

## The Spanish Outrages on Americans.

List of Citizens of the United States Executed and Imprisoned and Whose Property Has Been Confiscated in Cuba—Documents Furnished the Senate by Secretary Fish—Protest Against Treaty Violations by Spain.

WASHINGTON, July 10, 1870.

The President, in compliance with the resolutions of the Senate, transmitted a large mass of documents to that body concerning the seizure of American vessels and the imprisonment and execution of citizens of the United States during the hostilities in Cuba. The first part of the document gives the particulars of the seizure of the Mary Lowell, the Lloyd Aspinwall, the Champion and the Lizzie Major by the Spanish cruisers and contains all the correspondence upon the subject. The second is a list of persons said to be citizens of the United States who have been executed without proper trial, together with the correspondence and showing some of the steps taken with reference thereto. Their names are as follows:—Charles Speakman and Albert Wyeth, George Bodet, Samuel Alexander Cobrer, Vicente Dauni (or Dawney), Juan Tisanca Portogues, Charles J. Polhamus and Ernest Macarty.

The third part is a list of persons said to be citizens of the United States whose properties are said to have been confiscated or embargoed, namely:—José Garcia, Angorica Joaquin, Garcia Angorica, Inocencio Casanova, Ramon Fernandes, Criado y Gomes, Joaquin Delgado, Danforth, Knowlton & Co., Felix Govin y Pinto, Jose Govin y Pinto, Eusebio Gutierrez, José de Jesus, Hernandez y Macias, Cristobal Madon, Thomas I. Mora, F. Asto Mora, Martin Menses, Ramon Rivas y Lama, John C. Rosas, Moses Taylor & Co., Louis C. Madeira, Aurelio Arango.

The following is a list of persons said to be citizens of the United States who are said to have been unlawfully imprisoned and held *incommunicado*:—José Vicente Brito, Theodore Cadiz, Emelio F. Cabada, Lucas A. De Castro, Joseph Doany, Gabriel L. Yarez del Villar, James L. Edwards, Charles Jernot, Douglas McGregor, Thomas Mirando, John E. Powers, Mrs. William L. Lynn, Mrs. Pratz, Misses Eliza and Aurelia Cullipp, Augustin Santa Rosa, F. A. Schurtz, Dr. A. T. Silmons and Joseph Tate.

Persons said to be citizens of the United States who are said to have been unlawfully imprisoned, but not held *incommunicado*:—George Aba, Emelio De Silva, Rafael Estrala, W. Henry Fritot, Gregorio Gonzales y Curbels, John A. Mashado, Angel Morales, José Maria Ortega, Peter Patchot, Sebastian Partado, Andrew White, Estevan B. Valls, José Manuel Ponce de Leon, James M. Miller, John B. Latte, Michael M. Kelly, Juan Francisco Gonzales, Raton Dacorger, James F. Wilters and John Williams.

The State Department also transmitted a list of the decrees of the Spanish authorities, so far as known to the department, under which they claim to have acted in the several seizures, arrests, imprisonments, executions, embargoes and confiscations. On the 11th of August, 1869, Secretary Fish wrote to Spanish Minister Roberts asking whether he had been authorized to adjust matters growing out of the intercourse with Cuba, so as to avoid the delay of a reference to Madrid, to which Minister Roberts replied he had no authority to settle such cases by agreement with the Captain General of Cuba, except in certain cases named. On the 21st of January last Secretary Fish addressed Minister Roberts as to modification of the decree forbidding alienation of property. Thereupon Minister Roberts defended the decree as one necessary for the maintenance of Spanish authority under the circumstances. On the 8th of June, 1870, Secretary Fish wrote Minister Roberts as follows:—

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 persons and properties of the 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 and upwards found away from his habitation, and not producing 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 be ill-used in the conduct of hostilities. On that basis, when a man, 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 on 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, or 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 afterwards 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 experience of its wishes, and would not willingly permit the rights of citizens of the United States to be interfered with, their properties to be sequestered, 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 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 offences 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 or agents 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 cases, and at the taking of all examination evidence which may be exhibited on 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 property of citizens of the United States in violation of the treaty agreements that such property should not be subject to embargo or detention for any public or private purpose whatever. Enclosed is a list of the citizens of the United States up to this date who 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 and 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 the treaty to the citizens of the United States, and the proceedings under the decree against the property of citizens of the United States, have not, as is understood, been prosecuted by order and authority of the 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 the 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 property has 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 advo-

called, notaries, solicitors, 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 the 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 justice. The undersigned has also received representations from several citizens of the United States complaining of arbitrary arrests, and of close incarceration, without permission to communicate with their friends or with their advocates, 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 in custody. The undersigned has the honor to enclose 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 they assuredly should have enjoyed, and such summary trials, when ending in conviction, have been followed by summary punishment. Such cases, so far as they have come to the knowledge of the undersigned, are enclosed 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 this 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 the citizens of the United States in their 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 United States Minister 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 assurance of his highest consideration. HAMILTON FISH.

Mr. Roberts replies to Mr. Fish, June 24, as follows:—

The honorable Secretary of State of the United States was pleased to address a note on the 9th inst. to the undersigned, inquiring whether the powers with which, he states in his communication of August 12, 1869, he had been invested, were or were not sufficiently ample to authorize him to interfere in the 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.

Secretary Fish on the 24th of June, 1870, addressed a long letter to General Sickles, enclosing his note to Mr. Roberts and Roberts' reply, instructing him to bring the whole subject to the notice of the Spanish government and to say 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 their immediate trial under the guarantees and with the rights secured by the treaty. General Sickles is 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 treaty. The Secretary says:—

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 investigations conducted in this country; it cannot be done in Spain without subjecting the claimants to unnecessary expense, and 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 have 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 sufferer 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.

Secretary Fish to General Sickles, July 1, referring to the note of Mr. Roberts, says:—

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.