

In response to resolution of the House of Representatives of the 17th instant, a report from the Secretary of State, with accompanying documents.

JANUARY 21, 1876.—Referred to the Committee on Foreign Affairs and ordered to be printed.

To the House of Representatives :

I transmit to the House of Representatives, in answer to their resolution of the 17th instant, a report from the Secretary of State, with accompanying documents.

WASHINGTON, January, 21, 1876.

U. S. GRANT.

DEPARTMENT OF STATE, Washington, January 21, 1876.

The Secretary of State, to whom was referred the resolution of the House of Representatives of the 17th January, instant, "That the President be requested to furnish to this House all correspondence between the Government of the United States and Spain, in relation to the island of Cuba, which is not incompatible with the public interest," has the honor to lay before the President certain documents and correspondence furnishing the information called for by said resolution.

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As correspondence between the Government of the United States and Spain in relation to the island of Cuba has on several occasions heretofore been communicated to Congress, as well as that touching particular questions which have arisen between the United States and Spain in Cuba, the correspondence now transmitted is limited to the late correspondence upon the subjects referred to in the resolution, and which has not been previously communicated to Congress.

The information is arranged under the following divisions:

1. A communication made to the government of Spain, through Mr. Cushing, the minister of the United States at Madrid, bearing date

November 5, 1875, with the correspondence incident to the presentation of the same to the Spanish government, and with the instructions addressed to certain of the representatives of the United States in reference thereto.

2. Extracts from the correspondence between the Department of State and the minister of the United States in Madrid, and between this Department and the consul-general of the United States in Havana, concerning the condition of affairs in Cuba, and matters relating thereto.

3. Correspondence in reference to the trial of General Burriel, pursuant to the protocol of November 29, 1873, growing out of the capture of the Virginius. This correspondence was not transmitted to Congress with the papers and correspondence in reference to the Virginius, the question being then under discussion with the Spanish government.

Negotiations are still in progress between the government of Spain and the United States, in reference to complaints arising from trials of citizens of the United States in violation of treaty provisions, and from the confiscation or embargo of the property of citizens of the United States in Cuba.

For such reason the correspondence on such questions is not transmitted herewith.

Respectfully submitted.

The PRESIDENT.

HAMILTON FISH.

LIST OF ACCOMPANYING PAPERS.

-CORRESPONDENCE RELATIVE TO THE RELATIONS BETWEEN THE UNITED STATES AND SPAIN.

- Mr. Fish to Mr. Cushing, November 5, 1875.
 Mr. Fish to Mr. Schenck, November 5, 1875.
- 3. Mr. Fish to Mr. Washburne, November 15, 1875.
- 4. Mr. Cushing to Mr. Fish, telegram, November 16, 1875.
- 5. Mr. Fish to Mr. Schenck, telegram, November 19, 1875.

- Mr. Fish to Mr. Schenck, telegram, November 19, 1875.
 Mr. Cushing to Mr. Fish, telegram, November 27, 1875.
 Mr. Fish to Mr. Cushing, telegram, November 27, 1875.
 Mr. Cushing to Mr. Fish, telegram, November 27, 1875.
 Mr. Cushing to Mr. Fish, telegram, November 30, 1875.
 Mr. Cushing to Mr. Fish, telegram, November 30, 1875.
 Mr. Fish to Mr. Schenck, telegram, December 4, 1875.
 Mr. Fish to Mr. Cushing, telegram, December 6, 1875.
 Mr. Fish to Mr. Cushing, telegram, December 6, 1875.
 Mr. Fish to Mr. Cushing, telegram, December 6, 1875.

- 13. Mr. Fish to Mr. Washburne, telegram, December 6, 1875.
- 14. Mr. Fish to Mr. Davis, telegram, December 6, 1875.
- Mr. Cushing to Mr. Fish, (extract,) December 13, 1875.
 Same to same, December 22, 1875, with an accompaniment.
- 17. Same to same, December 29, 1875, with an accompaniment.

II.-CORRESPONDENCE RELATING TO THE CONDITION OF AFFAIRS IN CUBA, AND MATTERS RELATING THERETO.

- 18. Mr. Hall to Mr. Cadwalader, July 7, 1875, with an accompaniment. 19. Mr. Cushing to Mr. Fish, July 23, 1875, (extract,) with an accompaniment.
- 20. Mr. Hall to Mr. Cadwalader, July 27, 1875, with accompaniments.
- Mr. Cushing to Mr. Fish, September 10, 1875, with accompaniments.
 Same to same, October 6, 1875, (extract.)

- Same to same, (extract,) October 7, 1875.
 Same to same, October 16, 1875, with accompaniments.
- Same to same, (axtract,) October 28, 1875, with an accompaniment.
 Same to same, (extract,) November 12, 1875, with an accompaniment.
 Same to same, November 15, 1875.
- 28. Mr. Williams to Mr. Cadwalader, November 20, 1875, (extract,) with an accomniment.
- 9. Mr. Hall to Mr. Cadwalader, December 22, 1875, (extract,) with accompaniments.
-). Same to same, (extract,) December 23, 1875.

CORRESPONDENCE RELATING TO CUBA

III .-- CORRESPONDENCE RELATIVE TO THE TRIAL OF GENERAL BURRIEL PURSUANT TO THE PROTOCOL, GROWING OUT OF THE CAPTURE OF THE VIRGINIUS.

- 31. Protocol of November 29, 1873.
- 32. Mr. Sickles to Mr. Fish, January 31, 1874.
- 33. Mr. Adee to Mr. Fish, April 25, 1874, with an accompaniment.
- 34. Mr. Fish to Mr. Cushing, June 9, 1874.
- 35. Mr. Cushing to Mr. Fish, (extract,) June 27, 1874, with an accompaniment. 36. Same to same, July 10, 1874, with an accompaniment.
- 37. Mr. Fish to Mr. Cushing, July 22, 1874.
- 38. Mr. Cushing to Mr. Fish, July 22, 1874, with an accompaniment. 39. Mr. Fish to Mr. Cushing, August 15, 1874.

- 40. Same to same, (extract,) August 21, 1874. 41. Mr. Cushing to Mr. Fish, September 27, 1874, with an accompaniment.
- 41. Mr. Cushing to Mr. Fish, September 27, 1674, with an accompaniment.
 42. Mr. Fish to Mr. Cushing, October 29, 1874.
 43. Mr. Cushing to Mr. Fish, December 1, 1874, with an accompaniment.
 44. Same to same, telegram, December 4, 1874, (extract.)
 45. Same to same, (extract,) December 5, 1874, with an accompaniment.
 46. Mr. Fish to Mr. Cushing, telegram, December 7, 1874, (extract.)
 47. Same to same, (extract,) December 30, 1874.
 48. Same to same, (extract.) February 19, 1875.

- Same to same, (extract,) February 19, 1875.
 Mr. Cushing to Mr. Fish, (extract,) May 17, 1875.
- 50. Mr. Fish to Mr. Cushing, June 4, 1875.
- 51. Mr. Cushing to Mr. Fish, telegram, August 23, 1875.
- 52. Same to same, (extract,) August 23, 1875, with an accompaniment. 53. Same to same, August 25, 1875, with accompaniments.
- 54. Mr. Cushing to Mr. Fish, August 31, 1875, (extract.)
- 55. Mr. Fish to Mr. Cushing, September 22, 1875, (extract.)
- 56. Same to same, telegram, September 28, 1875.
- 57. Mr. Cushing to Mr. Fish, telegram, September 29, 1875.

- 58. Mr. Fish to Mr. Cushing, tologram, October 1, 1875.
 59. Mr. Cushing to Mr. Fish, (extract,) October 6, 1875.
 60. Same to same, (extract,) October 6, 1875, with an accompaniment.
 61. Same to same, (extract,) October 20, 1875, with accompaniments.
- 62. Mr. Fish to Mr. Cushing, November 5, 1875.
- 63. Mr. Cushing to Mr. Fish, telegram, November 16, 1875, (extract.)
- 64. Mr. Fish to Mr. Cushing, (extract,) January 6, 1876.

I.-CORRESPONDENCE RELATIVE TO THE RELATIONS BETWEEN THE UNITED STATES AND SPAIN.

No. 1.

Mr. Fish to Mr. Cushing.

No. 266.]

DEPARTMENT OF STATE, Washington, November 5, 1875.

SIR: Pursuant to the intimation conveyed in my No. 242, I deem it necessary to recur to the general question of our relations with Spain, and to consider the progress which has been made in disposing of the outstanding questions which for some time past have seriously threatened the relations of the two countries.

At the time of your departure for Madrid, apart from the general question of the unsatisfactory condition of affairs in Cuba and the failure to suppress the revolution, several prominent questions remained unadjusted, the settlement of which was deemed necessary before any satisfactory relations with Spain could be established or maintained. Upon all of these you were instructed.

The most prominent among them were the questions arising from the embargo and confiscation of estates of American citizens in Cuba; those relating to the trial of American citizens in that island, in violation of treaty obligations, and the claims arising out of the capture of the Vir ginius, including the trial and punishment of General Burriel.

After the expiration of more than eighteen months, it seems advisable to examine what progress has been made and to consider our present relations with Spain.

In reference to the arbitrary seizure and withholding of the estates and property of citizens of the United States in Cuba, under proceedings of confiscation or embargo, so called, a separate instruction was addressed to you under date of February 6th, prior to your departure for your post.

I referred therein to the general facts surrounding these cases, to the arbitrary action of the authorities, by which the property of American citizens had been seized in violation of treaty provisions, in the absence of judicial proceedings, without hearing, and under such circumstances as to call for vigorous protest and demands on behalf of this Government.

The general facts surrounding these cases are well known.

It is not pretended, so far as I am aware, that any legal justification for these wrongs has been attempted on the part of the authorities of Spain, or that these proceedings in Cuba are defended or upheld.

On the contrary, pursuant to the decree issued by the government on the 12th of July, 1873, the illegality and indefensible character of these acts were admitted, and the embargoes were ordered to be removed and the property to be restored.

This decree was at first received in Cuba with calm indifference, not even published or adverted to, and the proceedings of the authorities were in no notable respect changed thereby.

At the time of the visit of Senor Soler y Pla, minister of ultramar, the decree was in some instances recognized, and some insignificant steps taken, in individual cases, to comply therewith.

In general, however, it was claimed, either that incumbrances existed, making a compliance therewith impossible, or the delivery was offered, burdened by leases or incumbrances, and coupled with unfair conditions or demands, or delivery was avoided, on the ground that particular property was confiscated, not embargoed. In fact, the decree was treated, in general, with supreme indifference.

You were informed that the President, while not disposed to question the willingness of the authorities in Spain to do justice to this Government and her citizeus, expected that means would be found to compel the agents in Cuba to obey the orders of the supreme government.

Such was the condition of the question at the date of your departure. Numbers of American citizens had at this time been deprived of their property, and were anxiously awaiting the performance of the promises and assurances which had been given by the Spanish government. In spite of all the efforts which you have made, intelligent and energetic as they have been, no effectual result has been accomplished.

Immediately after you had entered on your duties, in your No. 24, under date of June 2, you reported a conversation with Mr. Ulloa, having reterence to this question, and in your No. 39, of June 22, you advise the Department of a note addressed to the minister of state, calling attention to the particular cases of Mr. Criado and Mrs. Farres de Mora, and to the general question.

Although orders of disembargo had been issued, and as early as January, 1873, the then minister of state at Madrid had expressed surprise and regret at the continued delay in these particular cases, Mr. Ulloa informed you, under date of July 7, 1874, that the ministry was in want of information as to these cases, and that the information had been requested through the minister of the colonies. He added, however, that the Spanish government proposed to adopt, with all possible dispatch, a general system with respect to pending embargoes, and that that important question would be set at rest in conformity with the true interpretation of the treaty of 1795, and with that respect which

the Spauish government had for its obligations.

These assurances were repeated to you by Mr. Ulloa, (as reported in your No. 95 under date of September 7, 1874,) and in your No. 153, dated November 23, it appears that similar statements were again made.

Nevertheless, with all these cases long since brought to the attention of the Spanish government, with the case of Mrs. Farres de Mora before the minister of state, in connection with that of Mr. Criado, Mr. Ulloa took occasion to reply in the case of Mr. Criado alone, as reported in your No. 195, to the effect that he was not a *bona-fide* citizen of the United States, and thus to avoid the decision of the issue before him.

So far as this case was concerned, Mr. Criado was but one individual jointly interested with others in the decision of a principle, and because some flaw was supposed to have been found as to his right to claim the benefit of the general principle when decided, opportunity was taken to decline to make any decision on the principle itself. It is ascertained, however, not only that the claim that Mr. Criado is not a citizen is not well founded, but a trial of his claim before the mixed commission is progressing, and this question has not there been raised ; but the advocate on the part of Spain is understood to have declared himself satisfied as to Mr. Criado's citizenship. The Spanish government thus avoiding the issue, you again argued the question in the cases of Mrs. Farres de Mora and Mr. Delgado, as reported in your No. 322.

Subsequent to this date, in several dispatches, viz, in your Nos. 387, 442, 452, and 511, (the last being dated September 8, ultimo,) and in several telegrams, you have reported the progress of a scheme of settlement, which it was thought was about to be accomplished, when a change in the cabinet suddenly displaced Mr. Castro.

Whether, had Mr. Castro remained in office, a general order or decree would have been issued of the character referred to in your No. 511, it is of course impossible to say, and whether, if issued, it would have received a more respectful obedience than the prior orders on this question, must also remain unanswered.

However, you state that the question has been re opened, and, as you inform me, with some prospect of an adjustment. But no adjustment has yet been reached, and the general question has been pending for more than six years.

The kindred treaty question in reference to the trial of citizens of the United States in Cuba by court-martial, and the arrest and punishment of our citizens without trial in that island, in violation of the provisions of the treaty of 1795, is substantially in the same position. This Government, prior to your appointment, had unfortunately been compelled to interfere in behalf of its citizens on several occasions, where the authorities in Cuba had entirely disregarded not only provisions of our treaty, but the rules of civilized warfare.

After your arrival at your post, you addressed the government in reference thereto on various occasions, both in connection with the confiscation and embargo cases and separately. The authorities of Spain have been loud in their denunciations of acts of cruelty when perpetrated by the Carlists, and while in some quarters martial law has been looked upon as the natural refuge of the mother country or her colonial authorities, when deemed necessary and convenient, still the same difficulty has occurred in inducing any minister of state to fairly meet the question, and either commit himself to a justification of such practices, or to frankly admit that they were in violation of treaty obligations and public law and to provide a remedy.

It is true that in isolated cases, where the Spanish government has been shown that insistance on trial by courts-martial implied a state of war in Cuba, which might lead to logical consequences, the authorities have admitted the justice of our position, as in the orders sent to the captain-general in 1873, proposing the trial of the sailors of the bark Union by the ordinary tribunals, pursuant to the treaty of 1795, as referred to in my No. 246; but, in general, when these questions have been presented, the different ministers of state have contented themselves with expressing their intention to fairly respond, and the intention of Spain to perform all her treaty obligations. Notably among them you state, in your No. 195, that after having addressed Mr. Ulloa upon this question in Dockray's case he promised to meet the issue.

