmitted a copy of a note of the 14th of that month from the foreign office, to the effect that a note had been addressed to her Britannic Majesty's minister by Señor Silvela, stating that the representation in this case had been referred to the minister of the colonies, in order that he might take such steps as he might judge to be right in the matter.

The friendly course adopted by Great Britain with a view to obtaining the release of Curbelo, had it resulted in immediate success, would have been satisfactory to all concerned, except as to the questions of reparation and indemnity; and had the delay which has ensued been foreseen, a direct demand for the release would, before this date, have been made by this government upon the Spanish authorities; but it was hoped, from time to time, that information would have been received of a compliance with the request of the British government. It appears from the passport records of this department, that Gregorio Gonzalez was naturalized by the court of common pleas at Philadelphia, in Pennsylvania, on the 5th of November, 1868, and that on the 7th of that month his passport was issued.

It further appears from the statement contained in the letter of the 21st of June last, from Messrs. Carlos V. Duqué, José Gonzalez Curbelo, and José G. Duqué, addressed to this department, that Curbelo, which was the maiden name of the mother of Gregorio Gonzalez, has been used, in conformity with the Spanish custom, to distinguish him from other persons of the name of Gonzalez, and was omitted in the naturalization papers and passport, in conformity with the usages of the United States; and that the identity of the party who is the subject of this correspondence, under both designations, is undoubted.

For the purpose of enabling the department to remove all doubts as to the claim of Gonzalez to the protection of this government as a naturalized citizen, and to lay before the government of Spain the evidence of that naturalization, it is desirable that you should forward to me a copy of the certificate of naturalization obtained from the court of common pleas, and authenticated under the seal of the district court of the United States for the eastern district of Pennsylvania, and that it should be accompanied by a deposition in which the facts above referred to concerning the name of Gonzalez shall be clearly set forth, and further by any testimony which may be procurable, which will establish the fact of a genuine intention of permanent citizenship. Should the evidence thus furnished appear satisfactory, this department will instruct the diplomatic representative at Madrid to demand the prompt release of the prisoner.

No. 6.

JOHN A. MACHADO.

On August 6, 1869, the department telegraphs the consul general as follows: "Give attention to case of John A. Machado, of New York, recently arrested and imprisoned at Havana. Further instructions by mail."

Under date of July 30, last, at Havana, Machado informs the President and this department that he is a citizen of the United States, by

naturalization on March 23, 1852, and that he resides in New York City; that he set out for Havana to adjust his affairs there previous to departing for Brazil, (of which he is a native,) for the purpose of establishing a commercial house at Para. He was to sail for Brazil on August 23, but on his arrival, on July 28, he was immediately arrested and imprisoned. He had in his possession \$8,000 of Cardenas Bank stock, which were delivered to him on leaving New York by Antonio Fernandez Bramosio, whose property had been embargoed by the government. It was also ascertained that he brought political correspondence with him. Mr. Plumb, on learning of the arrest, supposed that the possession of this stock had been the motive for the action of the authorities. This was afterward alleged by the political secretary. Mr. Plumb, however, took the ground that he might be an innocent holder of the stock, and Machado professed ignorance of the orders of embargo affecting it.

On the 31st of July the political secretary informed Mr. Plumb that the principal charge against Machado was the bringing political correspondence. He was released on that day on condition of leaving the island. His papers were returned to him, with the exception of sixteen shares of the bank stock (the property of Miguel Garcia Angarica) and the political letters.

No. 7.

ANGEL MORALES.

Mr. Plumb, in dispatch No. 154, of September 20, 1869, says that Mr. Morales is registered as a United States citizen at the consulate general, his naturalization dating from September 8, 1868, but he is a landholder and a resident of Cuba.

Mr. Plumb was informed by the political secretary on September 16 that the government had received information some time before that, in the difficulty of sending to Cuba written instructions, the Cuban junta were about to send verbal orders to their partisans, and that Morales had been selected for that purpose. On his arrival at Havana he was immediately arrested, and Mr. Plumb was informed that he would be sent to the United States by the first steamer.

No. 8.

JOSE MARIA ORTEGA,

A citizen of the United States, naturalized in New Orleans on October 28, 1852; a native of Cuba, but has resided at different times in the United States. Since 1858 he has lived on his estate in Pinar del Rio, Cuba. He was arrested in February on suspicion of complicity with the insurrection, and confined, without trial, in the public prison at Havana. At Mr. Plumb's intercession he was set at liberty on July 7, with permission to return to his estate.

He had scarcely returned when he became the object of attack by the volunteers of the vicinity, and was compelled to abandon his residence and take refuge in Havana. Both before his departure and since his return he has received from the Captain General in person assurances of

his desire to protect him, but of his inability to do so in the present circumstances.

On his return to his estate, referred to above, he applied to the governor of Pinar del Rio, Brigadier Ruiz, requesting protection, but was advised to leave the place for Havana, and no response was made to a request for protection of his property. His banishment from his estate occurred at a critical time for his crop of tobacco, and he estimates his loss in this particular at \$12,000 to \$15,000.

No. 9.

PEDRO PATCHOT.

Mr. Plumb's dispatch No. 97, of August 5, reports that Patchot completed his naturalization as a citizen of the United States in New York City, on July 14, 1869. He arrived at Havana on July 28, and was immediately arrested, and detained in prison until the following afternoon. On proceeding to his residence at Guanabocoa, across the bay from Havana, he was re-arrested, but was released the next day.

In reply to Mr. Plumb's request to be informed of the motive for his imprisonment, the political secretary stated that he was "arrested on landing because when he left a short time since for the United States, he did so, as there was reason to believe, from political motives, and his name was among those recorded on the lists of the chief of police." On September 10 the department transmitted to the consul general certified copies of Patchot's naturalization papers.

In dispatch No. 205, of November 2, Mr. Plumb reports that on inquiry made of Mr. Patchot he stated as follows: that he was born in Havana, and went to the United States in 1851, and remained there until 1854; went to the United States a second time in 1858, and remained until December, 1859; visited the United States a third time, leaving Havana in March and returning in July, 1869; that on all visits to the United States he used a Spanish passport, until July last, when he brought his naturalization papers and a United States passport. Under this state of things, Mr. Plumb asks instructions as to recognizing him as a United States citizen.

No. 10.

SEBASTIAN PINTADO.

Mr. Plumb's dispatch No 70, of July 12, states that Pintado is a native of the United States. He was arrested at Madruga and sent to Havana by the political governor of Matanzas, on the 22d of February last. The motive of his arrest, according to the statement of the captain of said town, was simply popular prejudice. He was still confined in prison at the date of Mr. Plumb's intercession, July 8.

On the 10th July following, the date of his release, the political secretary informed Mr. Plumb that he was arrested "for directing clandestine meetings of negroes, and inciting them to rebellion."

He was released on condition of leaving the island, which he did on July 22.

No. 11.

ANDREW WHITE.

Mr. Plumb's dispatch No. 130, of August 28, which contains all the information the department has of the case, states that on August 20 he received a note from the Captain General to the effect that in the proceedings at Colon for complicity with the insurrection, Mr. White, who claimed to be an American citizen, had been sentenced to expulsion from the island.

On inquiry, Mr. Plumb satisfied himself of his being a citizen of the United States, and he was released on August 25, and sailed for Key West.

No. 12.

ESTEVAN B. VALLS,

A Cuban by birth, and son-in-law of Isaac Stone, late United States consular agent at Caibarien. He was naturalized at Middletown, Connecticut, May 10, 1857, but has resided at Caibarien for the last eight years.

Mr. Plumb reports, under date of June 16, that from the statements of reliable persons resident at Caibarien, it would appear that since the outbreak of the insurrection he has expressed himself so freely as to be cautioned by his friends, which he disregarded, and finally, on hearing that he was to be arrested, he took refuge in the house of the consular agency, where it appears that although a demand was made for him by the local authorities, he was afforded asylum by Mr. Stone, which was respected by the Spanish authorities for upwards of two months.

The usual place of parade for the volunteers of Caibarien, it is stated, was a square near the house of Mr. Stone. To these volunteers Mr. Valls had made himself very obnoxious. The local governor at length, fearing more serious difficulties, formally waited upon Mr. Stone and demanded the surrender of Mr. Valls, and he was taken to prison at Remedios. Mr. Stone, in his communication of April 28 to Vice-Admiral Porter, alleges that the arrest was made on a groundless charge of complicity with the rebellion, on the 24th of April, and that the real motive was cupidity on the part of a resident of Caibarien; and Valls himself claims that neither by word nor act has he favored the insurgents.

On May 15, the department instructed the consul general to adopt such action in the case as in his judgment was proper, and report. Mr. Plumb presented his case to the Captain General on July 8, at which date Valls was still in prison at Remedios, and on August 2 he was released to leave the island.

The political secretary, under date of July 10, informs Mr. Plumb that he was arrested "for disrespect to the armed force" at Caibarien.

Under date of September 15, 1869, Mr. Valls, by his attorney, states that since 1861 he had been engaged in business at Remedios, the income of which averaged \$8,000 to \$10,000 per annum, and that this has been entirely ruined by his banishment from Cuba; that he took no part in politics, and never expressed any opinion he may have formed on the insurrection; that all his property has been seized and confiscated by the authorities, and his wife and children are homeless in Cuba. He demands reparation in the sum of \$100,000.

No. 13.

JOSE MANUEL PONCE DE LEON.

In his petition to the Secretary of State, dated August 25, 1869, he states that he was born in Cuba, and naturalized as a citizen of the United States on May 30, 1855, the certificate of which he filed with his petition; that since his naturalization he has resided a part of the time in the city of New York, but for several years past at Cardenas, in business as a merchant; that he has never concealed, or abandoned or intended to abandon his acquired citizenship, but on the contrary has always openly asserted it; that he has in no way taken part in the present insurrection, or aided or assisted it, or even offended the laws of Cuba; that on the 7th of February, 1869, he was arrested at Cardenas by a Spanish officer, and closely confined in prison for seven days. He was then taken to Havana and placed in the Cabaña fortress. After a confinement for thirty-five days he was put on board the San Francisco, confined in the hold and carried to the Island of Fernando Po, whence he escaped on June 21, 1869; that on the voyage, and after his arrival, he was subjected to great personal indignity; that he has never had any investigation or trial, nor does he know of what he is accused; that while at Havana communication with the American consul was interdicted, and prays the intervention of this government for redress and damages.

On October 13, a copy of his memorial was sent to the consul general, with an instruction to bring the case before the authorities and ask release of the property. The question of damages for imprisonment is reserved.

In a further petition, dated August 31, 1869, he states that his property in the Island of Cuba has been embargoed by the Spanish government, for the sole reason that he succeeded in escaping from Fernando Po. He prays the interposition of this government.

