

Delamater's Protest Against the Seizure—An Alleged Plot to Burn the Ships by Cuban Partisans—Action of the Government Based Upon the Representations of the Minister of Peru—The Boats to Be Used as a Guard Around Cuba.

The following is the full protest of Mr. Delamater, against the further detention of the Spanish gunboats:—

United States of America, State of New York, City and County of New York, ss.:—

To all to whom these presents shall come—I, H. J. Begley, a notary public in and for the State of New York, duly commissioned and sworn, send greeting:—

Know ye, that on the 20th day of November, in the year 1869, before me appeared Cornelius H. Delamater, and being by me duly sworn according to law, voluntarily, freely and solemnly declares and deposes as follows—that is to say:—

First—That the undersigned is a citizen of the United States, for many years resident in the State of New York, and is engaged in the city of New York in the business of manufacturing engineer and ship builder.

Second—That in the ordinary course of his business, he, on or about the 3d day of May, in the year 1869, undertook and contracted with Captain Rafael de Aragon, on the part of the government of Spain, to construct, build and completely furnish thirty steam gunboats ready for sea within eight months from the date of said contract.

Third—That by the express terms of such undertaking and contract the aforesaid boats remain the property of the undersigned until all payments therefor are completed, and that as yet large sums amounting to more than \$300,000 in gold, remain unpaid therefor, whereby the undersigned has great pecuniary interest therein.

Fourth—That he is informed and believes that certain partisans in this city, of the insurrection in the island of Cuba, are plotting the annihilation of the aforesaid ships of war by fire or other means, and the consequent destruction of the large amount of property which the undersigned has therein; that the crowded and exposed condition in which the said boats now lie in the harbor of New York excites serious apprehensions on the part of the undersigned; that such threats can and will be put into practical operation, and the more so in view of the desperation of these Cuban partisans in the United States, of their persistent disregard and violations of the laws of the United States heretofore, in the matters of recruitment and military expeditions from this port against a nation with which this government is on terms of peace and amity, and of the policy of incendiarism which now is said to characterize the acts of the insurgent Cubans in Cuba.

Fifth—That in the month of August last the undersigned was informed by General Barlow, then Marshal of the United States for the Southern district of New York, that he had been empowered and directed by the President of the United States to seize the aforesaid boats, which seizure he thereupon proceeded to make, but subsequently permitted the work thereon to proceed as before, and that the undersigned was at that time informed and now believes that such action on the part of the Executive was based on a representation of the Minister of Peru, resident in Washington, that the said boats were to be fitted out and armed within the limits of the United States to cruise and commit hostilities in the service of the government of Spain against the subjects, citizens or property of the government of Peru, which representations the undersigned has reason to know had no basis on fact, the aforesaid boats having been ordered, constructed and adapted, as the undersigned has been informed and believes, to be used as guard boats around the island of Cuba in protection of the authority of the government of Spain in that island, and for no other purpose whatever, and are so peculiarly constructed by their light draught of water, small size and incapacity of carrying the sufficient amount of fuel, provisions and stores as to render them unsuited to make a voyage to Peru.

Sixth—That in making the seizure of the boats aforesaid, Marshal Barlow neither exhibited nor pretended to have any process or warrant of attachment issued by any court of the United States authorizing him to make the said seizure, but justified his conduct upon the executive order transmitted to him as aforesaid, by order of the President of the United States.

Seventh—That although the aforesaid seizure was made many months since no judicial proceedings, to the knowledge of the undersigned, have been begun in any court of the United States, to enforce or execute the prohibitions and penalties of the Neutrality act of April 20, 1818, the provisions of which the Minister of Peru asserted to the government of the United States, as the undersigned is informed and believes, had been or were about to be violated by the aforesaid gunboats, and therefore the undersigned has been unable by a judicial investigation, such as is usual in cases of seizure for alleged violation of municipal laws, to show how untrue is the aforesaid allegation of the Minister of Peru, and so obtain a release of this property aforesaid by an order of court.

Whereupon the said Cornelius H. Delamater does by these presents solemnly and publicly protest against the aforesaid seizure and against the further detention of the said gunboats; and he hereby warns all persons interfering therein on behalf of the government of the United States, or the government of Peru, to enforce the said seizure and detention, and prevent the delivery of the said boats to the contractor in behalf of the government of Spain.

That he shall hold them and each of them responsible for all losses, costs, charges, expenses, damages and injury which he, the said Delamater, has already sustained, incurred or been put into execution, or may hereafter pay, sustain, incur or be put into by or on account of the premises.

CORNELIUS H. DELAMATER.

In witness whereof I have hereunto set my hand and official seal the day and year first above written.

H. J. BEGLEY,

Notary Public State of New York.

A motion will be made in the United States Court to-day to release the Spanish gunboats on the ground that according to the rules of war and of international law expounded and observed by all nations the relations between Spain and Peru are peaceful; that the vessels being of light draught would not be capable of completing a voyage around Cape Horn, which they would have necessarily to make, were they to be employed in a hostile expedition against Peru on the west coast of South America.

The case will doubtless be fully argued, and some interesting developments are expected.