That promise remains unperformed, and although the late negotiations by which it was hoped some solution of these questions might be reached would have applied also to this question, the matter remains undisposed of, and the authorities of Cuba are enabled upon convenient occasion, in obedience to supposed necessity, to again resort to such military tribunals or to punish without a trial.

This simple narration of facts as to these two questions, the promises made and repeated, the assurances given from time to time that something should be done, the admission of the justice of the demands of this country, at least to the extent of expressing regret for these wrongs and promising redress, followed as they have been by absolutely no performance and no practical steps whatever towards performance, need no extended comment.

In the cases of embargo and confiscation, not only have wrongs been long since done, but continuing and repeated wrongs are daily inflicted. The authorities of Spain in Ouba, during all this time, have been and are using the revenues of the confiscated or embargoed estates, appropriating much of the property itself, and in some cases executing long leases, or actually making sales, either on the allegation that taxes were due, or without any excuse whatever.

In the cases of arrest and punishment, citizens of the United States, in like manner, have undergone punishment because the authorities of Spain do not meet the issue and decide the question.

Turning to the questions which arose from the capture of the Virginius, and the executions which followed, no extended reference is required.

The particulars of the delivery of the vessel to this Government, and the payment to both Great Britain and the United States of considerable sums as compensation for the acts of the authorities in ordering the execution of fifty-three of the passengers and crew under circumstances of peculiar brutality, have passed into history.

So far as a payment of money can atone for the execution of these unprotected prisoners, that has been accomplished.

The higher and more imperative duty which the government of Spain assumed by the protocol of November 29, 1873, namely, to bring to justice General Burriel and the other principal offenders in this tragedy, has been evaded and entirely neglected.

Having made this neglect the subject of a separate instruction, under this date, I abstain from further reference thereto.

While I have no desire to detract from the settlement which was obtained, or to depreciate the action of Mr. Castro, the minister of state,

in the payment of the indemnity, particularly as he seemed from the first presentation of the question to be impressed with the justice of the complaint, and to regard with natural aversion the acts which gave rise to it, it is but just, in considering the general course of the authorities in Spain toward this country, to refer to the long delay in reaching an adjustment, and principally to the fact that a basis of settlement was at last reached only after every delay had apparently been exhausted.

As you are aware, Mr. Ulloa, then minister of state, under date of August 18, 1874, and probably impelled by some pressing necessity, addressed the British chargé d'affaires at Madrid, substantially agreeing to settle the claim of Great Britain for the execution of the British subjects on board that vessel.

The equally strong, if not stronger, claim of the United States, continued to be discussed in Madrid after the promise of settlement with Great Britain had been made; and information of this adjustment reached this Government a considerable time after its conclusion, and not through the authorities of Spain. Our settlement was only accomplished in the month of March following.

In doing exact justice, it is but proper, however, to give Mr. Castro due credit for the payment of the amount finally agreed upon, without further controversy, and before the time stipulated for payment had expired.

In adverting to these delays and failures to meet our just demands on the part of the authorities, I must express satisfaction with your patience and energy under these adverse circumstances, and particularly in beginning anew with each rapidly succeeding minister of state, and representing again and again these different questions. Progress in these matters has not been delayed from want of information from you, nor from lack of faithful and forcible presentation.

Having touched on these particular questions which have lately been prominent as disturbing causes with Spain, it is necessary to also refer to the general condition of affairs in Cuba as affecting our relations with the mother country.

In my No. 2, of February 6, 1874, (the first instruction addressed to you on general matters pertaining to your mission,) I referred at length to the views entertained by the President and to the position of this Government.

It was then more than five years since an organized insurrection had broken out which the government of Spain had been entirely unable to suppress. At that time the firm conviction of the President was announced that whatever might be the vicissitudes of the struggle, and whatever efforts might be put forth by the Spanish power in Cuba, no doubt could be entertained that the final issue of the conflict would be to break the bonds which attached Cuba as a colony to Spain.

While remembering and observing the duties which this Government, as one of the family of nations, owes to another member, by public law, treaties, or the particular statutes of the United States, it would be idle to attempt to conceal the interest and sympathy with which Americans in the United States regard any attempt of a numerous people on this continent to be relieved of ties which hold them in the position of colonial subjection to a distant power, and to assume the independence and right of self-control which natural rights and the spirit of the age accord to them.

When, moreover, this struggle, in progress on our very borders, from its commencement has involved the property and interests of citizens of the United States, has disturbed our tranquillity and commerce, has called upon us not infrequently to witness barbarous violations of the rules of civilized warfare, and compelled us for the sake of humanity to raise our voice by way of protest; and when, more than all, we see in the contest the final struggle in this hemisphere between slavery and freedom, it would be strange indeed if the Government and people of this country failed at any time to take peculiar interest in the termination of such contest.

In this early instruction was expressed the sincere and unselfish hope of the President that the government of Spain would seek some honorable and satisfactory adjustment, based upon emancipation and self-government, which would restore peace and afford a prospect of a return of prosperity to Cuba.

Almost two years have passed since those instructions were issued and those strong hopes expressed, and it would appear that the situation has in no respect improved.

The horrors of war have in no perceptible measure abated; the inconveniences and injuries which we then suffered have remained, and others have been added; the ravages of war have touched new parts of the island, and well-nigh ruined its financial and agricultural system and its relations to the commerce of the world. No effective steps have been taken to establish reforms or remedy abuses, and the effort to suppress the insurrection, by force alone, has been a complete failure.

In the mean time the material interests of trade and of commerce are impaired to a degree which calls for remonstrance, if not for another line of conduct, on the part of all commercial nations.

Whether it be from the severity and inhumanity with which the effort has been made to suppress the insurrection, and from a supposed justification of retaliation for violations of the rules of civilized warfare by other violations and by acts of barbarism, of incendiarism, and outrage, the world is witnessing on the part of the insurgents, whom Spain still claims as subjects, and for whose acts, if subjects, Spain must be held accountable in the judgment of the world, a warfare, not of the legitimate strife of relative force and strength, but of pillage and incendiarism, the burning of estates and of sugar-mills, the destruction of the means of production and of the wealth of the island.

The United States purchases more largely than any other people of the productions of the island of Cuba, and therefore, more than any other for this reason, and still more by reason of its immediate neighborhood, is interested in the arrest of a system of wanton destruction which disgraces the age and affects every commercial people on the face of the globe.

Under these circumstances, and in view of the fact that Spain has rejected all suggestions of reform or offers of mediation made by this Government, and has refused all measures looking to a reconciliation, except on terms which make reconciliation an impossibility, the difficulty of the situation becomes increased.

When, however, in addition to these general causes of difficulty, we find the Spanish government neglectful also of the obligations of treaties and solemn compacts, and unwilling to afford any redress for long-coutinued and well-founded wrongs suffered by our citizens, it becomes a serious question how long such a condition of things can or should be allowed to exist, and compels us to inquire whether the point has not been reached where longer endurance ceases to be possible.

During all this time, and under these aggravated circumstances, this Government has not failed to perform her obligations to Spain as scrupulously as toward other nations.

In fact, it might be said that we have not only been long-suffering, because of the embarrassments surrounding the Spanish government, but particularly careful to give no occasion for complaint for the same reason.

I regret to say that the authorities of Spain have not at all times appreciated our intentions or our purposes in these respects, and, while insisting that a state of war does not exist in Cuba and that no rights as belligerents should be accorded to the insurrectionists, have at the same time demanded for themselves all the rights and privileges which flow from actual and acknowledged war.

It will be apparent that such a state of things cannot continue. It is absolutely necessary to the maintenance of our relations with Spain, even on their present footing, that our just demands for the return to citizens of the United States of their estates in Cuba, unincumbered, and for securing to them a trial for offenses according to treaty provisions and all other rights guaranteed by treaty and by public law, should be complied with.

Whether the Spanish government, appreciating he forbearance of this country, will speedily and satisfactorily adjust the pending questions, not by the issue of empty orders or decrees without force or effect in Cuba, but by comprehensive and firm measures which shall everywhere be respected, I anxiously await further intelligence.

Moreover, apart from these particular questions, in the opinion of the President, the time has arrived when the interests of this country, the preservation of its commerce, and the instincts of humanity alike demand that some speedy and satisfactory ending be made of the strife that is devastating Cuba.

A disastrous conflict of more than seven years' duration has demonstrated the inability of Spain to maintain peace and order in an island lying at our door. Desolation and destruction of life and property have been the only results of this conflict.

The United States sympathizes in the fact that this inability results in a large degree from the unhappy condition of Spain at home and to some extent from the distractions which are dividing her people. But the fact remains. Added to this are the large expanse of ocean separating the peninsula from the island and the want of harmony and of personal sympathy between the inhabitants of the territory of the home government and those of the colony, the distinction of classes in the latter between rulers and subjects, the want of adaptation of the ancient colonial system of Spain to the present times and to the ideas which the events of the past age have impressed upon the peoples of every reading and thinking country.

Great Britain, wisely, has relaxed the old system of colonial dependence, and is reaping the benefits in the contentedness and peaceful prosecution of the arts of peace and in the channels of commerce and of industry, in colonies which under restraint might have questioned and resisted the power of control from a distant government and might have exhibited, as does Cuba, a chronic condition of insurrection, turbulence, and rebellion.

In addition to all this, it cannot be questioned that the continued

maintenance, in the face of decrees and enactments to the contrary, of a compulsory system of slave-labor is a cause of disquiet and of excitement to a large class in the island, as also in the United States, which the government of Spain has led us, by very distinct assurances, to expect should be removed, and which the enlightened Christianity of the age condemns.

The contest and disorder in Cuba affect the United States directly and injuriously by the presence in this country of partisans of the revolt who have fled hither (in consequence of the proximity of territory) as to a political asylum, and who, by their plottings, are disturbers of the public peace.

The United States has exerted itself to the utmost, for seven years, to repress unlawful acts on the part of these self exiled subjects of Spain, relying on the promise of Spain to pacify the island. Seven years of strain on the powers of this Government to fulfill all that the most exacting demands of one government can make, under any doctrine or claim of international obligation, upon another, have not witnessed the much hoped for pacification. The United States feels itself entitled to be relieved of this strain.

The severe measures, injurious to the United States and often in conflict with public law, which the colonial officers have taken to subdue the insurrection; the indifference, and ofttimes the offensive assaults upon the just susceptibilities of the people of the United States and their Government, which have characterized that portion of the peninsular population of Havana which has sustained and upheld, if it has not controlled, successive governors general, and which have led to the disregard of orders and decrees which the more enlarged wisdom and the more friendly councils of the home government had enacted; the cruelty and inhumanity which have characterized the contest, both on the part of the colonial government and of the revolt, for seven years, and the destruction of valuable properties and industries by arson and pillage, which Spain appears unable, however desirous, to prevent and stop, in an island three thousand miles distant from her shores, but lying within sight of our coast, with which trade and constant intercourse are unavoidable, are causes of annoyance and of injury to the United States, which a people cannot be expected to tolerate without the assured prospect of their termination.

The United States has more than once been solicited by the insurgents to extend to them its aid, but has for years hitherto resisted such solicitation, and has endeavored by the tender of its good offices, in the way of mediation, advice, and remonstrance, to bring to an end a great evil, which has pressed sorely upon the interests both of the Government and of the people of the United States, as also upon the commercial interests of other nations.

A sincere friendship for Spain, and for her people, whether peninsular or insular, and an equally sincere reluctance to adopt any measures which might injure or humble the ancient ally of the United States, has characterized the conduct of this Government in every step during these sad and distressing years, and the President is still animated by the same feelings, and desires above all things to aid her and her people to enter once more upon the path of safety and repose.

It will be remembered that the President, in the year 1869, tendered the good offices of the United States for the purpose of bringing to a close the civil war in Cuba. This offer was made delicately, in good faith, and in friendship to both parties to the contest.

General Prim, as the representative of the Spanish government, while

recognizing the good faith and friendship with which this offer was made, replied:

We can better proceed in the present situation of things without even this friendly intervention. A time will come when the good offices of the United States will be not only neeful but indispensable, in the final arrangements between Spain and Cuba. We will ascertain the form in which they can be employed and confidently count upon your assistance.

The United States replied that its good offices for that object would be at any time at the service of the parties to the conflict. This Government has ever since been ready thus to aid in restoring peace and quiet.

The Government of the United States has heretofore given expression to no policy in reference to the insurrection in Cuba, because it has honestly and sincerely hoped that no declaration of policy on its part would be required.

The President feels that longer reticence would be inconsistent with the interests of both governments.

Our relations with Spain are in that critical position, that another seizure similar to that of the Virginius, other executions of citizens of the United States in Cuba, other wrongs of a less objectionable character even than many which have been already suffered by our citizens with simple remonstrance, or possibly even some new act of exceptional severity in Cuba, may suddenly produce a feeling and excitement which might force events which this Government anxiously desires to avoid.

The President hopes that Spain may spontaneously adopt measures looking to a reconciliation, and to the speedy restoration of peace, and the organization of a stable and satisfactory system of government in the island of Cuba.

In the absence of any prospect of a termination of the war, or of any change in the manner in which it has been conducted on either side, he feels that the time is at hand when it may be the duty of other governments to intervene, solely with the view of bringing to an end a disastrous and destructive conflict, and of restoring peace in the island of Cuba. No government is more deeply interested in the order and peaceful administration of this island than is that of the United States, and none has suffered as has the United States from the condition which has obtained there during the past six or seven years. He will, therefore, feel it his duty at an early day to submit the subject in this light, and accompanied by an expression of the views above presented, for the consideration of Congress.

This conclusion is reached with reluctance and regret.

It is reached after every other expedient has been attempted and proved a failure, and in the firm conviction that the period has at last arrived when no other course remains for this Government.

It is believed to be a just and friendly act to frankly communicate this conclusion to the Spanish government.

You will, therefore, take an early occasion thus to inform that government.

In making the communication it is the earnest desire of the President to impress upon the authorities of Spain the continued friendly disposition of this Government, and that it has no ulterior or selfish objects in view, and no desire to become a party in the conflict, but is moved solely by the imperative necessities of a proper regard to its own protection and its own interests and the interests of humanity, and, as we firmly believe, in the ultimate interest of Spain itself. In informing the Spanish government of these conclusions pursuaut hereto, you are authorized to read this instruction to the minister of state, or to state the substance and purport thereof, as you may deem most advisable.

You will, of course, keep me advised, by telegraph and by post, of your proceedings pursuant to this instruction.

I am, &c.,

HAMILTON FISH.

CALEB CUSHING, Esq., &c., &c., &c.

No. 2.

Mr. Fish to Mr. Schenck.

No. 805.

DEPARTMENT OF STATE, Washington, November 5, 1875.