Mr. Plumb, in dispatch No. 204, of November 2, 1869, reports that having heard that De Leon was, at the time of his arrest, a member of the city government of Cardenas, he took measures to inform himself of the truth of the report. He incloses a copy of a letter from consul Hall at Matanzas, who gives an extract from a letter of the consular agent at Cardenas, in which it is stated that De Leon, at the time of his arrest, was actually a member of the city government, having been elected for four years, and his term not expired.

Mr. Plumb was thereupon, on November 23, directed to take no further steps in the case, until instructed by the department.

No. 14.

JAMES M. MILLER.

The consul at Trinidad de Cuba, in dispatch No. 67, of August 13, 1869, states that Miller stabbed and almost instantly killed John M. Kay at Cienfuegos on the 29th July, 1869, and was promptly arrested. They were seamen of the brig Ramirez.

In No. 20, from the same consul, dated August 27, 1869, is given a statement of the consular agent at Cienfuegos that Miller had been tried and convicted of "involuntary homicide under great provocation;" it is stated that probably he will be set at liberty.

On February 14, Miller writes to this department, detailing very minutely the circumstances of the homicide, and requests the good offices of the government to secure his release from the sentence of eight years' imprisonment.

On March 2, 1870, the consul general was instructed to investigate the case and report what action seemed advisable.

In No. 36, of March 23, the consul general replies that the case had repeatedly been presented to the Captain General for the exercise of his clemency, but that no action has as yet been taken.

In No. 113, of May 14, the consul general incloses a copy of a petition which he had prepared for the pardon of Miller, and presented to the Captain General.

No. 15.

JOHN B. LATTE.

The department was first informed of the case by a dispatch submitted to it by the Navy Department, from Rear-Admiral Poor, dated April 15, 1870, in which it is stated that Mr. Latte had then been imprisoned over seven months without trial. Admiral Poor requested his release, which was granted, and Latte and his wife were conveyed to Kingston, Jamaica.

In his No. 18, dated April 16, 1870, the consul at Santiago de Cuba informs the department that Latte was released, with date. He states that he was arrested on a charge of complicity with the insurrection.

No. 16.

MICHAEL M. KELLY

Claims to be a citizen of the State of Maine. He is reported by Mr. Plumb, in dispatch No. 160, of September 22, 1869, on the authority of a letter from him, dated July 29, as arrested at Caibarien for alleged complicity with the insurrection. He states in the letter referred to that he was an engineer on the estate of Don Miguel Gomez. On going to Caibarien for provisions he was arrested and imprisoned, and subjected to many personal indignities.

J. M. Alfaya, acting United States consular agent at Remedios, under date of September 13, says that Kelly was arrested and examined while under the influence of liquor, and made himself suspected by contradictory statements concerning a recent visit of the insurgents to the estate where he was employed. He also states that the administrador of the estate informed him that he had been examined by the government as to the principal points against Kelly, and that there was no reason for his being imprisoned.

Mr. Plumb interposed in Kelly's behalf, and the political secretary wrote for information, but none had been received at the date of the dispatch. Kelly was, however, placed at liberty on September 13.

Mr. Plumb adds that on the 9th of September, (before Kelly's release,) the latter wrote to the English consul general and claimed protection as a British subject; that he was registered in the British consulate general as such, (which proved to be true,) and that he was born in Montreal, Canada.

Mr. Biddle reports (in his No. 96, of May 5th) Kelly as arrested for larceny of \$374. He refers to his previous arrest for disloyalty, but intercedes for him, and gives a copy of his note to the alcalde major, asking as speedy trial as possible. In his No. 146, of June 3, Mr. Biddle reports his release.

No. 17.

JUAN FRANCISCO GONZALEZ.

Mr. Fox, United States consul at Trinidad de Cuba, under date of August 31, 1869, in dispatch No. 21, states that Gonzalez was brought a prisoner from the estate of San Pablo, where he was employed as clerk. He represented the case to the governor, who acknowledged the receipt of his letter.

Mr. Plumb, in No. 227, of November 18, 1869, reports having been informed by Fox of the arrest on a charge of complicity with the insurrection, and that Gonzalez, although a native of Trinidad, was a naturalized citizen of the United States; that Gonzalez returned to Cuba with a Spanish passport, and until recently had had no cause for divulging his acquired citizenship. Under these circumstances Mr. Plumb felt himself debarred from taking any action in the case. Gonzalez was released by the Captain General on his visit to Trinidad during his late journey to various interior towns.

No. 18.

RAMON DUCONGER.

In his No. 6, of March 27, 1870, the consul at Santiago de Cuba refers to No. 5 from that office to the consul general at Havana, (which has not been communicated to this department,) dated 25th February, 1870, which gave information of Duconger's arrest on charges of complicity with the insurrection. The consul now states that he had been tried, acquitted, and was released on the 23d of March.

No. 19.

JAMES F. WINTERS.

He is represented by Hon. Leonard Myers, in a note to the department, dated December 22, 1869, as captured by the Cubans (insurgents) on October 29th previous, and he requests the aid of the consul at Havana to effect his release.

The case was reported to the vice-consul general at Havana on December 28, and under date of January 6, 1870, No. 29, he acknowledges the receipt of the dispatch and speaks of it as a "delicate" matter.

On January 31, No. 44, he reports that he was on that day informed by the political secretary that Mr. Winters was pardoned (*indultado*) by the general commanding the Cineo Villas on December 30, and now resides at Cienfuegos, and is now employed in the railroad shop there.

No. 20.

JOHN WILLIAMSON.

In his No. 59, of April 8, 1870, Mr. Biddle incloses copies of two communications from the United States consular agent at Sagua la Grande, from which it appears that Williamson was taken in the woods near Sagua la Chica on April 1. On being examined he said he came to Cuba in the *Anna* with Cisnéros, and had been with Jordan in the *Camaguey*, and was sent by him to assist Salomé Hernandez.

In the second communication it is stated that Williamson was taken to Villa Clara on April 2, and after an examination by the commanding general of the district was set at liberty upon condition of returning to the United States. He bore testimony to the disorganized condition of the insurgent forces.

In dispatch No. 108, of April 14, 1870, from Matanzas, Mr. Hall incloses a copy of a letter from the consular agent at Sagua la Grande, which states that Williamson was pardoned by the general commanding the district, and sailed for Philadelphia on April 9.

Mr. Hall suggests that Williamson could probably give a more correct account of the present condition of the insurgent forces than can be obtained from any other source.

VI.—LIST OF THE DECREES OF THE SPANISH AUTHORITIES IN CUBA, (SO FAR AS KNOWN TO THIS DEPARTMENT,) UNDER WHICH THEY CLAIM TO HAVE ACTED IN THE SEVERAL SEIZURES, ARRESTS, IMPRISONMENTS, EXECUTIONS, EMBARGOES, AND CONFISCATIONS REFERRED TO.

No. 1.

[Inclosure with dispatch No. 71.]

[From the Official Gazette, Havana, February 14, 1869.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE EVER FAITHFUL ISLAND OF CUBA.

In use of the extraordinary faculties with which the provisional government of the nation has invested me, I decree the following:

ARTICLE 1. Crimes of *infidencia* shall be tried by ordinary court-martial.

ART. 2. Prosecutions already commenced shall follow the legal process prescribed by the laws for the tribunals of justice.

ART. 3. All aggressions, by act or by word, against any of the delegates of the government, shall be considered as a crime against the authority, and will subject its author to trial by court-martial.

DOMINGO DULCE.

HAVANA, *February 12, 1869.*

No. 2.

[Inclosure with dispatch No. 71.]

[From the Official Gazette, Havana, February 14, 1869.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE EVER FAITHFUL ISLAND OF CUBA.—OFFICE OF THE SECRETARY.

For the better understanding of the decree published yesterday, (the 12th of February,) it is made known that under the word *infidencia*,

which is made use of in article 1, are understood the following crimes: treason, or *lesa nacion*, rebellion, insurrection, conspiracy, sedition, harboring of rebels and criminals, intelligence with the enemy, meetings of journeymen or laborers and leagues; expressions, cries, or voices subversive or seditious; propagation of alarming news; manifestations, allegations, and all that, with a political end, tends to disturb public tranquillity and order, or that in any mode attacks the national integrity.

It is also made known that robbery in uninhabited districts, whatever may be the number of the robbers, and in populated districts, if the number of the robbers be more than three, shall be tried by court-martial, as also the bearers of prohibited arms. And by order of his excellency the superior political governor, the same is published in the Gazette for the general knowledge.

HAVANA, *February* 13, 1869.

The Secretary,

JOSÉ MARIA DIAZ.

No. 3.

Mr. Plumb to Mr. Davis.

No. 127.]

HAVANA, *August* 26, 1869.

* * * * *

This first circular of General Dulce, explanatory of the policy he felt called upon to adopt, was accompanied by the publication of an order directing the embargo of the property of Morales Lemus and others, whose names were mentioned, which had been issued on the first of that month. This was followed by the publication on the following day of a decree, dated the 1st of April, requiring that all contracts for the sale of movable and immovable property, before being carried into effect, should be presented for the revision of the government, and declaring null all contracts made without such revision. This was afterward followed by two circulars relating to the formalities of revision, and extending the same also to mortgages.

In the case of movable property under the above circular, such approval or disapproval was to be given within twenty-four hours, and, in the case of real estate, within four days. I do not find that any complaint is made on the part of the merchants here with reference to the operation of this order, as regards the sales of the products of the country; but, on the contrary, the action of the government being prompt, an official character and countenance is thus given to the transaction, which in these times the merchants, as I am informed, consider not undesirable.

A decree was then issued on the 17th of April, creating an administrative council for the custody and management of embargoed property, which was endowed with full powers in the premises. At the same time the members of this commission were named, and the governor of the city, Dionisio Lopez Roberts, was appointed president of the board. By a decree issued by General Caballero de Rodas on the 24th instant, Governor Roberts has been relieved from this charge, and the Captain General has assumed to himself the presidency of the council, and has appointed as vice-president the general intendant of the treasury of this island, an officer who has very recently arrived here from Spain.

But the most important of the measures of embargo is the circular issued by General Dulce, on the 20th of April, which in its first article

declares comprehended in the circular of the 15th of that month, with reference to the embargo of the property of José Morales Lemus and others, all individuals against whom it may be proved that they have taken part in the insurrection, either within or without the island, and whether with arms in hand, or aiding it with arms, munitions, money, and articles of subsistence.

Article 2 excepts from the preceding provisions those who have been amnestied or pardoned.

Article 3 prescribes that the individuals comprehended in article 1 shall remain deprived of the political and civil rights which they have enjoyed under the laws, and that this resolution shall take effect from the 10th of October last, when the insurrection commenced at Yara, or from the date when it may appear that they took part in the preparations for the insurrection; and article 4 requires all contracts made by said individuals, from the dates above indicated, shall be presented for the revision of the government, within three days subsequent to the publication of the circular.