SIR: Herewith you will receive a confidential copy of an instruction this day addressed to Mr. Cushing, the minister of the United States in Madrid. Such part as relates to our particular causes of complaint against the Spanish authorities concerns the United States alone. Such part of the instruction, however, as announces to Mr. Cushing the conclusions to which the President has arrived in reference to the strife now raging in Cuba, and as instructs him to communicate these conclusions to the Spanish government, is believed to be not only of interest to the government of Great Britain, but such as it is supposed will be regarded by that government as just and necessary.

The instruction sets forth the considerations which have led this Government to the conclusions which have been reached, and it is hoped that the government of Great Britain, having similar interests to protect, and regarding this strife from a similar point of view, as well for the interests of its own subjects as of humanity at large, will not be unwilling at least to support our position by its approval and influence. This being the case, the President is of opinion that it is just to the government of Great Britain to communicate in confidence these conclusions, and to suggest that, in his opinion, the expression by Great Britain to Spain of its approval of the view of this Government, and its influence to induce a settlement, will tend to a more speedy adjustment and will more surely induce the government of Spain, by some wise and conclusive measures, to render all thought or necessity of intervention from any quarter unnecessary.

The government of Great Britain may possibly, of its own accord, think proper, in view of its own interests, to co-operate with the United States in this effort to arrest a cruel war of devastation. This, however, is a question to be raised by Her Majesty's government. Humanity, its own great interests, and a regard for the preservation of the peace of the world, it is believed will, without doubt, lead it to support the position which this Government has at length been forced to assume, and to address its representative in Madrid to that end.

Mr. Cushing has further been instructed to defer his interview with the minister of state until you shall have communicated to this Department the result of your interview with Lord Derby. You will read to Lord Derby in confidence, the copy of the instruction to Mr. Cushing (No. 266) inclosed herewith, and will distinctly state that this Government has no selfish or ulterior objects in view, and no desire to take advantage of the difficulties which have surrounded the Spanish government.

You will take the earliest occasion practicable to comply with this instruction, and will promptly communicate with the Department by telegraph, and in cipher, the result thereof.

I am, &c.,

HAMILTON FISH.

General ROBERT C. SCHENCK, &c.

No. 3.

Mr. Fish to Mr. Washburne.

No. 756.]

DEPARTMENT OF STATE, Washington, November 15, 1875.

SIR : Herewith you will receive a copy of an instruction, No. 266, dated the 5th day of November instant, addressed to Mr. Cushing, the minister of the United States at Madrid, which sets forth at length the considerations which haveled this Government to the adoption of the views therein expressed concerning the condition of affairs in Cuba. It is believed that other powers, as well for the interests of their own subjects or citizens as for the sake of humanity at large, will recognize the justice thereof, and the necessity of the course which the President feels it his duty to pursue.

You will read this instruction 266, or state orally the substance thereof, to the minister of foreign affairs confidentially, (but will not give a copy thereof,) and will assure him of the sincere and earnest desire of the President for a termination of the disastrous conflict in Cuba by the spontaneous action of Spain, or by the agreement of the parties thereto.

You will further state that the President is of opinion that should the government to which you are accredited find it consistent with its views to urge upon Spain the importance and necessity of either terminating or abandoning this contest, which now, after a continuance of seven years, has not advanced toward a prospect of success on either side, but which is characterized by cruelties, by violations of the rules of civilized modern warfare, by pillage, desolation, and wanton incendiarism, threatening the industry, capacity, and production of an extended and fertile country, the friendly expression of such views to Spain might lead that government to a dispassionate consideration of the hopelessness of the contest, and tend to the earlier restoration of peace and prosperity to Cuba, if not to the preservation of the peace of the world.

Such a course on the part of the government to which you are accredited would be exceedingly satisfactory to the United States, and in the opinion of the President conducive to the interests of every commercial nation, and of humanity itself.

You will at the same time distinctly state that this Government is actuated by no ulterior or selfish motives, and has no desire to take advantage of the distracted condition of Spain, but rather to induce her to spontaneously seek an adjustment of this contest. I need not impress upon you the confidential nature of these instructions, nor the delicate duty which is imposed upon you.

Similar instructions have been issued to the representatives of the United States accredited to the principal European powers.

You will seek an early interview with the minister of foreign affairs, and promptly advise me by telegraph, in cipher, of the result thereof.

I am, &c., &c.,

HAMILTON FISH.

E. B. WASHBURNE, Esq., &c., &c., Paris.

P. S.—Since the above instruction was prepared, a telegram has been received from Mr. Cushing which renders it advisable that no steps be taken by you to communicate instructions No. 266 as directed until further instructions be sent you by telegraph.

H. F.

Note.—An instruction similar to the above was also sent to the representatives of the United States at Berlin, St. Petersburg, Vienna, and Rome.

No. 4.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, November 16, 1875.

FISH, Secretary, Washington :

Spanish note has come in. It is eminently amicable in spirit. It concedes everything in effect or substance, disavows all trials of our citizens for things done in our country, and engages annulment of sentences, with redress.

Promises redress in any existing case of trial in disregard of such securities; repeats assurance of trial of Burriel. * * * As the note contains alternative propositions for your consideration, it is impossible for me to act in the premises without special instructions. I send it by special messenger as far as London.

CUSHING.

No. 5.

Mr. Fish to Mr. Schenck.

[Telegram.]

WASHINGTON, November 19, 1875.

SCHENCK, Minister, London:

Advices from Cushing suggest delay in reading inclosure to eight hundred and five. You will await further instructions.

FISH, Secretary.

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No. 6.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, November 26, 1875.

F1SII, Secretary, Washington:

I cannot read your dispatch to the minister; he does not understand English. To state its substance to him orally would be doing extreme injustice to the dispatch. * * * Why not give a copy to the Spanish minister ?

CUSHING.

No. 7.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, November 27, 1875.

CUSHING, Minister, Madrid :

Schenck was instructed to delay presentation of two sixty-six, in consequence of your telegram of sixteenth.

The President's message will discountenance recognition of either belligerency or independence; will refer to the injuries to the United States and its citizens from the long-continued struggle and the absence of prospect of termination; will intimate intervention as an ultimate necessity unless satisfactory results be soon reached; * * will refer to pending proposals not yet received here, with hope that they may afford the relief required and lead to a satisfactory settlement and removal of causes of grief; will intimate that a communication will soon be made to Congress as to the result of the proposals now on their way, and that, if it do not satisfactorily adjust all important questions, he will before long make a recommendation to Congress of the course to be pursued.

The instruction two sixty six is not intended as minatory in any sense but in the spirit of friendship, as a notice of a necessity which may be forced upon the President, but which he hopes to avoid, and desires Spain to aid him in escaping. We are sincerely desirous to preserve peace and to establish all relations with Spain on the most amicable and liberal basis, but we must be relieved and be secure as to the future, and you may give positive assurances to this effect.

You may give copy of two sixty six to minister. *

You will make the communication and present copy instruction without waiting for presentation in London.

Schenck will to day be instructed to read paper as soon as he can. FISH, Secretary.

No. 8.

Mr Fish to Mr. Schenck.

[Telegram.]

WASHINGTON, November 27, 1875.

SCHENCK, Minister, London:

Read inclosure to eight hundred five as soon as opportunity will admit. You will explan that intervention is not contemplated as an immediate resort, but as a contingent necessity in case the contest be prosecuted, and satisfactory adjustment of existing griefs be not reached, and that we sincerely desire to avoid any rupture, and are anxious to maintain peace and establish our relations with Spain on a permanent basis of friendship. I now state further, for your own information, and for your guidance in your interview with minister, that message will discountenance recognition of belligerency or independence; will allude to intervention as a possible necessity, but will not advise its present adoption. Cushing is instructed to communicate to minister without waiting result of your interview, but you will communicate with him in cipher after your interview.

FISH, Secretary.

No. 9.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, November 30, 1875.

FISH, Secretary, Washington:

Dispatch of fifth just delivered to minister of state, with verbal explanations, as near as foreign idiom would permit.

CUSHING.

No. 10.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, December 4, 1875.

FISH, Secretary, Washington:

Brief important interview with minister of state. * * He has carefully read your two sixty-six; admits our grievances; is opposed in principle to sequestration of property of foreigners; condemns the delays of redress; will take up and promptly settle each case; will remove all cause of complaint as to treaty; reprobates conduct of local authorities in Cuba as more injurious to Spain than to the United States.

CUSHING.

No. 11.

Mr. Fish to Mr. Schenck.

[Telegram.]

WASHINGTON, December 6, 1875.

SCHENCK, Minister, London:

Communication from Spanish government, referred to in your telegram of second, received to-day. It is friendly in tone and is hoped will afford basis of adjustment of our particular grievances.

It suggests no alteration in message upon general questions of the condition of Cuba and continuance of struggle.

As indicated in my telegram of twenty-seventh, message will discountenance recognition of belligerence or independence; will intimate that mediation or intervention by other powers will be an ultimate necessity unless adjustment soon reached; will express our readiness to mediate; will be friendly and conciliatory in tone.

FISH, Secretary.

No. 12.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, December 6, 1875.

CUSHING, Minister, Madrid:

Your six-fifty-eight received this day, on which Congress meets. Note is being carefully considered; its tone is recognized as friendly, and such is that of message, which is ready for transmission; the note of fifteenth suggests no occasion for any alteration; it will be as indicated in my telegram of twenty-seventh November.

FISH, Secretary.

No. 13.

Mr. Fish to Mr. Washburne.

[Telegram.]

WASHINGTON, December 6, 1875.

WASHBURNE, Minister, Paris:

Proceed as instructed in number 756; message will discountenance recognition of belligerence or independence; will refer to continuance of struggle, and intimate that mediation or intervention by other powers will be an ultimate necessity unless adjustment reached; will express willingness to mediate; will be friendly and conciliatory in tone.

FISH, Secretary.

H. Ex. 90----2

No. 14.

Mr. Fish to Mr. Davis.

[Telegram.]

WASHINGTON, December 6, 1875.

DAVIS, Minister, Berlin :

[Same as No. 13.]

NOTE.—Telegraphic instructions were likewise addressed to representatives of United States at St. Petersburg, Vienna, and Rome, in like manner to read number 266, pursuant to instructions given in circular dispatch. See ante, p. 13.

No. 15.

Mr. Cushing to Mr. Fish.

No. 716.] LEGATION OF THE UNITED STATES, Madrid, December 13, 1875. (Received January 7, 1876.)

Incidental expressions in more recent articles of the Epoca of the 11th and 12th are deserving of note.

That of the 11th commences a long article on the war in the North and the question of the Cortes, as follows:

Now that all the uncertainties have disappeared, and all the inquietudes felt by some in reference to Cuba have been calmed, thanks to the prudent although significant (*intencionado*, having particular intentions) message of General Grant, two other principal questions, both of immediate interest for our country, occupy preferably the public attention, the question of the war and the electoral question.

On the 12th, in reviewing the military prospects in Cuba and the North, it says:

Our relations with other powers, the Vatican included, are very cordial, and even with the American Union we have no misunderstanding whatever.

I have, &c.,

C. CUSHING.

Hon. HAMILON FISH, Secretary of State.

No. 16.

Mr. Cushing to Mr. Fish.

No. 730.]

LEGATION OF THE UNITED STATES, Madrid, December 22, 1875. (Received Jan. 17, 1876.)

SIE: You will doubtless have noticed in the London Times of the 9th instant an editorial article of some interest respecting the relations between the United States and Spain.

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Portions of this article have been translated and published in several of the newspapers of Madrid, with more or less pertinent observations.

I annex translation of the observations of the Cronista of Madrid, (a journal in close affinity with the government,) calling your attention especially to the concluding paragraph, in which is accepted without protest the remarkable phrase of the "Times" concerning the rule of Spain over Cuba, to the effect that "the limits of her power are the limits of her right."

I have the honor, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

APPENDIX A.-No. 730.

Editorial article from El Cronista, Madrid, December 20, 1875.

[Translation.]

THE QUESTION OF THE UNITED STATES.

The Times, (of the 9th instant,) referring to the message of General Grant, and after devoting some little space to the religious question, which is commencing to arise in the United States, and threatens to perturb their interior peace, if not with armed struggles, at least with those moral combats which cause so much injury to civil societies, passes on to analyze very especially the portion of that message which treats of the Cuban question.

The English journal qualifies it as the most important part of the message, and calls observance to the confession of the President that the rebels do not constitute a civil organization which could be recognized as an independent government capable of fulfilling international obligations and worthy of being treated as a power; from which Grant himself draws the inference that to recognize the insurgents as a government would be an act inconsistent with the reality.

And the Times adds:

"Any other conclusion would have come strangely indeed from the Chief Magistrate of a nation which was angry with this country for recognizing the belligerency of the Southern States, although they had a regular government, a fixed capital, agents abroad, a formidable navy, and an elaborately organized army. The Cuban insurgents are as yet little better than splinters of revolt."

The President concludes, and the Times applauds him for it, by saying that it would be imprudent, premature, and indefensible as a measure of right to treat the rebels as belligerents.

But at the same time that the English journal notes these satisfactory statements, it observes that in the next line the President lays it down as his opinion, that the indefinite continuance of the war being prejudicial to the subjects of the republic, it will be necessary for the Spanish government to do everything possible to conclude it, under penalty of that republic being obliged to adopt such measures as may be deemed necessary.

And the journal adds :

"It is exceedingly difficult for English observers to do justice to the claims on which President Grant's threats are founded. We are apt to think that they are merely a veil for a determination to seize one of the richest islands in the world. America has long had her eye on Cuba, and it may not uncharitably be thought that she is unwilling to let slip this chance of seizing the prize. But it would be well for us to suspend our judgment till we see a specific statement of the injury which the Cubau rebellion has inflicted upon the United States. It certainly injures trade, and does great harm to many of the President's countrymen. The mischief thus done may be insufficient to warrant more than a remonstrance, or it may call for a less gentle style of treatment."

The periodical then goes on to make reflections upon the possibility of Spain's overcoming the insurrection, and terminates with these notable words :

"Were Cuba as near to Cornwall as it is to Florida we should certainly look more sharply to matters of fact than to the niceties of international law. But everything, we repeat, depends on those matters of fact. If Spain can suppress the insurrection and prevent Cuba from becoming a permanent source of mischief to neighboring countries, she has the fullest right to keep it. But she is on her trial, and that trial cannot be long. When she is made to clearly understand that the tenure of her rule over Cuba depends on her ability to make that rule a reality, she will not be slow to show what she can do, and the limits of her power will be the limits of her right." Thus ends the article, which, from more than one point of view, deserves to attract

Thus ends the article, which, from more than one point of view, deserves to attract the attention of our government and serve as a stimulus and a spur to it, in order to accelerate on the one hand the final campaign against the Carlists, and on the other the preparations for another and likewise decisive campaign in Cuba.

It is indispensable—it is demanded by our interest and our honor, pledged before the civilized world—it is indispensable to make a supreme effort and triumph, and triumph speedily, over both insurrections. Neither of the two has succeeded in placing itself in conditions to be recognized as a belligerent; both of them are daughters of the disconcertedness in which we have lived, of the debility which the principle of authority contracted among us in a lamentable period of political insanity; both of them are decaving in proportion as authority regains its place and the nation restores itself.

caying in proportion as anthority regains its place and the nation restores itself. One effort more and we will end it; and let us at every moment think that, in this matter as in many others, it is a melancholy truth that "the limits of our power must be the limits of our right."

No. 17.

Mr. Cushing to Mr. Fish.

No. 736.] LEGATION OF THE UNITED STATES, Madrid, December 29, 1875. (Received January 17, 1876.)

SIR: I transmitted extracts from the principal journals of Madrid on the subject of the message of the President, containing appreciations thereof put forth on the imperfect knowledge disseminated by the electric telegraph, and with more or less confusion of thought produced by anticipatory and erroneous statements in the newspapers of Europe and America.

While the public mind here was somewhat moved in this respect, as briefly noted in my No. 716, of the 13th instant, it is not true that any commotion existed such as might be inferred from the sensational items which meet my eye in some of the newspapers of New York.

Whatever emotion did exist has been quite tranquilized by the arrival and publication here of the text of the message. * * *

I am, &c.,

C. CUSHING.

HOD. HAMILTON FISH, Secretary of State.

APPENDIX B.-No. 736.

Extract from editorial article from La Epoca, Madrid, December 28, 1875.

[Translation.]

In so far as relates to the Cuban question, we will add a few considerations to those we summarily emitted when the telegraph transmitted to us an abstract of General Grant's message. We note, in the first place, that the most extensive portion of that document is that referring to Spain, and that, deviating somewhat from the custom followed in such cases by the chiefs of other powers, the President not only gives account of the negotiations pursued with our country, and of the present state of the Cuban question, but discusses this question at considerable length, as a responsible minister would do before a house of deputies. That the words of the message relative to Spain may be deemed on the whole to be satisfactory for our government, especially when they are compared with the alarming announcements of the filibusters, is a truth, from every point of view, unquestionable.

II.—CORRESPONDENCE RELATING TO THE CONDITION OF AFFAIRS IN CUBA, AND MATTERS RELATING THERETO.

No. 18.

Mr. Hall to Mr. Cadwalader.

'No. 241.]

UNITED STATES CONSULATE-GENERAL,

Havana, July 7, 1875. (Received July 15.) SIR: Another of those bloody affairs reported so frequently during

the first years of the insurrection, occurred a few days ago in the western department of this island. There are several versions, and during the excitement caused by the reports first received it would seem that undue importance was given to it.

The Diario of the 29th ultimo states that an insurgent expedition has for some time past been expected to land in the western department; that some one hundred men had landed there a few days previous, and that the party from Havana, referred to in the accompanying slips taken from the Diario of that date, were on their way to join the former; the object being to get up an insurrectionary movement, as well as of diverting the attention of the government in that direction. The fact is, however, that no such expedition has landed, and, doubtless, none has ever been contemplated. Whatever may be the inclination of the inhabitants, the insurgent leaders are probably well aware that a movement in that department would be impracticable, if for no other reason than of its proximity to Havana, the Spanish military and naval center, where the government has its principal resources.

It is now asserted that the affair referred to was gotten up by some forty to fifty young men of Havana, apparently without concert with any one outside the city; that on St. John's day (24th ultimo) these young men were to leave the city; but at the time of putting their plan into practice the number was found to be reduced to eighteen, and when they arrived at Marianao, some six miles from Havana, four others turned back, leaving fourteen only to carry out the quixotic undertaking.

The authorities, evidently, were advised of this movement; as, when the fourteen young men reached the place they had agreed upon, near Guanajay, they were soon surrounded by more than a thousand volunteers; three were killed, five captured and at once subjected to the usual "proces verbal," and shot on the spot. Six escaped to the hills, but will doubtless be captured and suffer the fate of their five companions.

It is said that the ages of these young men are from fifteen to twentytwo years; all appear to be respectably connected; some with prominent families of Havana, and some were, or had been, students of the university, which cherishes the tradition of the eight medical students massacred on the 27th November, 1871.

Although as an insurrectionary movement the affair proved a complete failure, still it is said to have had the effect of reminding many well-disposed Spaniards * * * * * that the reconciliation which Spaniards have been looking and hoping for so long is becoming every day less likely to be realized.

I am, &c.,

HENRY C. HALL.

Hon. JOHN L. CADWALADER, Assistant Secretary of State. [Inclosure 1 in No. 241.-Translation.]

HAVANA, July 7, 1875.

INTERESTING DETAILS.

We suspend the printing of our supplement in order to make public the following details:

Our anthority having received information that a suspicious vessel was in the waters of Mariel, advised the commandant-general of marine, and the latter ordered the prompt departure of the schooner Favorita to visit the western ports and coast as far as the Colorado reefs, and instructing the commander to put himself in communication with the military governor of Guanajay. After taking these measures, the telegraph, on the 26th, transmitted the news that fourteen men had landed at Baracoa, (estate,) district of Hoyo Colorado, jurisdiction of Santiago de las Vegas, and had entered the jurisdiction of Guanajay.

His excellency, with that activity and zeal which so greatly distinguish him, gave rapid and terminant orders to the governor of the invaded jurisdiction, as well as to the corps of municipal guards of this capital, which went in pursuit of the insurgents, to co-operate in their prompt extermination.

These combinations could have had no better result. As soon as they were seen in the estate San Nicolas, the guards and volunteers attacked them, killing three and capturing arms, munition, and other effects. In the pursuit, the lientenant of the guard, Soza y Perez, captured five prisoners, who, being subjected to a process verbal of war, were shot. The guards lost three men in the defense made by the rebels.

The rest of the party, or rather the six remaining, at last accounts were running toward the hills of Cuzco, where, doubtless, they expect to be safe; but, as the mountains are watched, they will soon fall into the power of the authorities.

ains are watched, they will soon fall into the power of the authorities. The killed are: Virgilio Silva, the chief, Francisco Portocarrera, Antonio Urbano Pedross, Alfredo Alvarez, Antonio Aguirre, Agustin Morales, Julio Brochman, and Manuel Vilardero.

The worthy General Carbo merits the congratulations of all the loyal sons of Spain, as do also the lieutenant-governor of Guanajay and the guards and volunteers, who, with such bravery and activity, have executed his orders.

No. 19.

Mr. Cushing to Mr. Fish.

No. 455.]

LEGATION OF THE UNITED STATES, Madrid, July 23, 1875. (Received August 11.)

SIR: I find in the London Times of the 19th a telegraph of the alleged official contradiction of the report, said to be current in New York, of intended co-operation on the part of the United States, Great Britain, and Germany to produce the pacification of Cuba. The same report had previously come here from Paris, and had been the subject of much conversation in diplomatic and political circles.

By some, the statement was attributed to Cuban laborantes in Paris.

Although members of the Spanish government repel the idea of asking for any aid in their troubles, yet persons are not wanting who contend that, if the present campaign fails of decisive results in favor of D. Alphonso, he will approach more nearly to Germany in reference to the affairs of the Peninsula, especially if any dissatisfaction should arise on the side of France.

Many of the newspapers of Madrid contain articles on the subject of the reported purpose of the United States, Great Britain, and Germany to interpose, concertedly, in the matter of Cuba; but none of them speak on the supposition of any such separate purpose on the part of he United States.

I annex copy and translation of an article of La Politica, which dis-

cusses the subject more fully than the other journals of Madrid, by which you will see that intelligent Spaniards regard the subject in the light presented in my dispatches, to the effect that the possibility of efficient and speedy action by the Spanish government in Cuba depends on the military and political events in the Peninsula.

I have, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

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[Inclosure 1 in No. 455.—Translation.]

EDITORIAL ARTICLE ON CUBA AND POSSIBLE INTÉRVENTION.

[From La Politica, Madrid, July 22, 1875.]

CUBA.

The *Epoca* says: "A dispatch from Washington contradicts the rumor, which had circulated, of joint action by England and the United States to effect the abandonment of the Antiles by Spain. 'America,' says the dispatch, 'has not renewed the offer of mediation made in 1869. She awaits the course of events without doing anything to hasten it.'

"Let her, then, wait in calmness, for Spain will shed her last drop of blood and spend her last hard Gollar in defense of the provinces beyond seas. But we overlooked the plots of the filibusters, and that it is not permitted to attribute any importance to their inventions. Another of our colleagues, speaking of this matter, repeats the saying of the Marques de Pidal, who said that, rather than see the Antilles cease to be Spanish soil, he would prefer to have them swallowed up in the ocean. All this is very good, and, as an expression of patriotic sentiment, very laudable. Spain will ever set her honor before all other considerations; but it is indispensable to make the needful efforts to preserve all her interests, preserving at the same time, and augmenting, if it be possible, that of honor.

"We should not be content with more or less patriotic expressions, but should proceed to take the steps demanded by the state of Cuba, and to give attention to the material pacification of the island as the first and most peremptory necessity of the moment. It is vain for us to talk of not giving up the Antilles in any manner and in any case

It is vain for us to talk of not giving up the Antilles in any manner and in any case if we do nothing, or if we do not do enough, to save them, as well from the traitors who are endeavoring to transfer them to foreigners, as from the foreigners who may covet them.

What is lacking to end the war when we have such favorable elements on our side ?

We lack that which we were continually asking in vain of the minister of war of the late situation, that which we have continued to beg since the 30th of December, that which we hope the present government will concede, and that which we shall not cease to solicit until we see it accomplished. The need is that, in the coming month of September, there be sent out, in one or two shipments, a sufficient number of organized troops to enter forthwith upon the winter campaign, and, making one great combined effort, to annihilate the enemy at a single blow.

What we have said of the war in the Peninsula that do we likewise say of the war in Cuba. Warfare is unanswerable except by warfare, and to make war we have to send all at one time that which we would otherwise have to send at many times, and without result. How much time was lost last year because our counsel passed unheeded! How often did we call for the dispatch of a numerous expedition, which, in the months from September to May, which are those appropriate for operations in Cuba, might put an end to the bands of the insurgents! We have in Cuba zealous and intelligent authorities, well-disposed inhabitants in the towns, enthusiastic volunteers, sufficient material resources; the Peninsula should furnish soldiers; and with soldiers sent all at once and in large numbers, the war can be terminated within six months.

The material pacification of the island having been once attained, heed must be given to its moral pacification and to the following-out of the policy most adequate to the exigencies of the modern spirit and to the interests of Cuba and of Spain, which are intimately joined together.

In fine, more doing and less saying. By September let there be ready, in one shipment, re-enforcements of fifteen thousand men, and there will be no need or desire of having the sea swallow up the Antilles, or of spending more blood or treasure in preserving them.

No. 20.

Mr. Hall to Mr. Cadwalader.

No. 250.]

UNITED STATES CONSULATE GENERAL, Havana, July 27, 1875. (Received August 4.)

SIR: Referring to my dispatch No. 208, of the 2d April ultimo, and series, upon the subject of war and other extraordinary taxes now imposed upon the inhabitants of this island, I respectfully call the Department's attention to the statements set forth by the British and German subjects of Havana, in the memorials addressed to their respective governments, copies of which are transmitted herewith. These memorials have been signed by all such subjects holding respectable positions in this community, and the facts, as represented by them, may be considered in all respects trustworthy.

The most important statements contained in these memorials are, that the British government does not claim that her ancient treaties with Spain are applicable to the Spanish colonies, while the German treaty specially excludes the colonies from its operation.

British subjects complain not only of the object and enormous amount of the taxes, but also of the arbitrary, capricious, and unjust manner in which they are levied.

The Germans assert that the taxes now being imposed on them greatly exceed their earnings, and their only alternative is to abandon their trade and business at a ruinous sacrifice, and to leave the island. In allusion to the general corruption in the offices of the government, they are bold to assert that, if all the indirect taxes—meaning, without doubt, customs duties—went into the coffers of the government, it would be sufficient for all expenditures. They complain, also, that while they are taxed for war burdens here, they are also contributing for the same burdens in Spain, whither a portion of these revenues is being sent.

The subscribers to the British memorial number some twenty, including the largest British mercantile houses of the place; to the German memorial there are upward of a hundred subscribers of equally good standing.

The same parties during the first years of the insurrection were generally strong in their adherence to Spanish government, and some of them contributed voluntarily considerable sums for the arming of volunteers and other special purposes in its aid.

The remedy they suggest is, that Spain may be induced to consent that the treaties shall be made applicable to Cuba. It is not clear, however, how they are to be benefited thereby, as they would always be subject to the local taxation, which the government could as well style a municipal as a war tax.

I have, &c.,

HENRY C. HALL.

Hon. JOHN L. CADWALADER, Assistant Secretary of State.

[Inclosure No. 1, with Dispatch No. 250, Havana, July 27, 1875.]

To the right honorable the EARL OF DERBY,

Her Majesty's Principal Secretary of State for Foreign Affairs :

MAY IT PLEASE YOUR LORDSHIP: We, the undersigned British subjects, residing and carrying on business in the island of Cuba, having been informed by Her Majesty's consul-general here that Her Majesty's government cannot support our claim to exception from the payment of "extraordinary war-taxes and contributions" under any

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of the treaties or conventions existing between Great Britain and Spain, since Her Majesty's government has, on previous occasions, acted on the understanding that the Spanish colonies are not included in the treaties, most respectfully approach your lordship to express the surprise and alarm with which we have become acquainted with the actual nature of our position.

Although in those ancient treaties, the trade of her colonies was jealously reserved by Spain, and it was not until the year 1818 that the ports of the island of Cuba were open to foreigners, yet, the declarations which accompany the treaty of Versnilles of 3d September, 1873, and the fourth article of the treaty of the 5th of July, 1814, were regarded by us as a guarantee that we were entitled to the same protection and privileges as our fellow-subjects residing in the Peninsula.

Abandoned, as it were, by our own government, our position, we now find, is that of aliens, devoid of the immunities possessed by our fellow-countrymen in other parts of Spain, although we live in a Spanish province—since Cuba has been declared to be such, and is looked upon by the supreme government as being an integral portion of , the monarchy, as Castile or the Asturias.

We are forced to contribute not only to the expenses of the war here, but also, we have many reasons to believe, to those of the struggle raging in the mother-country.

We have to complain not only to the object and enormous amount of the taxes, but also of the arbitrary, capricious, and unjust manner in which they are levied, there being, under the present system, nothing to prevent the government here from gradually absorbing all our property.

The German's residing in Spain have, we learn, been exempted from such "extraordinary war-taxes," under a treaty which, we regret to find, excludes the Spanish colonies; so that relief, for which a claim might be made under the most-favored nation clause, is denied to us.