In this circular it is provided that separate proceedings shall be formed against each individual, and that only when proof is shown of the culpability of the delinquent shall the embargo of his property be declared. The formalities of embargo are also prescribed in this circular.

Article 22 states that the embargoed property shall be responsible, in the first place for the necessary expenses of its preservation and working, including the current and overdue taxes; and in the second place for the payment of the debts contracted by the owner before the dates referred to in article 3; that is, of his complicity with the insurrection.

In article 23 it is provided that when the creditor is not himself a person subject to embargo, he shall prove his claims before the governor or lieutenant governor, who shall give account to the president of the administrative council, in order that directions may be issued for payment to be proceeded with. The avowed purpose of these measures of embargo is to prevent the use for insurgent purposes, during the continuance of the insurrection, of the income, product, or avails of any property situated within the control of the Spanish government.

The embargo, it is claimed, is not laid unless there is in each instance proof that the person against whom the measure is had has taken part in favor of the insurrection. And the Captain General has informed me, if it can be shown, in any case, that such evidence is not well grounded, the embargo will be raised, and any income or proceeds of property received will be returned by the government. It is also claimed that while the embargo may be the occupation of the revenue or the proceeds of property, it is not the confiscation of the property itself, which, in the case of real estate, by descent would still freely pass to innocent heirs, and that it is not designed to affect the interests of any innocent third party.

But while the circular of the 20th of April is in some respects retroactive, there is also ground for the belief that practically its disposition, in many instances, amounts to confiscation.

This is shown by the order of the Captain General of the 3d instant, authorizing a new loan of \$6,000,000 from the Spanish Bank, a copy and translation of which I inclose herewith, which, in addition to the war-tax and export duties pledged as a guarantee for the previous loan of \$8,000,000, now pledges "the proceeds of the property embargoed of those hostilely disaffected to the national integrity."

[Inclosure with despatch No. 127.]

[From the Official Gazette, Havana, April 15, 1869.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE PROVINCE OF CUBA.

[Circular.]

Under date of the 1st instant, I said to his excellency the political governor of this capital, as follows:

“YOUR EXCELLENCY: Your excellency will immediately proceed, without permitting anything to delay you, to the embargo of all the effects and other property which Messrs. José Morales Lemus, Nestor Ponce de Leon, Manuel Casanova, José Mestre, José Maria Bassora, José Fernandez Criado, Antonio Fernandez Bramosio, José Maria Mora, Ramon Aguirre, Javier Cisneros, Tomas Mora, Federico Mora, Federico Galvez, Francisco Izquierdo, Pentarco Gonzalez, and Joaquin Delgado, possess or have possessed in this island; meanwhile that with reference to the latter it shall not be proved that all the requisites established by the laws for the transfer of property shall have been scrupulously complied with.”

Which I transcribe to your excellency for your knowledge, and to the end that you proceed immediately to the embargo of all the estates and effects which the individuals included in the foregoing list possess in your jurisdiction. God preserve your excellency many years.

HAVANA, April 15, 1869.

DOMINGO DULCE.

The LIEUTENANT GOVERNOR of ———.

[Inclosure with dispatch No. 127.]

[From the Official Gazette, Havana, April 16, 1869.—Translation.]

POLITICAL GOVERNMENT OF HAVANA.

Having been embargoed by order of his excellency the superior political governor, the properties belonging to Messrs. José Morales Lemus, Nestor Ponce de Leon, Manuel Casanova, José Mestre, José Maria Bassora, José Fernandez Criado, Antonio Fernandez Bramosio, José Maria Mora, Ramon Aguirre, Javier Cisneros, Tomas Mora, Federico Galvez, Francisco Izquierdo, Pentarco Gonzalez, Joaquin Delgado, and Federico Mora, all persons possessing sums of money, effects, or values of whatever class, belonging to the said individuals, will give account of the same to this political government immediately, being responsible for all concealment or means of eluding the compliance with that disposition, prohibiting to them terminantly the purchase, sale, payment, transfer, cession, or the making by them whatever operation that affects or may refer to the ownership of the embargoed property, with the understanding that the infractors are comprehended in the disposition with reference to the offense of *infidencia* contained in the decree of his excellency the superior political governor of the 13th of February last, and shall be submitted in consequence to trial by court-martial.

HAVANA, April 1, 1869.

DIONISIO LOPEZ ROBERTS.

[Inclosure with dispatch No. 127.]

[From the Official Gazette, Havana, April 16, 1869.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE PROVINCE OF CUBA.

It is the duty of every government to provide for the security of the territory confided to its command.

That of this province, attacked by an unjustifiable insurrection which is depopulating and ruining many of the rich districts of the island, makes indispensable the adoption of every efficient measure for annihilating the enemies of our nationality, depriving them principally of all their resources upon which they depend for sustaining their aggression.

With this view, and in the possibility that sales of property may be effected for illicit ends, in which case such contracts are null in conformity with the dispositions of

our laws; in use of the extraordinary and discretionary faculties with which I am invested by the supreme government of the nation, I decree the following:

ARTICLE 1. Contracts of sale of immovable and movable property before being carried into effect shall from this date be presented for the revision of the government.

ART. 2. For the compliance with this disposition, contracts made in the district of Havana shall be presented in the secretary's office of this superior political government, and to the governors and lieutenant governors those effected in the other jurisdictions of the island.

ART. 3. The presentation referred to shall be made by the parties interested when the contract is private, and by the notary when it is in the form of a public instrument, before its authorization, exhibiting in the first case the original document, and in the second the draft of the instrument.

ART. 4. Once countersigned by the government the contract cannot be altered or modified in any manner whatever, without a new revision by the government, under penalty of the nullity of the alteration in case of infraction.

ART. 5. Sales of produce and other articles of commerce for exportation, as also the transfer of shares of corporations and societies, are also subject to the revision referred to.

ART. 6. In the cases in which the sales referred to in the preceding article are made through a broker, the latter will present the contract for revision, in the mercantile form in which it is extended. If no broker intervenes, the presentation will be made by the contracting parties.

ART. 7. The officers of corporations and companies that are authorized by their respective regulations to authenticate transfers of stocks in the books of the company, will not effect such transfers until they have received the authorization of the government; and for this purpose they shall give account of the transfers which the parties interested propose to make, expressing in the communication a notice addressed to the government, the name of the contracting parties, and their residence, and the number and value of the shares proposed to be transferred.

ART. 8. In order not to embarrass in any manner the sales of real estate, and of movable property, and especially mercantile transactions, the government will concede or refuse its approbation to the former within the term of four days; and in the sales of produce for exportation and shares, within twenty-four hours from the presentation of the document.

ART. 9. All contracts for the sale of every description of property made without the previous revision of the government shall be null; and private individuals, merchants, brokers, presidents or directors of corporations or companies, and notaries public, who shall fail to comply with the dispositions of this decree shall incur the penalties established by the penal code comprehended in chapter 5, title 8, of book 2.*

HAVANA, April 1, 1869.

DOMINGO DULCE.

[Inclosure with dispatch No. 127.]

[From the Official Gazette, Havana, April 18, 1869.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE PROVINCE OF CUBA.

In accordance with the provisions of my decree of this date, and in use of the extraordinary faculties with which I am invested by the supreme government of the nation, I hereby appoint as president of the administrative council of the property ordered to be embargoed of the sixteen individuals to which my order of the 1st instant refers, and of such others as may be found in their case, Dionisio Lopez Roberts, political governor of Havana; as members, Juan Atilano Colomé, Mamerto Pulido, and the Count of Pozos Dulces; as individuals from the common council of this capital, José A. Cabarga, Juan Poey, Joaquin Pedrosa; as land owners and planters, Fernando Illas, Bonifacio Blesa, Jimenes Segundo Rigal; as merchant, Augustin Genon; as chief of the central section of contributions and statistics and as secretary, Justo Zaragoza, the secretary of the political government of Havana.

HAVANA, April 17, 1869.

DOMINGO DULCE.

* PENAL CODE.

[Chapter 5, title 8, of book 2.—Translation.]

CHAPTER 5.—Resistance and disobedience.

ART. 285. Those who gravely disobey the authority or its agents in a matter of the public service, shall be punished with a penalty from arrest and detention to that of correctional imprisonment, and a fine of from \$20 to \$200.

ART. 286. The public employé who openly refuses to obey the orders of his superiors, shall incur the penalty of perpetual inability to hold office, and imprisonment.

ART. 287. The employé who, having suspended from any motive whatever the execution of the orders of his superiors, and who shall disobey them after the suspension shall have been disapproved, shall suffer the penalty of perpetual deprivation of office, and correctional imprisonment.

[From the Official Gazette, Havana, August 24, 1869.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE PROVINCE OF CUBA.

Decree.

In consideration of the just observations made by his excellency the political governor of Havana, and being satisfied with his conduct in the presidency of the administrative council of embargoed property, I have resolved to relieve him from that charge, reserving to my authority the presidency of said corporation for the future, and appointing as vice-president of the same his excellency the intendant general of the treasury.

CABALLERO DE RODAS.

HAVANA, August 24, 1869.

[Inclosure with dispatch No. 127.]

[From the Official Gazette, Havana, April 18, 1869.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE PROVINCE OF CUBA.

In use of the extraordinary and discretionary faculties with which I have been invested by the supreme government of the nation, and in consideration of the necessity and urgency of carrying out with all the legal, solemn, and public character necessary, the operations consequent upon the embargo of the property of all kinds belonging to the sixteen individuals comprehended in the communication addressed to the political governor of this district, under date of the 1st instant, and of all who may be found in their case, I hereby decree the following:

ARTICLE 1. An administrative council is created of the property belonging to the sixteen individuals to which my decree of the 1st instant refers, ordered to be embargoed on that date.

ART. 2. This administrative council shall be composed of the political governor of Havana, president; three members selected from the individuals who compose the common council of this capital; three from the class of land owners and planters; three from among the merchants; of a chief of the treasury department of a secretary who shall be that of a political governor, and of the employés who may be proposed to me by the president of the said council.

ART. 3. The offices of president, members, and secretary of the council shall be gratuitous.

ART. 4. All the funds collected in consequence of the embargoes shall be deposited in the general office of the treasury department; which office will give receipts, which shall serve as vouchers to the president of the administrative council, at whose disposition said funds shall remain.

ART. 5. The president of this corporation will exercise full powers in all its affairs, and there will only be laid before my superior authority questions of doubt in the interpretation of my decree of the 1st instant, and those of a contentious and purely legal character which require to be resolved by the established tribunals.

ART. 6. The said president shall have the power to appoint and to remove the persons who compose the officers of the administrative council. The amount of the salaries of these functionaries and the miscellaneous expenses shall be paid from the funds collected.

ART. 7. The lieutenant governors of this province shall remit to the president of the administrative council all the data which they may acquire in their respective jurisdictions with reference to the embargoed property, or that which hereafter may be embargoed; they will deliver over these properties to the said council, with the inventories, deeds, and other public documents which they may acquire or may consider necessary, and they will execute the orders which, with reference to the subject, they may receive from the said president.