Under such deplorable circumstances, we most humbly lay our case before your lordship, in the hope that Her Majesty's government will be pleased to take into consideration the very serious inconveniences and losses to which we are exposed in our present position; and trusting that it will seize an early opportunity of using its good offices with the government of His Majesty the King of Spain, to obtain, by treaty, for all British subjects in the island of Cuba and the Spanish colonies, the full enjoyment of the same privileges and immunities which are accorded by existing treaties, or may be granted hereafter, to the fellow-subjects residing in the Peninsula; and, pending the action which Her Majesty's government may think proper to adopt, we would most respectfully beg your lordship to take such immediate steps as the urgency of our case seems to call for, to procure from His Catholic Majesty the redress we so much stand in need of.

HAVANA, June 5, 1875.

[Inclosure No. 3 with dispatch No. 250, Havana, July 27, 1875.]

[Translation.]

To his highness PRINCE BISMARK, Berlin :

YOUR HIGHNESS: The undersigned Germans, residing in Cuba, allow themselves to extend, below, the most respectful petition:

That you be graciously pleased to take steps to have the treaty of commerce and navigation concluded with Spain on the 30th of March, 1868, or at least the Article V thereof—

"The citizens of each of the contracting parties shall, in the dominions of the other, be free from all personal service in the army, as well as in the navy and in the national militia, and also from all war-taxes, forced loans, military requisitions, and obligations of whatever kind," &c., declared valid for Cuba.

The enormous war-contributions which, during the last years, have been laid on trade, commerce, and even on the scanty income of the subalterns of each individual business here in progressive form, and which have become truly a threatening question of subsistence, oblige us to call upon the help of the high German government. For, if the taxes, at the high rates at which they are decreed, must be paid, there remains for many of us, as they greatly exceed their earnings, only the alternative to abandon their trade and business, and to leave the island.

By a forced liquidation under the present desolating circumstances, we should entirely lose the fruits of our toil and labor of many years. The pressure alone of such extremely critical situation compels us to occupy the precious time of your highness to the above petition.

When, in the year 1868, the above-mentioned treaty was concluded, Cuba enjoyed the profoundest peace; yes, even the possibility of a disturbance thereof was unconceived by any one. The taxes were moderate, and as under such circumstances only tranquilizing reports could reach the superior government regarding the position of the Ger-

mans in Cuba, it clearly appears why Cuba was little considered in the treaty concluded.

During the first year of the insurrection here, the government contented itself with raising the customs duties 25 per cent. to meet the war-expenses, and with issuing, under this guarantee, notes of the Spanish Bank at Havana. An *intendente* of that period declared, officially, that the total revenue of the island amounted to fifty-two millions of dollars. Afterward, however, seventy millions dollars of paper-money, without any guarantee, having been emitted, and as a natural consequence become little by little greatly depreciated, direct taxes began to be imposed, which later have been increased by each new governor, in different forms and in arbitrary ways, because they could never be completely collected. Before the outbreak of the revolution here, the captain-general was only intrusted with the customary full powers of a governor of the island. Now, as governor-general, he possesses, at all times, such widereaching extraordinary powers that, without having to apply previously for authorization to Madrid, he can impose and raise such taxes as he may think proper.

In this manner, also, foreigners are deprived of their diplomatic defense, since their ambassadors at Madrid have neither the opportunity nor the right to make objections or reclamations for the advantage of their countrymen.

When one considers that three-fourths of the island, in which the insurrection rules, have had to be very indulgently treated, and must still be so, and that, consequently, the entire weight of the taxes falls on only a small portion of the island, one cannot avoid the conviction that the governors, in the face of the difficulties which they find in effecting the collection of the taxes, have only attained such exorbitant measures with the object of getting at least as much as may be possible.

Owing to the constant changes in the functionaries here, the majority only attend to the present; the past is hardly thought of, owing to which many Spaniards know how to avail themselves of the usual by paths of exemption. The foreigners, on the other hand, being known as thoroughly good payers, are always the first to be called upon, because their unprotected position is well known, and that they will pay and be silent.

As the ultramarine provinces of Spain, at that time colonies, were under special legislation, the clauses of the treaty of 1868 have no application therein, and although the administration of each, and particularly here, is notoriously separate, yet Cuba has been since then recognized as a province of Spain. There is no need, therefore, even on this ground, to refuse to us the same standing with our countrymen in the Peninsula, in so much the more because the Biscay provinces, which, like Cuba, are subject to special legislation, form no exception; and the Germans there resident enjoy the full advantages of the treaty of 1868.

According to public and wide-spread rumor, large sums have gone from here to Madrid to combat the Carlist war; so that, while our countrymen in Spain remain exempted from all war-taxes, we have to pay for the war there and here.

To give a description of the administration here might be too prolix, and at all events would certainly be considered exaggerated; but we cannot, however, refrain from stating the conviction that if all that the people here, and we also, pay in *indirect* taxes flowed into the government coffers, it would be sufficent to meet all the expenditure.

In view of the profound sympathy which your highness proves in so wide-reaching a degree for all German interests, we cannot but entertain the hope that our petition also will receive gracious attention, and in this expectation we remain of, your highness, with unlimited respect, the truly, devoted,

HAVANA, July 19, 1875.

No. 21.

Mr. Cushing to Mr. Fish.

No. 514.]

LEGATION OF THE UNITED STATES, Madrid, September 10, 1875. (Received September 27.)

SIR: I inclose herewith translation of an article in *El Imparcial* of this day, stating and commenting upon the actual and prospective effects of the law of July 4, 1870, for the gradual abolition of slavery in Cuba.

I have, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

[Inclosure 1 in No. 514.—Translation.]

[Extract from El Imparcial of September 10, 1875.]

THE ABOLITION LAW.

In the files of newspapers brought us by the last mail from Cuba, we have seen a table which the central junta of freedmen of the island recently published, comprehending the individuals who have acquired liberty in virtue of the law of July 4, 1870, for the gradual abolition of slavery.

We give below the figures which the data, furnished by the local juntas of the island, show, many of which reach only to the 31st of December, 1874:

| Born between September 17, 1868, and July 4, 1870 | 10.458 |
|---|--------|
| Born since July 4. 1870 | 22,355 |
| For services under the Spanish flag | 301 |
| Over 60 years of age | 13.740 |
| Freed with their own money | |
| · · · · | |
| Total | 50,046 |

On publishing these data the junta remarks that the reports from some towns are still wanting, and that those of others already included comprehend only the movement of emancipation up to the first months of 1874, which permits the inference that the number of slaves who have acquired their liberty through effect of the law of 1870 exceeds the published number. But it is necessary to consider the emancipations effected through the means established by the old laws, since, although in the above table are included those freed by their own money, this is not the case as regards those who owe so estimable a boon to the will of their owners, either in life or by reason of their death.

It is not hazardous, therefore, to suppose that, from the 17th of September, 1869, the date fixed by the law to declare free those thereafter born, up to the 11th of May, when the table was made out, the number of slaves who have attained their freedom exceed 70,000; in other words, approximately, a fifth part of the total number existing ou the island before the promulgation of the law.

The best-founded calculations induce hope that, in a period of sixteen years, the last remnant of slavery will have disappeared from our dominions without disturbances, without conflicts, without leaving presented for the future as a terrible menace social problems which have ruined flourishing regions, and which even to-day are the cause of lamentable scenes among the great people of the United States, whose governments find themselves frequently attacked by serious pre-occupations, to which the antagonisms and collisions in some old slave States give rise.

Much will be contributed toward freeing us in the future from the conflicts which to-day we behold in other countries, by the far-sighted and patriotic conduct of the proprietors, on whom, in the first instance, it is incumbent to study the modifications in agriculture which humanity, the new civil condition, and private interest must make indispensable. For this purpose, nevertheless, it is necessary to restore to the the great Antilla those conditions of repose and regularity without which it is impossible to realize great progress; and in vain would Cuba realize such desirable benefits unless the war is ended, and at the same time the vices of our ultramarine administration be corrected with decided zeal. For the first are required soldiers, money, and a skillful guidance of the operations, all sacrifices which neither the governments nor the elements loyal to the national cause in the island of Cuba can evade in the proportion due to each of them; suffice it for the second, as we indicated some days past, that the present government break through the routine heretofore followed in the ultramarine regimen, sending energetic decrees to raise the moral tone of that administration, and men who, by their probity and aptitude, may worthily respond to the good intentions of the government and the ardent aspirations of those countries.

Never, more than to-day, was it necessary to moralize the administration in Cuba, because in the new life which the island is going to begin through the profound modification of the productive elements, the enforcement of law, the equality of rights, and the integrity of the rulers are to be the efficacious safeguard of all interests and the most powerful element of progress.

No. 22.

Mr. Cushing to Mr. Fish.

No. 581.

LEGATION OF THE UNITED STATES, Madrid, October 6, 1875. (Received October 29.)

SIR: The journals of Madrid reproduce a telegraphic paragraph from New York to the effect that wealthy Cuban merchants, weary of the war which is so prejudicial to Cuba, entered into negotiations with the Cuban junta at New York, but without success, in order to put an end to the war; and those journals deny the truth of the statement.

The Epoca, which I refer to as one of the most serious and self-respecting of the journals of Madrid, publishes a long editorial of lamentation concerning the condition of things in Cuba, administrative as well as military, and exhorts the government to make one supreme effort, which, it says, may well be regarded as the last possible, for the pacification and moralization of Cuba. In another article of the same number, the Epoca says that some persons may wonder, on reading the optimist narration of things in Cuba presented by the Eco de Cuba, in Havana, at the half desponding tone of its exhortation to the government to make one last effort in behalf of Cuba; but that, under the surface of the encouraging language of the Eco de Cuba, may be discerned the same sentiments of "profound disquietude" concerning the progress of the insurrection which are expressed by the Epoca.

The same journal further says, that at the same time subdued reports reach Madrid of the extreme distrust which prevails in Cuba in respect to the "immorality of the local administration," which gives cause for constant complaints, notwithstanding the severe vigilance of the Conde de Valmaseda. Another periodical of Havana calls for the re-emplacement of Valmaseda, on account of the state of his health. Rumors also come from Cuba of the difficulty, if not impossibility, of duly providing means for the subsistence, pay, equipment, and local movement of the great body of troops arriving and to arrive from Spain; for not less than one million of dollars still remains due to the contractors for the transportation of these re-enforcements to Cuba.

The government has taken the decisive step of appointing D. Tomas Rodriguez Rubi, with a salary of \$30,000, with extraordinary and discretionary power, to proceed at once and endeavor to correct the abuses in administration in Cuba, which, by unanimous consent, are conceded to be as great an evil as the insurrection itself.

I have, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

No. 23.

Mr. Cushing to Mr. Fish.

No. 588.]

LEGATION OF THE UNITED STATES, Madrid, October 7, 1875. (Received November 1.)

SIR: Something very serious, it does not yet distinctly appear what, is going on as to Cuba.

I sent to you yesterday notes and extracts from newspapers as to this point; and the public agitation continues unabated.

Yesterday the ministers had long consultations on the subject; and the fact of their having pursued the consultation with Mr. Canovas del Castillo at his house, is matter of general observation.

The journals of all shades of opinion speak of the official corruption and peculations of the public employés in Cuba as a feature of the situation not less calamitous than the insurrection.

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A long article in *El Imparcial* of yesterday is even more emphatic in this sense than that of *La Epoca* of the day before.

Reference is made from time to time to the doubt whether the means of subsistence and movement can be furnished to the new re-enforcements in the present bankrupt state of the colonial treasury; while the burden of taxation has become intolerable, aggravated as it is by the frauds and wastes committed by almost everybody connected with the collection or expenditure of public moneys.

While some newspapers, as for instance the *Epoca* and the *Politica*, deny that "wealthy Cuban merchants," *loyal* Cubans, that is, have approached the Cuban junta in the view of accommodation, as alleged in telegrams from New York, others, with equal opportunities of information, do in effect admit the truth of the statement.

Thus La Integridad de la Patria says :

The Cuban laborantes exert themselves to introduce every day new elements of perturbation in the country which they are endeavoring to tear away from Spain, and at present they are toiling incessantly to the end that the peninsulars, (in Cuba,) disguated because the government does not send honest employés to the island; because it does not regularise the administration; because it does not resolve the economic question: because it does not attend, as it should, to all necessities; to the end, we repeat, that the peninsulars should favor the insensate project of the autonomy of the great Antilla, which would be the last step antecedent to the dreamed-of independence of that province of Spain.

Ridiculous as such an idea might be, true it is that the idea is now defended by certain individuals whose pretended patriotism has inflicted on Spain greater evils than the insurgents in the Manigua.

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Notes and extracts, heretofore sent to you, exalted the efforts and sacrifices of the representatives of the Casino Español in the supply of funds for the transportation of the troops. It has even been said that they have presented six millions of *dollars* for that purpose; which was, of course, intended for *reals*. But whatever they presented, it was so little as to involve a deficit of one million dollars in the transportationaccount, and to leave the troops destitute of resources on their arrival in Havana.

As to whether the advocates of an accommodation are wanting in true pariotism, as *La Integridad* charges, I know Spaniards in Madrid, loyalists, royalists, Spanish to the core, who urge the pacification of Cuba on the footing of autonomic local government, as the least injurious of all the existing contingencies to Spain herself.

It would be strange if there were not such men. The frightful waste of human life in Cuba without useful results, the gradual devastation and depopulation of so large a part of the island—more than two-thirds in surface although not in wealth and population—the augmenting expenditure of the war, the national shame of such protracted but ineffectual attempts on the part of Spain to conquer a handful of insurgents, the never-ending revolutions in Spain—all these are incidents which profoundly affect not a few of the best men in Spain.

As to the abuses of administration of which so much is being said here at the present time, they are old, chronic, deep-rooted, and impossible of eradication under the colonial *régime*. Cuba has not been colonized as were Massachusetts, New York, Pennsylvania, Maryland, Virginia; that is, by the very elect of the mother-countries, mostly animated to emigration by religious conviction.

The evil of bad financial administration in Cuba, great always, is greater now because of the revolutions through which Spain has been passing; for it would seem that each of the ephemeral parties, on attaining power, with a crowd of eager partisans behind it like troops of howling wolves, shakes off as many as it can upon Cuba.

Many of the adventurers from Spain return home so soon as they shall have picked up a little fortune; but many also remain, and some of them to accumulate great fortunes by shop-keeping, commerce, banking, &c.

I have the honor, &c.,

O. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

No. 24.

Mr. Cushing to Mr. Fish.

[Confidential.]

LEGATION OF THE UNITED STATES,

Madrid, October 16, 1875. (Received November 1.)

SIR: I aunex translations of two articles, one from the *Politica* and one from the *Epoca*, in further illustration of the antecedent and actual state of the question of Cuba.

That of the *Epoca* relates wholly to the crisis, military and financial, through which the local government of Cuba is now passing, or laboring to pass.

That of the *Politica* covers a larger field. It shows how it is that insurrection commenced, that it was not suppressed, and that it now continues with unabated vivacity. You will perceive that the writer holds the Spanish government itself responsible throughout for whatever there has been or is calamitous to Spain in the actual condition of Cuba.

I have, &c.,

Hon. HAMILTON FISH, Secretary of State. C. CUSHING.

APPENDIX A, No. 599.

[From La Politica, Madrid, October 9, 1875.]

[Translation,]

CUBA.

In the present month of October the ill-fated insurrection of Cuba enters upon its eighth anniversary. Seven years have passed since, on the banks of the Yara, the hordes, captained by the lawyer Cespedes in the eastern department of the island, raised their sanguinary banner against the mother-country, and at the same time those led by the then Marquis of Santa Lucia, in the central department.

It was in the year 1868, and the great Antilla found itself ungarrisoned, and ill-prepared for an occurrence of such gravity. The few, very few, forces of the army were disseminated over all its territory. The Cuban insurrection coincided with the revolution of September. The hour was critical; at the same time General Lersundi, a decided adversary of the movement of Cadiz, was receiving *besamanos* in the palace of Havana in representation of Doña Isabel II, when that august lady was already on French soil, the revolutionary manifestos of the Peninsula were raining down upon Cuba, producing natural political agitation and exciting the public mind to a high degree.

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No. 599.]

Many of those who, until then, had only aspired to political reforms, thus found their wishes made unavailing; and thus it was that when the Marquis de Castellflorite, (General Dulce,) at that time much shaken in health, disembarked at Havana, he was surprised at the lukewarm reception he met with.

The spirit of insurrection increased in the central and eastern departments, and the field of appalling warfare began to be lit by the incendiary brand, which reduced to ashes cities like Bayamo. Thereupon a general, very familiar with the politics of Cuba, the Marquis de la Habana, gave the true cry of alarm from his residence in Bordeaux, writing to the *Epocq*, "this is a war of independence."

The circumstances through which Spain was passing were full of difficulty, and the moment critical for dominating an insurrection which had no moral force whatever, since the general sentiment of the island was in favor of Spain. If, in the first months of 1869, all the re-enforcements necessary in order to dominate the insurrection and pluck it up by the roots had been sent to Cuba, the year would not have terminated without the complete pacification of the Cuban territory. The re-enforcements were few in number and slowly sent, and in the same tardy and prejudicial way they have continued to go thither during the seven years of the war, until now that it is owing to the vigorous initiative of the first government of D. Alphonso XII, and to the decision of its president, Mr. Canovas del Castillo, that 16,000 men are now crossing the ocean together, in spite of the burden of the civil war which we are keeping up in Spain.

But to obtain all this, and in order that the efforts of the mother country be not barren, it is of great importance to crown the work the government has lately undertaken of moralizing the public administration, without which but little could be accomplished by all the forces of. Spain joined together.

The insurrection has not forces to countervail those of Spain, it is true, but it would have powerful aid in our apathy and a great auxiliary in the immorality of the public administration of the island, which it is indispensable to purify. Thereto tends the noble and unanimous attitude in these days of the Spanish press, an attitude in which it should persevere day by day until the beneficial results of so patriotic a crusade are felt.

Let all manner of sacrifices be undertaken which may have as their result the termination of the insurrection, a meritorious work to which will largely contribute the loyal volunteers of Cuba by doing garrison-duty at the points most threatened by the iosurrection, to the end that the troops may be exclusively employed in field-service, and pursue the enemy to his most hidden haunts. Let us, therefore, make the last effort, and the result will not be doubtful. The approaching winter campaign will put an end to the insurrection.

The Politica was the first journal to give the alarm, in 1869, to the cry of "Cuba is being lost!" God grant that it may soon be the first to cry, "Cuba has been saved to Spain!"

APPENDIX B, No. 599.

[From La Epoca, Madrid, October 9, 1875.]

[Translation.]

La Patria, which defends with ardor the permanency of the Conde de Valmaseda in Cuba, says that on the 15th of September he was awaiting with especial desire the arrival of the promised re-enforcements, the petition for which he had reiterated, full of enthusiasm, after the brilliant triumphs he obtained at Palma Sola and San Joaquin; that he awaited them impatiently in order to return to the seat of war, the termination of which he regards as certain if they go forward as opportunely as, and in the numbers, he has asked; that is, not that they may cover the natural losses alone, as has been the case until now, but rather to augment the army in campaign; that he was proud of the patriotism of the loyal inhabitants there, who, in proof of the sympathies and affection they professed toward him, had placed at his disposal, in the brief term of three days, the twelve millions of reales (\$600,000) which the government had considered necessary for the expenses of recruiting and transportation; and, finally, that he complained that the administrative employés did not aid, in financial matters, his efforts and determination to restore to Cuba its lost tranquillity.

Thus says La Patria, and we reproduce it for the benefit of those who are surprised at our reflections when calling the attention of the government, in order that the action of the higher authorities in Cuba, who so much need the fullest prestige, may not be rendered barren through the pitiable results of an administration which, in civil and military matters, offers a vast field to censure.

In regard to the sustenance of the soldiers, such abuses are narrated that it has been found necessary to invest Mr. Rubi with powers which cover the administration in all its different branches.

CORRESPONDENCE RELATING TO CUBA.

No. 25.

Mr. Cushing to Mr. Fish.

[Confidential.]

No. 631.]

LEGATION OF THE UNITED STATES, Madrid, October 28, 1875. (Received November 18.)

SIR:

The economical abuses in the administration of Cuba continue to preoccupy public attention; and the universal opinion is that they are as difficult to cure as the insurrection itself, so that the Spaniards and creoles alike seem to rival one another in efforts for the ruin of Cuba.

The government, people say, has to sustain two campaigns in Cuba : one against filibusterism, and the other against corruption.

So merely mercenary, and so regardless of duty and the public weal, are many of the public officers who go out to the island, as to cause the saying to become current, that, on embarking, they leave all sense of shame behind them in Cadiz.

Great expectations, therefore, greater than can possibly be realized, are founded on the result of Señor Rubi's mission, the new troops, and the energy of the Conde de Valmaseda.

The latest apparently authentic statement as to the military situation and prospects of Cuba is found in a letter from Havana, evidently written by an army officer, published in a journal denominated *El Correo Militar*, of the 27th instant, of which a translation is hereto annexed.

I have, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

APPENDIX A, No. 631.

[Extracts from a Havana letter published in El Correo Militar.]

[From La Politica, Madrid, October 27, 1875.]

[Translation.]

It is an undeniable truth that the rude blows given to the insurgent forces of Las Villas immediately upon his excellency, the captain-general, Conde de Valmaseda, taking the command and direction of the troops, have deprived those bands of evildoers of that phantasm of force and effectiveness with which it was formerly commonly supposed those led by the oft-repeated traitor, Maximo Gomez, to be endowed; but if this is a truth, as it is also that the qualities joined in the general-in-chief of this army may exert influence, and, in fact, do exert it, upon the progressive advance of the pacification of the island, it is no less certain that the plan adopted by the insurgents, who to day keep up the struggle in all the island, and especially in Las Villas, must render it very difficult to attain pacification without large resources and forces superior to those which the government, at present, proposes to send, although, be it said in passing, the latter is doing all it can in the circumstances through which the Peninsula is passing, but that it is indispensable that it be not accomplished in the same way as the last re-enforcement, because, if, as is to be feared, with the ten or twelve thousand men which it seems are shortly to arrive, peace be not restored, then will be repeated the ill-effect of other former announcements with respect to the ending of the war, which, not being realized, have only served to make our enemies believe that it was the last effort of Spain, and to lead the whole world to think that our strength is impotent to annihilate an enemy formidable through his very weakness rather than because of his tenacity and astuteness.

To secure, therefore, the wealth which still remains in Las Villas, and to follow at the same time the enemy to where he desires to be followed; to conduct, in short, an efficacious and decisive campaign which may end with the complete pacification of the island, there are needed, besides the ten thousand men which should be destined to fill up the existing battalions, so that no company shall have less than one hundred men present and fit for service, there are needed, I say, several organized battalions, (the more the better,) which should come all together, so as to give the desired result. But, as it is not possible to do this at present, it would be well to prepare for it when the war against the Carlists permits of it.

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No. 26.

Mr. Cushing to Mr. Fish.

No. 653.]

LEGATION OF THE UNITED STATES, Madrid, November 12, 1875. (Received Dec. 3.)

SIR: I have recently sent to you extracts from semi-official documents and from the principal journals, containing the most deplorable accounts of the corruptions and embezzlements of the administrations of Cuba. All testimony here is unanimous on that point.

I annex translation of the latest article on the subject contained in the *Iberia*, conceiving that at this time you may welcome the fullest information respecting Cuba.

Very respectfully, &c., &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

APPENDIX A, No. 653.

Extract from article in La Iberia of November 10, 1875.

[Translation.]

Every day brings more and more lamentable information concerning the state of administration in Cuba.

From persons entitled to entire credit, and who speak of what they see and know, we hear of the most extraordinary things; and if prompt, very prompt, remedy be not applied, there will be complete end of all honest commerce.

Innumerable abuses, and acts which deserve a harsher name, must be corrected and chastised by Mr. Rubi.

Such are the proportions of the evil we lament, that, according to the judgment of persons well informed and worthy of all trust, the questions of the civil war sink into secondary importance compared before the gravity of the administrative questions.

No. 27.

Mr. Cushing to Mr. Fish.

No. 656.]

LEGATION OF THE UNITED STATES, Madrid, November 15, 1875. (Received Dec. 6.)

SIR: I have called your attention in previous dispatches to the two great evils, of equal magnitude, which, by the unanimous voice of the Spaniards, impede the pacification of Cuba, namely, the insurrection, and the corruption of administration.

Discovery is now made here of another evil in Cuba, as great, it is said, as the other two, namely, clandestine understanding of the insurgents with sympathizers residing in all the cities, and also in the towns of less importance, as well as in the plantations, by means of which the insurgents obtain and communicate information as to the movements of troops, and even obtain supplies of provisions and munitions of war. This general fact is beginning to occupy much attention at Madrid.

1 have the honor to be, &c.,

C. CUSHING.

No. 28.

Mr. Williams to Mr. Cadwalader.

" No. 291.]

UNITED STATES CONSULATE-GENERAL, Havana, November 20, 1875. (Received November 27, 1875.)

SIR: I beg to transmit, for the information of the Department, the translation of a decree issued by the captain-general of this island, Count de Valmaseda, dated the 11th instant, in conformity with the measures proposed to him by the treasury, and the board of extraordinary imposts, and necessitated jointly by the present exhausted condition of the public treasury, the general unhingement of the public administration, and by the increased financial obligations which this government will be called upon to confront during the coming campaign, soon to be commenced against the insurrection.

The present deficit in the treasury, which is independent of the public debt already contracted, and which is upward of \$80,000,000, amounts, as I learned about a month ago, * * * * to at least forty to fifty millions of dollars; it being caused principally by arrears of four to five months' pay to the army, naval and civil departments, as well as to that of justice, police, and all the minor branches of government, and interest on bonds, and other debts.

a The collections of revenue are now, and have been for some time past, exceedingly scant, this being what is called here the "dead season;" the sugar and molasses crops, that form the principal basis as well as moving power to the export and import business, as also of revenue of this island, have nearly all been shipped off, and the renewal of business activity cannot be expected until the next crop comes into market, and this will not take place sufficiently to impart new life to trade before the 1st of January, next. Meantime the financial requirements of the government will cause the present deficit to swell some eight to ten millions more.

Under these circumstances, and with the view of lapping over this gap, and to enable the many planters and others, who from the profitlessness of last year's business have been unable to pay the extraordinary war-taxes assessed upon them, this decree is issued, allowing them to give promissory notes for the amounts of their indebtedness, on three to four months' time, and to pay them out of next year's crop and business; and meantime all legal proceedings that may have been commenced in the premises for non-payment are ordered to be suspended.

The past year has been disappointedly an unfavorable one to the material interests and present status of things in Cuba, and due to various concurrent causes. In the first place, it was estimated that the exports for the present year would have amounted to from one hundred and ten to one hundred and twenty millions of dollars, whereas they have not reached seventy-seven millions of dollars.

From the joint causes operating day by day, with increased activity, the probability is that next year's business must turn out even worse than that of the past, and it therefore remains to be seen if the remedial measures proposed by the decree, subject of this dispatch, will be less empiric or more curative of the ills now afflicting the body-politic of this island than the many measures that have, to the same end, hitherto been used by these authorities.

I have, &c.,

R. O. WILLIAMS, United States Vice-Consul-General.

Hon. JOHN L. CADWALADER,

[Inclosure No. 1 in No. 29.—Translation.]

HAVANA, November 14, 1875.

GENERAL GOVERNMENT, TREASURY DEPARTMENT.

In conformity with what is proposed by the general direction of the treesury, and the central office of extraordinary imposts, in order to facilitate the contributors of the 15 per cent. income-tax in the payment of the rates corresponding to the present year, and now due, I have decreed as follows:

ART. I. Tax-payers whose rates for the first half-year, and the third and fourth quarters, of the 15 per cent. income-tax, do exceed altogether \$250 gold up to \$3,000, inclusive, may make the payment of their indebtedness by drawing notes of ninety days' date at 7 per cent. annual interest, guaranteed by the signature of another tax-payer, who shall have already paid the rates corresponding to him for those periods. Those whose indebtedness exceeds \$3,000 gold, may also draw notes at the same rate of 7 per cent. for the excess of 120 days' date.

Those tax-payers whose annual rates exceed \$3,000 gold, may draw the notes referred to, with the sole guarantee of their own signatures.

ART. II. The period for said extensions shall begin to count from the 30th of the current month, without prejudice of any notes being hereafter given, and their amount, with the interest due to the date of maturity, and 2 per cent. extra charge imposed upon tardy tax-payers by decree of 1st April last, shall be paid in Havana, or Matanzas, Cardenas, Cienfnegos, Sagua la Grande and Santiago de Cuba. Tax-payers who, between this and the 15th next December, shall have not decided to take the advantages offered them by this decree shall lose the right thereto, as upon that date the admission of notes for the payment of taxes pending will cease.

notes for the payment of taxes pending will cease. ART. III. The amount of the notes, and of the interest due on them, including the 2 per cent. excess charged to tardy tax-payers, will be realized upon the date they fall due, in the manner ordered for the payment of this tax.

ART. IV. Tax-payers who choose to settle their notes in gold, by paying the equivalent in Spanish bank-bills, will be liquidated by the city governments (ayuntamientos) with 12 per cent. annual interest at 110 per cent. pesetas, the ruling rate for the present month, unless they should be considered as tardy, and such in this case will liquidate at the rate of 120 per cent., the highest rate to date; therefore, any one who is indebted for part of his taxes will pay at 110 per cent. pesetas, and at 120 per cent. pesetas for that part implying tardiness.