ART. 8. Any change which, in the organization, as also in the *personnel* of the administrative council, it may be thought convenient to have made, will be proposed to my authority by the president of the council.

DOMINGO DULCE.

HAVANA, April 17, 1869.

S. Ex. Doc. 108—15

[Inclosure with dispatch No. 127.]

[From the Official Gazette, Havana, April 20, 1869.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE PROVINCE OF CUBA.

[Circular.]

By my decree of the 1st instant, published in the Gazette of the 16th, you will have learned that before carrying into effect contracts of sale of real estate or personal property, the same have to be presented for the revision of the government.

In recommending to you to exercise care and vigilance that said disposition shall have the most exact and punctual compliance, with the view of impeding, that the individuals who from whatever motive are compromised with the insurrection—except those who have accepted amnesty or been pardoned, and who by their subsequent conduct have proved their loyalty to the government—transfer to other persons their property, rights, and interests, you will understand as an amplification of said decree that you are to open and keep a register of all contracts of sale and transfers of property and interests which you may authorize, remitting every week a statement of said authorizations to the president of the administrative council of embargoed property, specifying in said statement the following particulars: 1st, the date of the contract; 2d, the date of the authorization; 3d, the name of vendor or conveyer; 4th, the name of the purchaser or person to whom conveyed; 5th, the name of the thing sold or transferred; 6th, place where the thing sold is situated if it is landed property; 7th, number, weight, or measure of the shares of stock in companies, produce, and other effects; 8th, price of each. You will suspend the authorization of the contracts in which both parties or one of them may be an individual compromised in the insurrection with the exception already indicated, proceeding immediately in conformity with the orders issued, and which may be issued upon the subject, and not failing to report the same to the president of the administrative council. God preserve you many years.

DOMINGO DULCE.

HAVANA, April 20, 1869.

The GOVERNOR or LIEUTENANT GOVERNOR of _____.

[From the Official Gazette, Havana, May 13, 1869.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE PROVINCE OF CUBA.

[Circular.]

Doubts having arisen with regard to the compliance with the circular of the 1st of April last, which prescribed that there shall be presented to the government the contracts of sale of lands and movable property, before carrying the same into effect, I have determined that before giving authorization to the public instruments by which mortgages are effected, whatsoever may be the origin of the same, account shall be given by the notaries public with a minute of the same to the governors or lieutenant governors in order to obtain in each case the authorization, the said authorities making report to his excellency the president of the administrative council of embargoed property by means of the statement referred to in the circular of the 20th of April. God preserve you many years.

DOMINGO DULCE.

HAVANA, May 13, 1869.

The GOVERNOR or LIEUTENANT GOVERNORS of _____.

[Inclosure with dispatch No. 127.]

[From the Official Gazette, Havana, April 20, 1869.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE PROVINCE OF CUBA.

[Circular.]

By the Gazette of the 15th instant you will have learned of two circulars which I have issued: the first, by reason of there having been received by the mail and circulated with profusion a printed paper, signed José Morales Lemus, president of the central republican committee of Cuba and Puerto Rico; and the second directing proceedings without delay for the embargo of all the property and effects which the said Morales Lemus and the individuals therein named possess or have possessed in this island.

As a preventive measure to impede the making of any sales of property with illicit ends, you will also have noted my decree, dated the 1st instant, published in the Gazette of the 16th, and finally in the Gazette of the 18th another decree has been published creating an administrative council for the property ordered to be embargoed on the 1st instant.

These resolutions, well meditated and amply justified by the losses caused by the insurgents, are in accordance with a system which it is indispensable to follow in order to terminate at once with the insurrection.

With this end using the extraordinary and discretionary faculties with which the supreme government of the nation has invested me, I have resolved the following:

ARTICLE 1. All individuals against whom it may be proved that they have taken part in the insurrection, within or without the island, whether with arms in the hand or by aiding it with arms, munitions, money, and articles for subsistence, are declared comprehended in the circular of the 15th instant, relating to the embargo of the property of José Morales Lemus and others.

ART. 2. There are excepted from the preceding disposition the individuals who have opportunely availed of the amnesty and pardon decreed, and who by their subsequent conduct have proved their adhesion to the government.

ART. 3. The individuals comprehended in article 1 are hereby deprived of all the civil and political rights which by our laws they have enjoyed; this resolution taking effect from (*retrotrayendose*) the 10th of October, when the insurrection commenced at Yara, or from the date on which it may be ascertained they took part in the preparations for the insurrection.

ART. 4. The contracts celebrated by said individuals from the dates indicated shall be presented for the revision of the government within three days after the publication of this circular.

ART. 5. The governors and lieutenant governors shall immediately remit said contracts, with the corresponding report, to the president of the administrative council, whereupon examination of the antecedent decision shall be rendered as to the proceedings.

ART. 6. Said authorities will immediately proceed by themselves or through their delegates to the formation of *gubernative* judicial proceedings (*expedientes gubernativos*) whereby there may be proved the offense of the individuals embraced in this resolution, giving account in each case to the president of the administrative council of the commencement of such proceedings.

ART. 7. As soon as proof shall be obtained of the culpability of the delinquents the embargo of all the property, rights, and interests which they possess in the jurisdiction shall immediately be proceeded with, advising, in writing, the governor or lieutenant governors of other jurisdictions where property of the culpable parties exists, to the end that the embargo of the same may be effected.

ART. 8. Each gubernative proceeding (*expediente*) shall be confined to one individual alone, and as the proceedings are concluded by the deposit of the property embargoed, account shall be given to the president of the administrative council, in conformity with the prescriptions of article seven of the decree creating that body.

ART. 9. The governors and lieutenant governors who in their jurisdictions embargo the property of individuals who are or were residents of other jurisdictions, will remit to the president of the administrative council the data to which the article just cited refers, and will pass to the lieutenant governor of the place to which the notice of embargo is addressed a statement of the property embargoed, which shall be annexed to the proceedings, (*expediente*.)

ART. 10. When the case arrives that from the evidence presented in the proceedings it is necessary to proceed to the embargo of property, an order based upon such cause shall be issued, which shall be carried into effect by the lieutenant governor in person, or the deputy he may appoint, accompanied by a notary public and two or three witnesses, who shall be near relatives of the criminal, and in default of these, his neighbors. Where there is no notary public his place shall be supplied by two attending witnesses according to law.

ART. 11. In the act of embargo an exact inventory shall be made of the property seized, specifying in detail furniture, lands, rights, and interests, and expressing the circumstances which prove their identity and may avoid all mistakes.

ART. 12. The property embargoed shall be deposited with a neighboring layman, (*vecinolego*), eligible and responsible, selected by the governor or lieutenant governor, who shall make the appointment known to the president of the administrative council, giving to the depository legal evidence of the embargo and of his appointment.

ART. 13. At the discretion of the governor or lieutenant governor, and according to the nature of the case, all property shall be placed in the custody of one sole depository, or shall be divided among several; it being the duty of said authorities to bear in mind that they are to seek in the best possible manner that the property suffers no deterioration whatever in its amount and productibility; for which reason, if there be any creditor for advances made upon the estate, they will endeavor to have the person

who has made such advances appointed as depositary, provided always that he shall merit the entire confidence of the government.

ART. 14. The depositaries shall take charge of the property in conformity with the inventory prepared, giving their receipt before the lieutenant governor or his delegate, the witnesses and the notary public who acts, and pledging themselves, with their persons and their property, to hold the same in their custody and possession according to the law in reference to deposits, and subject to the orders of the president of the administrative council.

ART. 15. The depositaries shall preserve and administer the property with all care and diligence, being responsible even for the most trivial fault; they shall not sell the same under any title or pretext, except when, by the governor or lieutenant governor, this shall be ordered in consequence of a resolution of the administrative council; nor can they transfer the deposit to another person, unless for a just cause it be thus directed by the first authority of the district, in which case the depositary newly appointed will take charge of the property in conformity with the dispositions contained in the foregoing article; of all of which information shall be given to the president of the administrative council.

ART. 16. The depositaries shall keep a faithful and exact account, accompanied by vouchers, of all expenses incurred and of the products received from the property, which accounts, with the net results, shall be delivered monthly to the governor or lieutenant governor.

ART. 17. Immediately that the depositary has delivered the proceeds, the first authority will order that the same be paid over to the officers of the treasury, as a deposit at the disposal of the president of the administrative council, remitting at the same time the proper letter of payment, a certified copy of which shall be attached to the legal proceedings.

ART. 18. The accounts, with their vouchers, shall also be remitted to the president of the administrative council, in order that the necessary action may be taken with reference to their approval, of which proceeding a copy shall be remitted to the lieutenant governor, to be annexed to the legal proceedings.

ART. 19. When the property embargoed consists of cultivated estates, grazing farms, or other property which requires cultivation or care, the depositary shall be authorized to select and appoint under his responsibility the administrator or employés that may be strictly necessary.

ART. 20. No one will be permitted to excuse himself from admitting the appointment of depositary, unless exempt by the laws from the discharge of local offices. In accordance with the importance and character of the property embargoed, and in proportion to the labor the depositary may have to perform, the governor or lieutenant governor will inform the president of the administrative council with reference to the remuneration that the former should enjoy, which shall always consist of a certain percentage of the sums he may collect and pay out, with the understanding that it shall not exceed five per cent. upon payments and receipts, excluding from this charge the payment over of the results referred to in article 16.

ART. 21. The governors and lieutenant governors shall be responsible, in conformity with the laws, for any improper selection of depositaries that they may make, and consequently for the errors that the latter may commit, especially if through their fault the embargoed property shall be lost.

ART. 22. The embargoed property shall be liable in the first place for the necessary expenses of its preservation and working, among which shall be considered with all preference the payment of the current and overdue taxes which it may owe; in the second place, for the payment of the debts contracted by the owner of the embargoed property previous to the dates to which article 3 refers.

ART. 23. When the creditor shall be one of the individuals comprehended in this circular, the payment of the authenticated credits shall be made to the depositary of the embargoed property of said creditors. Should the latter not be one of the individuals referred to he will have to authenticate his credits before the governor or lieutenant governor, who will give account to the president of the administrative council, in order that he may direct in the proper case that payment be proceeded with. The debts contracted subsequent to the dates indicated in article three shall be comprehended in what is ordered in articles four and five.

ART. 24. When all or a part of the embargoed property is subject to the responsibility of a meeting of creditors, or failure, there may be appointed as the depositary of said property the trustees elected by said creditors; but if the said trustees have been appointed by the tribunal before which the proceedings of the creditors have been taken, it shall be necessary that said trustees shall be the depositaries of the embargo, with the obligation to comply with the dispositions of this circular which refer to said depositaries. The trustees remunerated by the creditors cannot receive the remuneration to which article twenty refers.