ART. V. The city governments of those places of this island where collections of the 15 per cent. income-tax are made, will admit in payment of the unpaid rates of the first half-year, third and fourth quarters of the current year, the notes referred to, delivering to the drawers thereof receipts for the amounts of their notes, according to the second paragraph of article 13 of the instruction of 5th April last for the collection of this tax; and in this case, the amount of interest due on the note and the 2 per cent. extra charge, should there be any, will be noted on the margin.

ART. VI. These notes shall express, according to the subjoined form, the district; the account for which they are given; the period of the tax to which they belong; the dates, both of drawing and of maturity; their total amount in gold, and of the equivalent, in case the payment should be made in this form, stating the rate of the reduction in gold to Spanish bank-notes; stating separately the amount corresponding to the tax, and that of the interest at 7 per cent., if the payment is to be made in coin, or at 12 per cent. if in bank-bills; the amount of the 2 per cent. extra charge to tardy payers; the municipality to which corresponds the object of the tax; the signatures and residences of the drawers and of those who guarantee them, and all other circumstances mentioned in the preceding articles, a note to be drawn for each period comprised in the obligation, which shall represent solely the amount, the interests and extra charges corresponding to the half year, or quarter referred to, stating on the same one of the places of those mentioned in Art. II of this decree, where the party concerned elects to make the payment of his note, giving the street and number of the house where the same shall be presented for collection upon maturity.

ART. VII. The respective municipalities shall deliver weekly to the administrations and collectorships of revenue the notes received from the tax-payers, by means of duplicate invoices expressing the municipal district whence they proceed, the account for which they are taxed, number of the note, period to which the payment refers, the amount in gold dollars for the tax, and, in separate spaces, that of the equivalent, should the contributor have chosen this form of payment; the amount of interest due till maturity, distinguishing between the amounts of such as are in coin and bankbills, and the extra charges in the same manner, stating also the names of the persons who sign and guarantee the notes as well as the data of their drawing and meturity.

who sign and guarantee the notes, as well as the dates of their drawing and maturity. ART. VIII. The administrations of revenue of the island and the collectorships which deliver directly to the central treasury shall forward weekly to the latter the said notes, in the manner and with the security established for coin, accompanying them with one of the invoices referred to in the preceding article, and of another general invoice embracing all the particulars of the notes forwarded.

The duplicate of the invoice delivered by the municipality to the treasury shall be returned, without prejudice to the corresponding letter of payment, with the receipt for the same, that they may be annexed as vouchers to them onthly accounts rendered to the central office of extraordinary imposts.

ART. IX. The central auditorship will dictate the measures necessary in case of nonpayment of any note upon maturity, to make the same effective, as a preferent obligation of the drawer, according to Article III of this decree, in order that in no case shall the treasury become a loser.

ART. X. At the central treasury, the administrations and collectorships of revenue, there shall be kept books of account-current of these notes for the 15 per cent. incometax, with debit and credit, and the necessary columns to make known all the circumstances expressed in the invoice. The debit side will state the notes received, and the credit those sent to the treasury, and the latter, these as they are paid.

ART. XI. No note shall be received by the municipalities without the corresponding stamp.

ART. XII. The central office of extraordinary imposts is hereby authorized to suspend all distraints and seizures commenced for the collection of the 15 per cent. tax, provided those indebted elect for the giving of notes within the prescriptions aforesaid, in the period assigned.

ART. XIII. The general direction of the treasury will propose to this government, or dictate within its faculties, such regulations as may be necessary for the execution of this decree.

HAVANA, November 11, 1875.

No. 29.

Mr. Hall to Mr. Cadwalader.

No. 302.]

UNITED STATES CONSULATE-GENERAL,

Havana, December 22, 1875. (Received December 28.)

SIR: I have the honor to transmit herewith two notable documents emanating from General Count Valmaseda.

The press of this city makes no comment upon these documents, and an improved public sentiment begins to condemn a warfare characterized only by atrocities, and which in seven years has produced no results favorable to Spain.

I am, sir, &c.,

HENRY C. HALL, Consul-General.

VALMASEDA.

Hon. JOHN L. CADWALADER, Assistant Secretary of State.

[Inclosure 1 with No. 302.—Translation.]

HAVANA, December 22, 1875.

(From the Voz de Cuba of 28th November, 1875.)

GENERAL VALMASEDA'S PROCLAMATION TO THE INHABITANTS OF "LAS VILLAS."

HEADQUARTERS, LAS CRUCES, November 22, 1875.

The forces of the army are giving protection to your homes and families, and it becomes an imperative duty for you to consider them as your best friends, aiding them so as to facilitate their mission of pacifying the territory which is confided to them.

On you, it depends that the common enemy shall cease to receive assistance of any kind. On you, that the government forces shall receive frequent and prompt advices of the position occupied by the bands of enemies, that they may march in their search; from you must come the secret information to the government that it may know the names of the disloyal and be able to chastise them; on you, in fine, it depends whether the island of Cuba shall soon see her agriculture, trade, and commerce flourish anew, instead of the destruction with which the enemy threatens it.

Cast off the punishable fatalism that has hitherto possessed you. Let the robber and the assassio understand that their criminal lives must find their chastiser in the honest and laborious man. Defend your lives and property, slaying those who attack them and the honor of your families; and, since we are the more numerous, and those who have the better right, we will soon exterminate the enemies of our country and of society.

This is what is expected from you by your captain-general-

VALMASEDA.

[Inclosure 2 in No. 302.-Translation.]

(From the Voz de Cuba of 21st December, 1875.)

HAVANA, December 22, 1875.

Those bands of outlaws that continue to burn the huts of the poor and humble countrymen, and, not content with depriving them of their dwellings, also rob them of their effects and dishonor their daughters, compel me to adopt every kind of measure to exterminate them.

For this purpose, I do hereby decree the following: Every countryman who shall bring to the headquarters of the district, dead or alive, one of the said bandits, so-called insurgents, shall be rewarded in the act with ten ounces gold, (\$170,) and eleven ounces if he also delivers up his carbine or musket.

Every countryman who shall furnish to the troops detailed and trustworthy information where the insurgent encampments are, so that the same may be surprised or destroyed, shall receive from three to ten ounces gold, according to the importance of such information and the merit of the capture effected thereby.

Whoseever shall cause the death of a prefect or subprefect, or by information given to the troops shall bring about this result, shall be rewarded with fifteen ounces gold, (\$255.)

To whomsoever shall denounce, with proof sufficient for the punishment to fall legally, any protector or abettor of the insurgents, or those who may furnish them goods of any kind whatever, shall be given six ounces gold; this reward shall be increased if the importance of the information deserves it.

The lieutenant-governors shall pay, from the deductions I have ordered them to make in the municipal estimates, the aforesaid amounts, drawing up, for their acquittance, a short process, to serve as voucher for the service rendered.

Las Cruces, December 14, 1875.

VALMASEDA.

No. 30.

Mr. Hall to Mr. Cadwalader.

No. 304.]

U. S. CONSULATE-GENERAL,

Havana, December 23, 1875. (Received December 28.)

SIR: The newspapers of this city, of 21st and 22d instants, announce the relief of General Count Valmaseda and the appointment of General Jovellar as his successor. That a change was imminent was well understood by all classes, but the appointment of General Jovellar, although hoped for, was hardly expected; naturally, it gives general satisfaction.

General Jovellar governed the island from November, 1873, to April, 1874; short as was the term of his administration, he acquired a reputation for integrity, as well as justice and humanity; he appeared to be actuated, also, by a conciliatory spirit toward the Cubans, and if his administration was not a success it was probably due to causes which he could not control.

Yours, &c.,

Hon. JOHN ¹L. CADWALADER, Assis ant Secretary of State. HENRY C. HALL.

III.—CORRESPONDENCE RELATIVE TO THE TRIAL OF GENERAL BUR-RIEL, PURSUANT TO THE PROTOCOL GROWING OUT OF THE CAPTURE OF THE VIRGINIUS.

No. 31.

Protocol of the conference held at the Department of State, at Washington, on the 29th of November, 1873, between Hamilton Fish, Secretary of State, and Rear-Admiral Don José Polo de Bernabé, envoy extraordinary and minister plenipotentiary of Spain.

The undersigned, having met for the purpose of entering into a definitive agreement respecting the case of the steamer Virginius, which, while under the flag of the United States, was, on the 31st of October last, captured on the high seas by the Spanish man-of-war Tornado, have reached the following conclusions:

Spain, on her part, stipulates to restore forthwith the vessel referred to, and the survivors of her passengers and crew, and on the 25th day of December next to salute the flag of the United States. If, however, before that date Spain should prove to the satisfaction of the Government of the United States that the Virginius was not entitled to carry the flag of the United States, and was carrying it at the time of her capture without right and improperly, the salute will be spontaneously dispensed with, as in such case not being necessarily requirable; but the United States will expect, in such case, a disclaimer of intent of indignity to its flag in the act which was committed.

Furthermore, if, on or before the 25th of December, 1873, it shall be made to appear to the satisfaction of the United States that the Virginius did not rightfully carry the American flag, and was not entitled to American papers, the United States will institute inquiry, and adopt legal proceedings against the vessel, if it be found that she has violated any law of the United States, and against any of the persons who may appear to have been guilty of illegal acts in connection therewith; it being understood that Spain will proceed, according to the second* proposition made to General Sickles, and communicated in his telegram read to Admiral Polo on the 27th instant, to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty obligations, and will arraign them before competent courts and inflict punishment on those who may have offended.

Other reciprocal reclamations to be the subject of consideration and arrangement between the two governments; and, in case of no agreement, to be the subject of arbitration, if the constitutional assent of the Senate of the United States be given thereto.

It is further stipulated that the time, manner, and place for the surrender of the Virginius, and the survivors of those who were on board of her at the time of her capture, and also the time, manner, and place for the salute to the flag of the United States, if there should be occasion for such salute, shall be subject to arrangement between the undersigned within the next two days.

> HAMILTON FISH. JOSÉ POLO DE BERNABÉ.

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^{*} The second proposition is as follows:

Second. If it be proved that in the proceedings or sentences pronounced against foreigners by the authorities of Santiago de Cuba there has been an essential failure to comply with the provisions of our legislation or of treaties, the government will arraign those authorities before the competent tribunals.

No. 32.

Mr. Sickles to Mr. Fish.

No. 971.

UNITED STATES LEGATION IN SPAIN, Madrid, January 31, 1874. (Received March 20.)

SIR: I have the honor to state for your information, that by reference to my dispatches it will be found that this government had revoked the authority given by General de Rodas to subordinate commanders to shoot prisoners. General Prim condemned the practice, and as minister of war forbade it. Mr. Becerra, as minister of the colonies, in a published allocution, denounced these barbarities. Mr. Moret, his successor, in his instructions to Count Valmaseda, a copy of which I forwarded to you, expressly directed that any officer subordinate to the captaingeneral found guilty of such acts should be punished. And General Cordova, the last minister of war under the late King, in his general orders to Captain-General Ceballos, an extract from which was also sent to you, emphatically disapproved of measures of exceptional severity toward prisoners.

It appears, therefore, that the conduct of the authorities at Santiago finds no justification in the orders of this government, unless the instructions given to Generals Pieltain and Jovellar were essentially different from those received by their predecessors, and that in this, as in other instances, the Cuban authorities availed themselves of their traditional privilege of disobeying the home government.

It is asserted without contradiction that the late government promoted General Burriel in October last, and the publication of the order is now demanded by influential journals as a just recompense for his services at Santiago.

I am, &c.,

D. E. SICKLES.

Hon. HAMILTON FISH, Secretary of State.

No. 33.

Mr. Adee to Mr. Fish.

o. 209.]

UNITED STATES LEGATION IN SPAIN, Madrid, April 25, 1874. (Received May 19.)

SIR: I have the honor to forward herewith a copy and translation of a communication published in La Epoca of the 21st instant, over the signature of Brig. Gen. Juan Burriel. This publication is an attempt to vindicate the conduct of the writer in the execution of the Virginius's captives at Santiago de Cuba, and is addressed to the editor of La Revue des Deux Mondes in answer to some strictures on the acts of the Cuban authorities which appeared in an article printed in that periodical in March last. The name and rank of the author, his presumable acquaintance with the facts of which he treats, the character of his defense, the statements he makes respecting the orders under which he claims to have acted, and the free publication of his communication by an induential journal at a time when the press is under a censorship of unu sual rigor, all join in lending this remarkable document importance as a sort of semi-official manifestation in behalf of the officers concerned in the massacres at Santiago.

Two of General Burriel's statements are deserving of especial remark. It will be noticed that he avers that the orders under which the Virginius was seized and her officers and crew tried and shot were contained in the decree of General Dulce of March 24, 1869, which, as he says, has never been repealed or abrogated. When the language of the preamble to the decree of July 7, 1869, in which it was stated that General Dulce's orders were thereby superseded, and the many positive assurances received from nearly every successive cabinet of Madrid deprecating the celebrated decree of March 24 are remembered, it appears indeed strange that General Burriel's assertion should not only be made public, but suffered to remain uncontradicted.

The second noteworthy fact is found in the certificate of General Riquelme, chief of staff of the army of Cuba, which is given by General Burriel as an ample disculpation from the insinuation of the Revue des Deux Mondes, that the stoppage of telegraphic communication between Havana and Santiago at the time of the Virginius slaughter was "more or less fortuitous." From this official document it appears that while the cable connecting those cities was inoperative from October 13, 1873, to the date of the certificate, February 11, 1874, the land-line was only interrupted from the 1st to the 7th of November, and, after a day's interval, in which it may be inferred that it was temporarily in working order, it again became obstructed on the 8th of November, and continued so until the 13th of that month. As General Riquelme's testimony in this regard confirms the report that the break in the line coincided with the arrival of the Virginius at Santiago, it can hardly be said to afford the triumphant exoneration claimed for it. On the contrary, it seems to have escaped attention that another and more serious suspicion might possibly be raised by the publication of this paper, since the news of the capture of the Virginius was received in Madrid at an early hour on the 6th of November, and not on the 7th, as General Burriel erroneously avers, and the orders of President Castelar, issued the same morning, which were not received in Havana, as Mr. Carvajal said, until the morning of the 7th, might not unreasonably be presumed to have reached that capital in season to be transmitted during the temporary resumption of communication by the land-line, to which General Riquelme bears witness, and, consequently, it is not impossible that they might have been transmitted to Santiago before the shooting of the last batch of victims on the 8th.

Passing this by, however, it appears to me that, in view of the explicit declarations that General Burriel was obeying orders, it would not be out of place to ask an explanation of the matter in the proper quarter, and, in event of their inaccuracy, to demand the public retraction of this extraordinary letter.

I may add that General Burriel, who is now in Madrid, was said to have been warmly welcomed by many influential persons on his arrival, and it is announced in the *Imparcial Discusion*, and other journals of various politics, that at a concert recently given in the Marquis of Alcañices' palace in aid of the sick and wounded, General Burriel was "the object of marked demonstrations of sympathy for his energetic conduct at Santiago de Cuba."

I am, &c.,

Hon. HAMILTON FISH, Secretary of State. A. AUGUSTUS ADEE.