ART. 25. When the proceedings taken by the creditors shall have become final, and the execution of the same is to be proceeded with, there shall be added to the

record of the gubernative proceedings an official transcript of the same for the proper ends; and the governor or lieutenant governor will remit to the president of the administrative council a copy of said transcript.

ART. 26. When the property embargoed in consequence of the gubernative legal proceedings instituted shall have been previously embargoed by judicial order, the new embargo shall be made known to the judge who ordered the first. In this case there shall be appointed depository the person who is already so acting, who shall be reinvested with the charge by a new deposit, previously recounting and taking an inventory of the property; but no remuneration shall be assigned to him, at least unless under his first charge none is received.

ART. 27. If the first embargo shall have been imposed at the petition of any individual comprehended in this circular, when the criminality of said individual shall have been proved by the gubernative proceedings, the governor or lieutenant governor shall notify the respective judge, who, after having estimated the costs, shall suspend the course of the proceedings, remitting the same to the gubernative authority, in order that the payment of the said costs may be ordered, and that the further proceedings be taken in conformity with article twenty-three.

ART. 28. When the first embargo shall have been made at the instance of a person not comprehended in this circular, the respective judge shall render sentence in conformity with law in the shortest possible time, remitting a transcript of the same to the governor or lieutenant governor for the consequent effects.

ART. 29. If any person not comprehended in this circular shall claim as his all or a part of the embargoed property, the embargo shall not be raised until his right shall be proved, and the resolution of the administrative council shall be had, to whom account shall be given, with a copy of the proceedings.

ART. 30. The governor or lieutenant governor, who, in their jurisdictions, embargo the property of individuals who were or are residents of another jurisdiction, will form the legal proceedings, commencing with the official order received for the embargo, proceeding immediately to carry the same into effect, in conformity with this circular. Having finished the proceedings, they will comply with the dispositions specified in article nine, preserving the record of the proceedings with the archives of the governor or lieutenant governor for future ends.

ART. 31. On issuing the order of embargo to which article ten refers, notice shall be issued through the newspapers, or, in cases where there are none, through placards, to all persons who may possess sums, effects, or values of any kind whatsoever belonging to the individual to whom the proceedings refer, that they immediately notify the authorities of the same, being responsible for all concealment or means of eluding compliance with that order, and prohibiting to them terminantly the purchase, sale, payment, transfer, cession, and the making by them of any transaction which affects or may relate to the ownership of the property embargoed, with the understanding that the infractors are comprehended in the disposition, with regard to offenses of *infidencia* in the decree of this superior government of the 13th of February last, and will be subjected in consequence to court-martial.

God preserve you many years.

DOMINGO DULCE.

VII.—ADDITIONAL CORRESPONDENCE, SHOWING STEPS TAKEN IN REFERENCE TO SUCH SEIZURES OF AMERICAN VESSELS, TO SUCH EMBARGOES OR CONFISCATIONS OF PROPERTY, AND TO SUCH IMPRISONMENT OF PERSONS CLAIMING TO BE CITIZENS OF THE UNITED STATES.

No. 1.

Mr. Hall to Mr. Hunter.

HABANA, March 27, 1869.—(Received April 2.)

I have the honor to transmit herewith a copy and translation of the proclamation of Captain General Dulce, relative to vessels approaching the island with hostile intentions, having men, arms, or munitions of war on board.

I would respectfully call the particular attention of the department to the extraordinary features of this proclamation.

[Translation.—Official.]

SUPERIOR POLITICAL GOVERNMENT OF THE PROVINCE OF CUBA.

It being necessary for the better service of the state, and with the firm determination that the insurrection, already held in check by the force of arms in the interior, shall receive no exterior aid that may contribute to its prolongation, and to the ruin of property, industry, and commerce—using the extraordinary and discretionary powers in me vested by the supreme government of the nation—I decree the following:

Vessels which may be captured in Spanish waters or on the high seas near to the island having on board men, arms, and munitions, or effects that can in any manner contribute, promote, or foment the insurrection in this province, whatsoever their derivation and destination, after examination of their papers and register, shall be *de facto* considered as enemies of the integrity of our territory, and treated as pirates, in accordance with the ordinances of the navy.

All persons captured in such vessels, without regard to their number, will be immediately executed.

DOMINGO DULCE.

HAVANA, *March 24, 1869.*

No. 2.

*Mr. Fish to Mr. Lopez Roberts.*WASHINGTON, *April 3, 1869.*

I am directed by the President of the United States to invite your serious attention, and through you that of your government, to a proclamation of his excellency the Captain General of Cuba, of the 24th of last month, an authentic copy of which has this day been received at this department.

That instrument, in its preamble, refers to the existing insurrection in Cuba, and declares that the measures which it proposes for the suppression of that insurrection are necessary for that purpose. Those measures are: "Vessels which may be captured in Spanish waters or on the high seas near to the island (Cuba) having on board men, arms, and munitions, or effects that can in any manner contribute to promote or foment the insurrection in this province, whatever their derivation or destination, after examination of their papers and register, shall be *de facto* considered as enemies of the integrity of our territory, and treated as pirates in accordance with the ordinances of the navy.

"All persons captured in such vessels, without regard to their number, will be immediately executed."

It is to be regretted that so high a functionary as the Captain General of Cuba should, as this paper seems to indicate, have overlooked the obligations of his government pursuant to the law of nations, and especially its promises in the treaty between the United States and Spain of 1795.

Under that law and treaty the United States expect for their citizens and vessels the privilege of carrying to the enemies of Spain, whether those enemies be claimed as Spanish subjects or citizens of other countries, subject only to the requirements of a legal blockade, all merchandise not contraband of war. Articles contraband of war, when destined for the enemies of Spain, are liable to seizure on the high seas, but the right of seizure is limited to such articles only, and no claim for its extension to other merchandise, or to persons not in the civil, military, or naval service of the enemies of Spain, will be acquiesced in by the United States.

This government certainly cannot assent to the punishment by Span-

ish authorities of any citizen of the United States for the exercise of a privilege to which he may be entitled under public law and treaties.

It is consequently hoped that his excellency the Captain General of Cuba will either recall the proclamation referred to, or will give such instructions to the proper officers as will prevent its illegal application to citizens of the United States or their property. A contrary course might endanger those friendly and cordial relations between the two governments which it is the hearty desire of the President should be maintained.

No. 3.

Mr. Fish to Mr. Lopez Roberts.

WASHINGTON, *April 30, 1869.*

I am instructed by the President to inform you that this department has received from the United States consulate in Cuba a decree dated the first day of April current, and promulgated by the Captain General of the island on the 15th of this month, which virtually forbids the alienation of property in the island, except with the revision and assent of certain officials named in the decree, and which declares null and void all sales made without such revision and assent.

In view of the intimate commercial relations between Cuba and the United States, and of the great amount of American property constantly invested there in commercial ventures, as well as in a more permanent form, the President views with regret such sweeping interference with the rights of individuals to alienate or dispose of their property, and he hopes that steps may be speedily taken to modify this decree so that it shall not be applicable to the property of citizens of the United States, and thus prevent disputes and complaints that cannot fail to arise if its execution is attempted as to such property.

No. 4.

Mr. Fish to Mr. Lopez Roberts.

WASHINGTON, *May 10, 1869.*

I have the honor to inclose a copy of a proclamation said to have been issued by General Count Valmaseda, in Cuba.

In the interest of Christian civilization and common humanity, I hope that this document is a forgery. If it be indeed genuine, the President instructs me, in the most forcible manner, to protest against such a mode of warfare, and to ask you to request the Spanish authorities in Cuba to take such steps that no person having the right to claim the protection of the government of the United States shall be sacrificed or injured in the conduct of hostilities upon this basis.

[From the Diario de la Marina, April 29, 1869—Translation.]

The Redactor, (of St. Jago de Cuba,) in its number of 21st instant, publishes the following important proclamation of General Count Valmaseda:

Inhabitants of the country! The re-enforcements of troops that I have been waiting

for have arrived; with them I shall give protection to the good, and punish promptly those that still remain in rebellion against the government of the metropolis.

You know that I have pardoned those that have fought us with arms; that your wives, mothers, and sisters have found in me the unexpected protection that you have refused them. You know, also, that many of those I have pardoned have turned against us again.

Before such ingratitude, such villainy, it is not possible for me to be the man that I have been; there is no longer a place for a falsified neutrality; he that is not for me is against me, and that my soldiers may know how to distinguish, you hear the order they carry:

1st. Every man, from the age of fifteen years upward, found away from his habitation, (finca,) and does not prove a justified motive therefor, will be shot.

2d. Every habitation unoccupied will be burned by the troops.

3d. Every habitation from which does not float a white flag, as a signal that its occupants desire peace, will be reduced to ashes.

Women that are not living at their own homes, or at the houses of their relatives, will collect in the town of Jiguaní, or Bayamo, where maintenance will be provided. Those who do not present themselves will be conducted forcibly.

The foregoing determinations will commence to take effect on the 14th of the present month

EL CONDE DE VALMASEDA.

BAYAMO, April 4, 1869.

No. 5.

Mr. Fish to Mr. Hale.

No. 158.]

MAY 11, 1869.

I inclose for your information a copy of a note to the Spanish minister at Washington, dated April 3,* relative to a proclamation by the Captain General of Cuba for the detention, search, and seizure of neutral vessels on the high seas. The British government have furnished us, through Mr. Reverdy Johnson, with a copy of their instruction, by telegraph, to the British minister at Madrid, to protest against this proclamation. I am happy to be able to add that we have intelligence that the proclamation has been modified.

* * * * *

I further enclose a copy of another note to Mr. Roberts, of the 10th instant, protesting against the infamous proclamation of General Count Valmaseda, of which a copy accompanies it. You will please make similar representations to the Spanish government.

* * * * *

No. 6.

Mr. Plumb to Mr. Fish.

No. 66.]

HAVANA, July 8, 1869.—(Received July 15.)

In his dispatch No. 17, of the 27th of March last, my predecessor, Mr. Hall, transmitted to the department copy of a decree issued on the 24th of that month by Captain General Dulce, "relative to the vessels approaching this island with hostile intentions, having men, arms, or munitions of war on board."

I have now the honor to transmit to you herewith copy and translation of a decree published in the Gazette of last evening, issued by Captain General Caballero de Rodas, under date of the 7th instant, in substitution for the said decree of the 24th of March last, and of three

other decrees, of prior date, pertinent to the same subject, and relating to the ports and coasts of this island, and communication therewith.

In an interview with General Caballero de Rodas to-day, the hope was expressed by him that the present decree would be found satisfactory by the government of the United States.

[Translation.]

FIRST SECTION—GENERAL SUPERIOR OFFICES—SUPERIOR POLITICAL GOVERNMENT OF THE PROVINCE OF CUBA.

HAVANA, July 7, 1869.

The custody and vigilance of the coasts of this island, adjacent keys, and territorial waters, being of the utmost importance in order to put an end to the parties of insurgents, which have been sustained by exterior aid, determined to give a vigorous impulse to their prosecution, and in order to explain certain doubts which have occurred to our cruisers as to the genuine interpretation of the decrees published by this superior political government under date of the 9th of November, 1868, and 18th and 26th of February, and 24th of March of the present year, I have determined to unite and amplify in this all of the said dispositions, which therefor remain substituted by the present, and making use of the faculties with which I am invested by the government of the nation, I decree :

ARTICLE 1. There shall continue closed to import and export trade, as well for vessels in foreign commerce as also those in the coasting trade, all the ports situated from Cayo Bahia de Cadiz to Punta Mayso, on the north, and from Punta Mayso to Cienfuegos on the south, with the exception of those of Sagua le Grande, Caibarien, Neuvitas, Gibara, Baracoa, Guantanamo, Santiago de Cuba, Manzanillo, Santa Cruz, Zara, Casildo, or Trinidad, and Cienfuegos, in which there are established custom-houses or collection offices.

Those who attempt to enter the closed ports or to hold communication with the coast shall be pursued, and, on being apprehended, prosecuted as infractors of the laws.

ART. 2. In accordance with the same there shall also be prosecuted vessels carrying powder, arms, or military supplies.

ART. 3. The transportation of individuals for the service of the insurrection is much more grave than that of contraband, and will be considered as an act decidedly hostile, being proceeded against in such case as an enemy, the vessel and its crew.

ART. 4. If the individuals to which the preceding article refers come armed, they will afford proof in fact of their intentions, and will be tried as pirates the same as the crew of the vessel.

ART. 5. There shall also be held to be pirates, in conformity with law, vessels which may be seized bearing a flag not recognized, whether the same be armed or not as vessels of war.

ART. 6. On the high seas contiguous to those of this island the cruisers shall confine themselves to exercise over such vessels as may be denounced, or those that by their proceedings excite suspicion, the rights stipulated in the treaties signed by Spain with the United States in 1795, with Great Britain in 1835, and with other nations subsequently, and if in the exercise of these rights vessels should be found recognized as enemies of the integrity of the territory, they shall be brought into port for the corresponding legal investigation and trial.

CABALLERO DE RODAS.

No. 7.

Mr. Fish to Mr. Lopez Roberts.

WASHINGTON, July 16, 1869.

The undersigned, Secretary of State of the United States, has the honor to inclose to Mr. Roberts, envoy extraordinary and minister plenipotentiary of Spain, a translation of a decree which he has received, published in the *Gaceta de la Habana*, (*parte oficial*.) under date of July 7, 1869, purporting to be signed by General Caballero de Rodas, the Captain General of the Island of Cuba, to which the undersigned

desires to call the attention of Mr. Roberts, as it may in its possible operation involve serious complications between the government of Spain and that of the United States. It purports to be issued in order to put an end to an insurrection in the Island of Cuba, which the United States have hitherto treated only as a civil commotion within the dominions of Spain, that did not give rise to what are understood as belligerent rights on the part of either party to the conflict. But the decree of the Captain General de Rodas assumes powers and rights over the trade and commerce of other peoples, inconsistent with a state of peace, and which the United States can be expected to allow their vessels to be subjected to only when Spain avows herself to be in a state of war, or shall be manifestly exercising the rights conceded only to belligerents in the time of war.

The first article of the decree proposes to close certain ports, embracing a large extent of the Island of Cuba, against the peaceful commerce of foreign countries. Without contesting the right of a government in time of peace to exclude from its ports the trade and commerce of a friendly people, the undersigned assumes that the exercise of this power is to be understood purely as a municipal act, to be executed and enforced wholly within the recognized exclusive jurisdiction of Spain, and only as to ports which are in the possession of the Spanish authorities. In case the success of the insurrectionary party should put any of the ports declared to be closed in their possession, the United States, as a maritime nation, will regard an effective blockade to be necessary to the exclusion of their commerce.

The second article of the decree is vague in the absence of the limits within which it proposes to prohibit the carrying of powder, arms, or military supplies.

The transportation on the high seas, in time of peace, of articles commonly known as contraband of war, is a legitimate traffic and commerce which cannot be interfered with or denounced unless by a power at war with a third party in the admitted exercise of the recognized rights of a belligerent. The freedom of the ocean can nowhere and under no circumstances be yielded by the United States. The high seas contiguous to those of the Island of Cuba are a direct pathway of a large part of the purely domestic trade of the United States. Their vessels trading between their ports in the Gulf of Mexico and those of the Atlantic coast pass necessarily through these waters. The greater part of the trade between the ports of the United States on the eastern side of the continent and those on the Pacific slope, of necessity, passes in sight of the Island of Cuba. The United States cannot, then, be indifferent or silent under a decree which, by the vagueness of its terms, may be construed to allow their vessels on the high seas, whatever may be their cargo, to be embarrassed or interfered with. If Spain be at war with Cuba, the United States will submit to those rights which public law concedes to belligerents. But while Spain disclaims a state of belligerency, or until the United States may find it necessary to recognize her as a belligerent, the government of the United States cannot fail to look with solicitude upon a decree which, if enforced against any vessel of the United States on the high seas, cannot but be regarded as a violation of their rights that may lead to serious complications.

The sixth article of the decree refers to certain rights claimed to be stipulated by the treaty entered into between Spain and the United States in 1795.

The undersigned desires to call the attention of Mr. Roberts and of the government of Spain to the fact that the treaty of 1795 confers upon

neither of the contracting parties any rights on the high seas over the vessels of the other in time of peace.

The articles of the treaty of 1795, from I to XI, inclusive, define and regulate the reciprocal relations and obligations of the parties without reference to either party being engaged in war. The portion of the treaty from the XIIth article to the XVIIIth, contemplates exclusively their relations as neutrals, the duties and powers of each toward the other, when one or the other may be engaged in war with a third party. The eighteenth section recognizes and regulates the right of visit or of approach in time of war, for the inspection of the passport and the identification of the nationality of a vessel of commerce by the vessels of war, or by any privateer of the nation which shall be at war. It confers no right; it limits and prescribes the manner of exercising a belligerent right when such may exist. The clear object and intent of this provision of the treaty is the avoidance of dissension and annoyance, and the prevention of abuse or indiscretion in the exercise of a belligerent right. Its location in the treaty, the recognition of the right of a privateer (who has no existence except in war) as having the same power and right in the particular referred to with a national vessel of war, and the whole scope and aim of the XVIIIth article of the treaty, established beyond possibility of question that it refers only to the rights which one of the parties may have by reason of being in a state of war.

The treaty authorizes nothing but the inspection of the passport of the vessel of trade met with, while the 6th article of the decree of General de Rodas contemplates a search as to the character of the vessel beyond the limitation fixed by the treaty.

If Spain be engaged in war, it is essential to the rights as well as to the definition of the duties of the people of the United States that they be publicly and authoritatively advised thereof, and admonished as to their obligations and liabilities in their new relation with a friendly power. And such admonition admits of no avoidable delay in view of the vast commerce that will thus be subjected to restriction, limitation, and possible detention.

The undersigned, therefore, respectfully desires to be informed by Mr. Roberts, at the earliest practicable moment, whether, in the issuance of this decree, it is to be understood by the United States that Spain recognizes that she is in a state of war, and claims the right of a belligerent.

The undersigned has the honor further to say to Mr. Roberts that the government of the United States cannot fail to regard the continuance of the decree referred to, or any exercise on the high seas near the Island of Cuba, by any vessel of war or privateer of Spain, of the right to visit or board any vessel of the United States, under color of the provisions of the treaty of 1795, as involving the logical conclusion of a recognition by Spain of a state of war with Cuba.

Before concluding, the undersigned begs to call Mr. Roberts's attention to the very grave complication which might ensue from any interference with a vessel of the United States engaged in a lawful voyage, passing near the Island of Cuba. The United States maintain the right of their flag to cover and protect their ships on the high seas.

In conclusion, the undersigned expresses the hope that Mr. Roberts will speedily be at liberty to announce the formal abrogation of a decree which causes so much serious apprehension to the government of the United States, and against which this government feels bound, most earnestly, to remonstrate.

For inclosure, see Mr. Plumb's dispatch to Mr. Fish of July 8, 1869.

No. 8.

Mr. Plumb to Mr. Fish.

No. 83.] HAVANA, July 21, 1869.—(Received July 31.)

With my dispatch No. 66, of the 8th instant, I had the honor to transmit to you a copy of an important maritime decree issued by Captain General Caballero de Rodas on the 7th of this month.

I have now the honor to transmit to you herewith a copy and translation of a decree issued under date of the 18th instant, published in the Official Gazette of last evening, modifying the decree of the 7th instant, by the suppression from it of the last or 6th article.

* * * * *

[From the Official Gazette, Havana, July 20, 1869.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE PROVINCE OF CUBA.

In view of the determinations adopted by the government of the United States of America, as reported by his excellency the minister of Spain in Washington, under date of the 15th instant, and which were published in the Official Gazette of the following day, and in order, at the same time, to relieve legitimate commerce from all unnecessary interference, in use of the facilities which are conferred upon me by the supreme government of the nation, I have determined to modify my decree of the 7th instant, leaving the same reduced to the first five and essential articles.

CABALLERO DE RODAS.

HAVANA, July 18, 1869.

No. 9.

Mr. Fish to Mr. Lopez Roberts.

DEPARTMENT OF STATE,
Washington, August 11, 1869.

SIR: On the 23d of April last, Mr. Hale telegraphed and wrote to this department from Madrid, as follows:

Spanish government promise to telegraph to authorize Mr. Roberts to act in accordance with your proposition in regard to Cuba.

The proposition to which Mr. Hale referred in that dispatch was this:

Propose to the Spanish government that they authorize Mr. Roberts to adjust matters growing out of the intercourse with Cuba, so as to avoid delay of reference to Madrid.

It is my impression that I have received from you a verbal statement that you have received such an authority from your government; but as I do not find in the archives of this department any information of this I will thank you to write me whether the powers referred to by Mr. Hale have been conferred upon you by your government.

I avail myself of this opportunity to renew the assurances of the high consideration with which I am your most obedient servant,

HAMILTON FISH.

No. 10.

Mr. Lopez Roberts to Mr. Fish.

WASHINGTON, August 12, 1869.—(Received August 13.)

The undersigned has received the honorable Secretary of State's note of yesterday, wherein he asks him whether instructions have been communicated to him to settle here, questions arising from the circumstances through which the Island of Cuba is now passing, without consulting his government, with the object of avoiding in this manner the loss of time which is caused by previously consulting the government at Madrid.

The honorable Secretary of State copies in his note the telegram which, on the 23d of April last, he addressed on this subject to Mr. Hale, and likewise the reply which he received from the latter.

The undersigned stated, in effect, verbally to Mr. Hamilton Fish at that time that the telegraphic, and afterward written instructions, which he had received from his government, were in the same sense, and were in accordance with what he had desired.

On the same day, April 23, he received a telegram granting him said authorization in such form as may be practicable, which, in his opinion, is completely satisfactory, as experience has already shown on several occasions. This authorization was subsequently confirmed in writing, and is worded as follows:

The executive power has authorized your excellency by my telegram of to-day to settle by agreement with the Captain General of Cuba, without consulting the government, questions arising from the circumstances through which the Island of Cuba is passing, except in case of disagreement with the said superior authority, or in a case of such gravity that, in the judgment of your excellency, it may require previous consultation with the government.

In virtue of this authorization, the superior authority of the Island of Cuba, at my suggestion, and with my advice and consent, has settled various grave questions which were referred to the government of said island, without previously consulting the Madrid government.

The undersigned therefore believes that he satisfactorily answers the note of the honorable Secretary of State, by saying that said authorization exists as before, since it has not been revoked by the new government appointed by his highness the Regent of the kingdom, since the approval of the new constitution of Spain by the constituent cortes.

The undersigned avails himself of this occasion to reiterate to the honorable Secretary of State the assurances of his highest consideration.

MAURICIO LOPEZ ROBERTS.

No. 11.

*Mr. Fish to Mr. Lopez Roberts.*DEPARTMENT OF STATE,
Washington, January 21, 1870.

SIR: On the 30th of April last a note was addressed to you by this department, in which the hope was expressed that steps might be taken by the Spanish authorities to modify the decree forbidding the alienation of property in the Island of Cuba, except in certain cases, which was promulgated by the Captain General on the 15th of the same month, so that it should not be applicable to the property of citizens of the United States.

As no reply appears to have been received thereto, I will thank you to inform me, at your earliest convenience, if you are in possession of any further information upon the subject.

I avail myself of this occasion, sir, to offer to you a renewed assurance of my very high consideration.

HAMILTON FISH.

No. 12.

Mr. Lopez Roberts to Mr. Fish.

WASHINGTON, February 28, 1870.—(Received March 1.)

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to acknowledge the receipt of the note of the honorable Secretary of State of the United States of the 21st ultimo, referring to the one addressed on the 30th of April last to the undersigned, in relation to a decree of the Captain General of the Island of Cuba, of the 15th of the same month, wherein are enumerated the formalities to be observed in contracts for the sale or transfer of real estate in the island.

In calling the attention of the undersigned to this matter, the honorable Secretary of State spoke of the regret which had been caused to the President by the publication of a decree from which he feared that serious injuries might result to the property of American citizens in that island, and expressed the hope that the said order might be so modified as not to be applicable to the property of such citizens.

The undersigned, having transmitted these observations to his government, is enabled to reply to the honorable Secretary of State in a manner which, in his judgment, cannot fail to be satisfactory.

The decree of April 15, 1869, was a measure required by the peculiar situation in which the Island of Cuba was placed, in which it was necessary to take energetic steps against the enemies of peace and public order. It was therefore very important to prevent the rebels, not only those who stood with arms in their hands, but also those who had emigrated to foreign countries, from making false sales and contracts, which should enable them to continue in possession of their property and dispose of their productions for the encouragement of the rebellion, and for this purpose it was necessary to require, at least temporarily, certain guarantees for the transfer of their property, as likewise the interposition of the representatives of authority in the making of contracts of this kind.

If the measure in question is viewed without prejudice, every consideration foreign to its true character and spirit being laid aside, and if it is considered that its provisions are only applicable to persons included in one of the two classes mentioned, it is seen that the decree of April 15 is one of those measures which it is the right and duty of the legitimately constituted authority to adopt, whenever required by the security of the interests which are intrusted to it. It has thus at all times been understood by governments, and in this sense they have all acted, without exception, when the preservation of great social interests have rendered it necessary or proper.

Considering this in a legal point of view, the purview being explained, and the object of the measure in question being characterized in accordance with the antecedents shown by the history of all nations, the under-

signed only has to call the attention of the honorable Secretary of State (in order to dispel all doubts which might be suggested to the government of the President by its laudable interest for the welfare of American citizens, who can legally, and with well-founded right, lay claim to this title, and who own property in Cuba) to the notorious fact that this measure has been put into practice for nine months, in which time all kinds of contracts have been made in the Island of Cuba, without the slightest embarrassment, and Spanish citizens, as well as foreigners who have obeyed the laws and respected the legitimate authority, have continued, and still continue to dispose freely of their property, and carry on their business on a larger scale every day, being only obliged to comply, on making certain contracts, with a simple formality established, as already remarked, in order that the authorities may have knowledge of transfers of property, and that criminal abuses and concealments may be prevented, said formality being in no way troublesome or vexatious.

The undersigned is happy to believe that the foregoing considerations will dispel all doubts with regard to the character and object of the decree of April 15, and he avails himself of this occasion to reiterate to the honorable Secretary of State of the United States the assurances of his highest consideration.

MAURICIO LOPEZ ROBERTS.

No. 13.

Mr. Fish to Mr. Lopez Roberts.

DEPARTMENT OF STATE,
Washington, June 9, 1870.

The undersigned is directed by the President to invite the earnest attention of Don Mauricio Lopez Roberts, envoy extraordinary and minister plenipotentiary of Spain, to the irregular and arbitrary manner in which the persons and properties of citizens of the United States are taken and held by the Spanish authorities in the Island of Cuba.

When Count Valmaseda in April of last year issued a proclamation declaring that every man from the age of fifteen years upward, found away from his habitation and not proving a sufficient motive therefor, would be shot; that every habitation unoccupied would be burned; and that every house not flying a white flag should be reduced to ashes, it became the duty of the undersigned to convey to Mr. Lopez Roberts the protest of the President against such a mode of warfare, and his request that the authorities in Cuba would take steps that no person having the right to claim the protection of the government of the United States should be sacrificed or injured in the conduct of hostilities on that basis.

When again, about the same time, it came to the knowledge of this government that the Captain General of Cuba had, on the 1st day of April, 1869, issued a proclamation which virtually forbade the alienation of property in the island, except with the revision and assent of certain officials named in the decree, and which declared null and void all sales made without such revision and assent, the President again directed the undersigned to say that he viewed with regret such sweeping interference with the rights of individuals to alienate or dispose of their property, and that he hoped that steps would be speedily taken to modify that decree so that it should not be applicable to the property of citizens of the United States, and so that disputes and complaints

that could not fail to arise if its execution should be attempted as to such property, might be prevented.

When, seventeen days later, a decree was issued creating an administrative council for the custody and management of embargoed property; and when three days afterward the Captain General issued a circular extending the previous embargo to the property of all persons, either within or without the island, who might take part in the insurrection, whether with arms in their hands or aiding it with arms, munitions, money, or articles of subsistence, this government confidently expected that the cabinet of Madrid and the authorities of Spain in the Island of Cuba would regard the then recent expressions of its wishes, and would not willingly permit the rights of citizens of the United States to be interfered with or their properties to be sequestrated without the forms of law to which they were entitled.

When the President directed the undersigned to invite attention to the possibility that the laws and decrees which had been promulgated in Cuba might lead to an infraction of the treaties between Spain and the United States, he was not unmindful of the disorganized condition of society in parts of that island, nor of the difficulties which attended the enforcement of the authority of Spain. On the contrary, he was induced to make such representation by a desire to avoid increasing those difficulties, and to prevent further complications so far as the act of this government could do so.

The seventh article of the treaty of 1795 between the United States and Spain provides—

That the subjects or citizens of each of the contracting parties, their vessels or effects, shall not be liable to any *embargo* or detention on the part of the other for any military expedition or other public or private purpose whatever; and in all cases of seizure, detention, or arrest for debts contracted, or offenses committed, by any citizen or subject of the one party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases. The citizens and subjects of both parties shall be allowed to employ such advocates, solicitors, notaries, agents, and factors as they may judge proper, in all their affairs, and in all trials at law in which they may be concerned, before the tribunals of the other party; and such agents shall have free access to be present at the proceedings in such causes, and at the takings of all examinations and evidence, which may be exhibited in the said trials.

It is with great regret that the government of the United States feels itself forced to say that it is informed that the provisions of this article of the treaty of 1795 have not been kept in mind by the authorities in Cuba during the present struggle. It appears to the President that the sweeping decrees of April, 1869, have been put in operation against the properties of citizens of the United States in violation of the treaty agreement that such property should not be subject to embargo or detention for any public or private purpose whatever.

Inclosed is a list of the citizens of the United States who, up to this date, have presented to this government complaints of such embargo or detention of their property.

The decree of embargoes is of itself an extraordinary exercise of supreme power, outside of the ordinary and regular course of legal or judicial proceedings, and even if properly exercised with respect to the subjects of Spain and their properties, appears to be in contravention of the rights secured by treaty to the citizens of the United States, and the proceedings under the decree against the properties of citizens of the United States have not, as is understood, been prosecuted by order and authority of laws only, but in the exercise of the extraordinary functions vested in or exercised for the occasion by the supreme political authority of the island, and have been arbitrary and unusual, and without the

safeguards to personal rights and rights of property which ordinarily accompany legal proceedings and which the seventh article of the treaty guarantees.

It is understood that the citizens of the United States whose properties have been thus taken forcibly from them have not been allowed to employ such advocates, solicitors, notaries, agents, and factors, as they might judge proper; on the contrary, as this government is informed, their properties have been taken from them without notice, and advocates, solicitors, notaries, agents, or factors have not been allowed to interpose in their behalf. It is further understood that the names of parties whose properties are thus embargoed are from time to time published and their properties thereafter immediately seized, without opportunity to them or their agents to be present at any proceedings in regard thereto, or at the taking of examination or evidence.

In many instances these proceedings have been taken against the properties of citizens of the United States who were not at the time, and who have not during the continuance of the disturbances on the Island of Cuba been, within the jurisdiction of Spain. It is notorious that by going to the Island of Cuba, after the official denunciation of their alleged conduct, they would subject themselves to arbitrary arrest and possible summary military trial, if not to the uncontrolled violence of popular prejudice.

The undersigned has also received representations from several citizens of the United States complaining of arbitrary arrest, and of close incarceration without permission to communicate with their friends, or with advocate, solicitors, notaries, agents, and factors, as they might judge proper. In some of these cases the parties have been released; in others they are understood to be still held in custody.

The undersigned has the honor to inclose a list of the citizens of the United States who up to this date have presented to this government complaints of such arrest and detention.

In some cases, also, such arrests have been followed by military trial without the opportunity of access to advocates or solicitors or of communication with witnesses, and without those personal rights and legal protections which the accused should have enjoyed; and such summary trials, when ending in conviction, have been followed by summary execution. Such cases, so far as they have come to the knowledge of the undersigned, are included in the list herewith transmitted.

What has been already done in this respect is unhappily past recall, and leaves to the United States a claim against Spain for the amount of the injuries that their citizens have suffered by reason of these several violations of the treaty of 1795—a claim which the undersigned presents on behalf of his government with the confident hope that the government of Spain, recognizing its justice, and making some proper and suitable provision for ascertaining the amount which should rightfully come to each claimant, will also order the immediate restoration to the citizens of the United States of their properties which have been thus embargoed, and the release of those citizens of the United States thus held, or their immediate trial under the guarantees and with the rights accorded by the treaty.

As to the future it is confidently expected that steps will be taken to insure against further violations of the treaty. The high sense of honor for which Spain is proverbial will (the President feels assured) prompt her to take vigorous steps to secure to citizens of the United States within Spanish dominions the full measure of the rights accorded to them by the treaty of 1795.

The extraordinary powers as to affairs in Cuba which were conferred upon Mr. Lopez Roberts by his government, and which were communicated to the undersigned on the 12th day of August last, are understood by the government of the United States to be broad enough to authorize him to arrest these infractions of the rights secured by the treaty and to obtain the restoration of the properties. If, however, such is not the case, the undersigned then takes the liberty to ask Mr. Lopez Roberts to advise him of such absence of power, in order that instructions may be given to the minister of the United States at Madrid.

In closing this note the undersigned must expressly reserve to the government of the United States the right to restate its grievances on these points, as new facts may come to its knowledge showing further and other injuries to the properties of citizens of the United States from like causes.

The undersigned avails himself of this occasion to renew to Mr. Lopez Roberts the assurances of his highest consideration.

HAMILTON FISH.

Señor Don MAURICIO LOPEZ ROBERTS, &c., &c., &c.

1.—*List of citizens of the United States whose property has been embargoed.*

Angarica, José Garcia.
 Angarica, Joquin Garcia.
 Casanova, Inocencio.
 Criado y Gomez, Ramon F.
 Delgado, Joaquin.
 Danford, Knowlton & Co.
 Govin y Pinto, José.

Madan, Cristobal.
 Mora, Fausto.
 Mueses, Martin.
 Rivas y Lamar, Ramon.
 Rozas, John C.
 Taylor, Moses & Co.

2.—*List of citizens of the United States who have been imprisoned, "incomunicado."*

Brito, José Vicente, arrested and imprisoned at Havana on February 12, 1869.
 Cabias, Theodore, arrested at Matanzas in January, 1869.
 Cabada, Emelio F.
 De Castro, Lucas A., imprisoned at Trinidad de Cuba in March, 1869.
 Del Villar, Gabriel Suarez, at Trinidad de Cuba in March, 1869.
 Edwards, James M., at Manzanillo in November, 1868.
 Jemot, Charles, at Trinidad de Cuba in May, 1869.
 McGregor, Douglass, at Trinidad de Cuba in August, 1869.
 Miranda, Thomas, confined in an iron cage at Havana.
 Powers, John E., arrested near Trinidad de Cuba in April, 1870. Still held "incomunicado" at last advices.
 Rozas, John C., arrested on February 3, 1869, near Santa Maria del Rosario, and sent to Fernando Po on March 21.
 Simmons, A. T., at Puerto Principe in February, 1869.
 Sportuno y Prats, Mrs., at Trinidad de Cuba in February, 1870.
 Schultz, F. A., arrested at Madruga on August 28, 1869.
 Tate, James, arrested at Trinidad de Cuba on April 30, 1870, and at last advices still held "incomunicado."

3.—*List of other citizens of the United States who have been arrested and imprisoned in Cuba.*

De Silva, Emilio.
 Estrada, Rafel.
 Fritot, Henry.
 Gonzalez, Gregorio.
 Machado, John A.
 Morales, Angel.
 Ortega, José Maria.
 Pedro, Patchot.

Ponce de Leon, José M.
 Polhamus, Charles J.
 Pintado, Sebastian.
 Portuondo, Juan F.
 Santa Rosa, Augustin.
 Speakman, Charles.
 Wyeth, Albert.

No. 14.

Mr. Davis to Mr. Lopez Roberts.

DEPARTMENT OF STATE,
Washington, June 18, 1870.

SIR: Referring to the list communicated to your excellency on the 9th instant, by Mr. Fish, of citizens of the United States whose properties in Cuba are said to have been arbitrarily embargoed by the authorities of Spain, and without the forms of law to which the owners were entitled, and which are still detained by Spanish officials, I have now the honor to add thereto the name of Mr. Joseph Hernandez, a naturalized citizen of the United States, residing in the State of New Jersey, and to ask that his estates in Cuba may be released from the embargo, and that steps similar to those asked for in the other cases may be taken for ascertaining and paying the injury which he has suffered from the seizure.

I avail myself of this occasion to renew to you, sir, the assurance of my highest consideration.

J. C. B. DAVIS,
Acting Secretary.

No. 15.

Mr. Lopez Roberts to Mr. Fish.

WASHINGTON, *June 24, 1870.*—(Received June 25.)

The honorable Secretary of State of the United States was pleased to address, on the 9th instant, a note to the undersigned, inquiring whether the powers with which he stated in his communication of August 12, 1869, that he had been invested, were or were not sufficiently ample to authorize him to interfere in cases of seizure of property and of arrests of citizens of the United States, which are declared by the Hon. Hamilton Fish to have been made in the island of Cuba in a manner contrary to the spirit and letter of the treaties existing between the United States and Spain, the federal government proposing, in case that the undersigned is not in possession of the powers referred to, to send the necessary instructions to its representative at Madrid, General Sickles.

The undersigned has the honor to inform the honorable Secretary of State that, in view of the favorable situation in which the Island of Cuba now is, the government of his highness the Regent of the kingdom no longer deems it necessary to continue the powers which were granted to him at the time aforesaid, and which are mentioned by the honorable Secretary of State in his note.

The undersigned avails himself of this occasion to renew to the honorable Secretary of State the assurances of his highest consideration.

MAURICIO LOPEZ ROBERTS.

Hon. SECRETARY OF STATE of the *United States, &c., &c.*

No. 16.

Mr. Fish to General Sickles.

No. 66.]

DEPARTMENT OF STATE,
Washington, June 24, 1870.

GENERAL: Inclosed you will find a copy of a note addressed to Mr. Lopez Roberts, on the 9th instant, relative to the claims of citizens of the United States against Spain, growing out of summary arrests and imprisonments, military executions, arbitrary embargoes of property, and other acts done by the Spanish authorities in Cuba to the persons and properties of citizens of the United States, in violation of the provisions of the treaty of 1795 between the government of the United States and the government of Spain. You will also find a further communication on the same subject in regard to a claim which was presented to the department subsequent to the transmission of the note of the 9th instant. Each of the cases mentioned in the former of these notes had previously been the subject of instruction to the consul general of the United States at Havana, to be brought to the attention of the authorities of the Island of Cuba, and of demand for redress.

You will observe that these notes were sent to Mr. Lopez Roberts under the supposition that the extraordinary powers as to Cuba, which were conferred upon him by his government last year, were still vested in him, and that they were broad enough to authorize him to arrest these infractions of the rights secured by the treaty, and to obtain the restoration of their properties to the citizens of the United States.

I am informed, however, by Mr. Roberts that these powers are no longer efficient, and that he can do nothing in the premises.

I have, therefore, to instruct you to bring this whole subject to the notice of the Spanish government and to say that the President hopes that immediate steps will be taken for the release of all the citizens of the United States who may be held in custody in Cuba in violation of the provisions of the treaty of 1795, or for the immediate trial under guarantees, and with the rights secured by the treaty.

You are also instructed to ask for the restoration to the citizens of the United States of their properties and estates, so far as the same have been arbitrarily embargoed in violation of the provisions of the treaty.

You will also endeavor to secure some mode for the early and equitable indemnification and satisfaction to the several parties whose rights have been violated, of the amounts which should rightfully come to each claimant for the illegal detention of his property or his person. You will say that this suggestion is made in the interest of peace, of justice, and of good-will, in order to secure a measure of damages in each case, which shall be just as between the two governments.

You will also say that it is extremely desirable to have the investigation conducted in this country. It cannot be done in Spain without subjecting the claimants to unnecessary expense. It cannot be done in Cuba at present without subjecting many of them to personal danger. In this connection I must again, on behalf of this government, express, in the interest of good-will and the continued good understanding which we desire to maintain with Spain, the strong desire of the President that the government at Madrid will confer fresh powers upon Mr. Lopez Roberts (or upon such other person on this side of the Atlantic as may be selected for that purpose) to arrange all such questions with this government.

The Spanish authorities in Cuba seem to be clothed with absolute power for the commission of such acts as are now complained of, but when redress is sought, we are referred to the distant cabinet at Madrid, where it is often found necessary to refer again to Cuba for information, and the case is thus suspended and delayed, to the grievous injury of the parties and at the hazard of irritation from the delay, of which the necessity is not apparent to the impatient sufferers or to the public.

The President has respected the Spanish claim of sovereignty over the Island of Cuba during the present contest against a strong sympathetic pressure from without. Spain owes it to the United States as well as to her own traditional sense of justice, that her sovereignty shall not be used for the oppression and injury of the citizens of this republic. You will urge this point in every way that your good judgment may suggest.

I am, general, your obedient servant,

HAMILTON FISH.

Major General DANIEL E. SICKLES, &c., &c., &c.

No. 17.

Mr. Fish to Mr. Lopez Roberts.

DEPARTMENT OF STATE,

Washington, June 30, 1870.

SIR: Mr. Eusebio Guiteras, who represents himself to have been a citizen of the United States for some years past, has addressed a letter to this department, representing that certain property which he holds in the city of Matanzas, in the Island of Cuba, has been unjustly confiscated by order of the Captain General of that island.

I will thank you to inquire into this case, in order that if the statements of Mr. Guiteva should be found correct his property may be restored to him and such other amends made as the circumstances may call for.

I avail myself of this occasion, sir, to renew to you the assurances of my highest consideration.

HAMILTON FISH.

Señor Don M. LOPEZ ROBERTS.

No. 18.

Mr. Fish to General Sickles.

No. 67.]

DEPARTMENT OF STATE,

Washington, July 1, 1870.

GENERAL: Referring to my instruction to you, No. 66, of the 24th of June, I now inclose for your information a translation of a note addressed to this department on the 24th ultimo, by Mr. Lopez Roberts.

From that note it appears that in view of the favorable situation in which the Island of Cuba now is, the home government deems it no longer necessary to continue the powers heretofore given to Mr. Roberts.

In bringing this subject to the attention of the Spanish government, you will state that if the situation in Cuba be so favorable as to render those powers unnecessary, it is hoped that the arrests and embargoes complained of will not recur, and that immediate reparation will be made for those that have occurred.

I am, sir, your obedient servant,

HAMILTON FISH.

Major General DANIEL E. SICKLES, &c., &c., &c.