[Inclosure.—Translation.]

Letter of Gen. Juan Burriel to the Revue des Deux Mondes.

[From La Epoca, April 21, 1874.]

MADRID, April 14, 1874.

To the Director of the Revue des Deux Mondes :

ESTEEMED SIR: In the review which you so skillfully edit, and which merits general acceptation by reason of the distinguished judgment with which it touches upon all the matters of which it treats, in volume xii, of date March 2d last, second edition, a few pages (from the 434th) are devoted to the Cuban question, and I have seen with regret that, alluding to the recent question of the Virginius, place is given to views. which are very far from the truth, and interrogatories are printed to which it seems taken for granted that a reply is very doubtful, or rather, it is sought to intimate such a reply in a manner favorable to gratuitous suppositions. Such views and interrogatories published in a work of high standing and worthy of credit, and one which consequently has a large circulation, may to-morrow form data for history, while, in truth, they would not be trustworthy without a clear rectification alike due to the honor of my country and to my own, and which, I cannot doubt, will be made in your review, when you, Mr. Director, are convinced of the truths which I propose to set forth with the brevity which a communication of this kind requires, and avoiding comments.

It is said on page 457, with reference to the capture of the Virginius, "that a courtmartial was forthwith installed on board the Tornado; that all the prisoners were tried as pirates; that only 18 escaped sentence of death, among whom there were four or five only who were ignorant of the object of the expedition."

The facts show these inaccuracies, as will be seen in the following statement of them: There were on the Virginius 155 prisoners, of whom 103 were tried by the military tribunal of the general headquarters of Santiago de Cuba, and the remaining 52, who composed the crew of the vessel, from the captain to the cabin-boy, were tried by the marine tribunal in a council of war which was held on board the steamer Francisco de Borja on the 6th of November, and lasted until six o'clock in the morning of the 7th, 37 being sentenced to death, of whom 27 were Americans or Englishmen, and the other 10 Cubans; of the rest, 15 in number, 3 were sentenced to liberty, (sic,) because the fact of their unwillingness to embark had been proven by Captain Fry himself, and 12 to different terms of imprisonment on account of being seamen and ship's hands, of a low grade. This is the truth, and is proved by official documents, as it has also been clearly proved that the vessel was a pirate, because she unduly carried the American flag, and that her capture was legal. Of the remaining prisoners, 16 were sentenced to death, and executed, because they were so-called generals, chiefs, and officers; and 87 remained at the disposal of the captain-general of the island, when, on the 8th, I sent him an aid-de-camp with the war-steamer Bazan, under full steam, in order that, if he wished, he might commute their death-penalties; and for this reason, and because of having received on the same 8th day, in Havana, the orders of the Castelar government to suspend the executions, there were delivered to the steamer Juniata, (American,) on the 18th of December, the 102 surviving foreign and Cuban prisoners. Consequently, those shot were 53; and 102, the survivors, returned in virtue of the Polo-Fish protocol.

The same paragraph goes on to say: "The foreign consuls protested energetically in favor of their countrymen; but Governor Burriel only awaited the end of the trials in order to begin the shootings. Was his object to assert his authority and forestall the intervention of the government?" The answer is very simple. The pretensions of the consuls and commanders of vessels who made these protests were not conceded because I was prohibited from doing so by the special circumstances of the case and the superior orders then in force, and my "desire to assert my authority" is very soon explained. The laws or orders under which I tried the prisoners of the Virginius and applied the extreme penalty to the insurgent chiefs, were the following : That of February 24, 1869, ordering that all insurgent leaders captured should be shot "without any other condition than the proof of their identity," and the same with those who were known to exercise influence in the insurrection, although they might not be styled chiefs, (cabecillas;) that of October 20, 1870, which peremptorily prescribed the same thing, excepting certain named personages of note whose punishment on being captured was to be inflicted in Havana; that of January 23, 1871, in the seventh article of its penal regulations; the bando or proclamation of May 14, 1872; and the circular of the 8th of June following, ordering the prompt and exemplary punishment of those who may wound in an alarming manner the integrity of the country.

If stronger grounds are needed to justify my conduct in those circumstances and to carry conviction to the most scrupplous and conscientions mind, see the decree of March 14, 1869, which has not been abrogated by any order whatever, issued by the superior political governor of Cuba, in the exercise of the extraordinary discretionary powers with which he stood invested, for the purpose of preventing precisely such piratical expeditions as that of the Virginius, which provides in its sole article "that vessels which may be captured in Spanish waters or on the high seas, in the neighborhood of this island, laden with men, arms, and munitious and war-material that can in any manner contribute to inciting or giving aid to the insurrection in this province, whencescever they may come or whithersoever they may be found, after examination of their papers and registers, shall be *de facto* considered as enemies and treated as pirates in conformity to the ordinances of the navy, and the persons captured in them, whatever may be their number, shall be immediately shot."

These are the superior orders by which my conduct was governed—orders which admitted of no consultation or delay, and the exact fulfilment of which was obligatory upon me. And even thus, is it true that I only awaited the end of the trials in order to begin the shootings ⁷ It is not true; and, as before, I repeat that the facts prove it. A few hours had sufficed for the identification of the persons of the delinquents, and this would have been enough for compliance with the law, but I desired that the justice of the matter should be clearly evident. I desired that all should be heard in their defense, and for this reason the first four chiefs of most importance who suffered the rigor of the same (the law) did so on the 4th of November; that is, four days after being made prisoners. The next were the thirty-seven of the crew, on the 7th of the same, and the twelve last on the 8th; or, in other words, seven and eight days after the capture.

It is not permitted to military men to vacillate when they have peremptory orders to obey, and still more when they are grave and important and refer to acts of war; consequently no consideration whatever could make me pause before this duty, and still less the protests presented wholly without right by the American vice-consul. If the laws of Spain are too severe in the judgment of foreigners, I am not the one called upon to arrest their action, and they are at liberty not to tread the soil of Spain if its method of ruling and governing itself does not suit them. Their protests in these extreme cases should not be heard, for they only seek thereby to hinder the action of the law. Let their respective governments come with reclamations, and this is the way to modify them, (the laws,) if it be deemed necessary to do so. There follows another answered interrogatory, which says: "Did he yield only to the pressure of the volun-teers?" "This is still possible in Havana as in Santiago," says an American correspondent. It is very easy for me to prove to that correspondent that his assertion is not based on authentic information. All my acts in the posts I have filled in the island of Cuba are publicly known, and whoever may be even slightly acquainted with the different events which have taken place in Cuba, will easily remember what occurred in Matanzas on the night of the 1st of February, 1870, by reason of the receipt of the news of the assassination of Castañon.

Here I shall permit myself to make a slight digression. On page 447 of the article which occupies my attention, it is stated "that Castañon was wounded in a duel by a Creole hand," and it is indispensable to throw light on this, so that what is public and notorious may be put on record, that Castañon was assassinated in a hotel in Key West by several Cuban insurgents. Well, then, because of this affair, the minds, not only of the volunteers, but of all the Spaniards and foreigners who chanced to be in the island, became aroused, demanding, as was just, blood for blood; and as in Matanzas several suspected persons had been recently imprisoned, and the corresponding proceedings were being initiated against them, the volunteers, in their natural indignation, demanded speedy and immediate justice against the accused, in whom for the time they beheld, not suspected persons, but culprits or enemies of ours. I flung myself among their bayonets, and, with the energy which in such cases is necessary, I made them comprehend that the government would do justice, and that this should be done in the form and manner prescribed by our laws. I do not deem it necessary to go further into details, since the voice of my authority was heeded, and what afterward took place is well known. In the matter which now occupies us, was there in Santiago de Cuba a single Spaniard who was not filled with indignation on learning that the prisoners of the Virginius who survived the fifty-three would have to be delivered up to the Government of the United States ? Have the shadows of the night hidden what occurred on that (the night) of the 16th of November in Santiago de Cuba, and has it consequently not reached the notice of the American correspondent? I believe that the way in which the public feeling was exhibited on that night is well known, and it is most notorious that I, although appreciating the just indignation of those loyal inhabitants, said to them that the government had commanded it, and that they would have to pass over my dead body before its orders should be left unobeyed. For the second time the voice of my authority was heard with marked signs of respect; and this is, in sum, the pressure to which I yielded in obeying the laws and the mandates of my superiors.

Further on it adds: "That Mr. Castelar, as soon as he knew of the event, sent a telegram peremptorily ordering the suspension of all executions; but that by reason of an interruption, more or less fortuitous, in the telegraphic communications between Havana and Santiago, General Burriel was left in full liberty of action, and fifty-seven

executions had already taken place when the dispatch of the government arrived." The "more or less fortuitons" has its marked intent, and the effect it may have produced on its readers will, I judge, be completely dispelled by copying the following document:

"Don José Riquelme y Gomez, major-general (mariscal de campo) of the national armies and chief of staff of the army of this island, whose general-in-chief is his excellency Lieutenant-General Don Joaquim Jovellar y Soler, certifies that, according to the antecedents on record in this leadquarters of the staff, it appears that at the time of the capture of the filibuster steamer Virginius it was not possible to make use of the submarine cable or of the land telegraph-wires established between Santiago de Cuba and this capital, because those lines were interrupted, the first from the 13th of October last up to date, and the second from the 1st of November to the 7th, inclusive, and from the 8th to the 13th of the same month. And that this be of record for such purposes as may arise, I sign the present in Havana the twelfth of February, one thousand eight hundred and seventy-four. "JOSE RIQUELME.

"Here follows a flourish. Seen and approved.

"JOVELLAR.

"Here follows a flourish and a seal which says: Army of Cuba, general staff-office."

Moreover, in Madrid Mr. Castelar did not receive the news of the capture of the pirate steamer until the 7th; consequently any order of the government was already late.

. Further on it is said: "That in the United States, from the North to the South, there broke torth a unanimous cry of wrath and of warlike and patriotic ardor, and there was no town or hamlet where there were not demonstrations of indignation."

It is true that the mob (*populacho*) broke out even to insults against the Spaniards; but are we, perchance, ignorant how, why, and by what a mob is led, and in the present case can we doubt by whom it would be excited, especially in strongly marked races, and what occurs under certain circumstances in all nations? But is not that which the sober and prudent press of the United States has said more likely to be true? Let us see, then, what is written and preserved in the journals in favor of order. The high financial and commercial interests, the lawyers of universal fame, all the persons of judicial knowledge, and the well-informed military men—that is to say, the genuine common-sense element in the United States—not only did not utter a single expression in favor of war, but, on the contrary, was shown to oppose it and to recognize our right. Concerning the calculations which were made of the cost of an expedition and the pretensions of conquering Cuba, I need not now occupy myself, for enough has been said and written, and very clearly too

The interrogatory which follows, as to whether Spain is really in fault in this affair, is a very delicate matter, and as in its main facts it concerns our honor, it will have to be cleared up in due time, and then the whole truth will shine forth.

It is also said, further on, referring to the Spanish war-steamer Tornado, "that her commander has violated international laws by capturing on the high seas a foreign vessel sailing under the American flag, with all her papers in due order and viséd by the consul of that nation at Kingston, and which vessel was bound to Costa Rica, carrying laborers, for at that time the construction of a railway was in progress."

It would be excusable (and it was) that, the capture having been recently effected, a thousand versions and commentaries and inaccuracies, more or less inspired by passion, should arise; but at the date of the publication of the article, a date when the object of the voyage of the Virginius was already proved by facts and established under every point of view, although this was already well known long beforehand not only in America but in Europe; when the public is possessed of the spontaneous declarations of the captain of the vessel, recognizing his grave offense, but that he confided in its good result to obtain "a positive and considerable reward," and that of the insurgent leaders, the crew, and the other insurgent prisoners, all agreeing, all unanimous in setting forth all that was necessary to prove before the whole world the abundant right we had to seize, try, and execute the sentence of the laws of our country, it cannot be suffered to pass without calling attention toward the path of truth; and as whatever has occurred in the matter has been published in journals of good standing, with copies of authentic documents demonstrating all with exactness, I confine myself here to the passing statement that the commander of the Tornado fully complied with his duties in seizing a pirate vessel, as the Virginius was, and not a foreign ship bound to the coast of the island of Cuba, with men, arms, and munitions to aid the war, even though that vessel carried the American flag unduly, for she might have flown that of any other nation just the same; that he obeyed his duty in seizing the vessel in question, especially as, when stopped and searched, she did not carry any document in regular form, but, on the contrary, presented a thousand signs that made her mission evident at the first glance; and even if any doubt had still remained, it would have been promptly dispelled by the surrender and clear and unmistakable confession of Bernabé Barona (Varona) alias "Bembetta," the chief of the expedition, and the so-called generalissimo of the rebel army.

This matter must still involve many claims for indemnification and many consequences, and the truth of the facts will be made fully clear in due time by those to whom this pertains; and as it is expedient to shed all possible light on it in anticipation of that time, this gives rise to my desire that errors or mistakes be corrected, so that all may stand forth as it is and as it took place.

I therefore address myself to you, Mr. Director, hoping, from your goodness, that you will do the favor to make these explanations in your enlightened publication, which favor will be ever gratefully acknowledged by him who improves this occasion to offer himself to you as your most obedient, faithful servant,

Q. B. S. M.

JUAN BURRIEL.

No. 34.

Mr. Fish to Mr. Cushing.

No. 31.]

DEPARTMENT OF STATE, Washington, June 9, 1874.

SIR: Referring to Mr. Adee's Nos. 209, 214, and 216, it is presumed that before the receipt of this you will, under your general instructions, have asked an explanation of the letter of General Burriel to the editor of the Revue des Deux Mondes.

General Burriel founds his justification on the assertion that he acted under the decree of the captain-general of Cuba of March, 1869, in which it was said :

"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."

Immediately on the receipt of this decree at this Department, I wrote to Mr. Lopez Roberts as follows respecting it:

"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 privilego 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 Spanish 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 Cubs, 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."

It has been supposed at this Department that in consequence of these representations this highly objectionable decree was abrogated. It was therefore with no little surprise that information was received of the assertion that it is regarded as still in force. It is deemed important to have accurate information on this point. You are therefore instructed, as soon after the receipt of this as possible, to inquire whether it be true, as stated by General Burriel, that the decrees of March 24, 1869, had not been abrogated when the executions took place at Santiago de Cuba; also, whether those decrees, or anything equivalent to them, respecting jurisdiction on the high seas, are regarded as still in force; also, whether the executions by General Burriel's orders are regarded as having been made under authority of law.

It is supposed that the neglect hitherto of the government of Spain to institute steps for the punishment of General Burriel and his associates in the bloody deeds at Santiago de Cuba has been caused by the extraordinary political condition of the peninsula. If this supposition is incorrect, it is important that we should know that fact. You will, therefore, also inquire whether proceedings are to be instituted against them, and when and where the proceedings will probably take place. You will also inquire whether it is in contemplation to exhibit any marks of the displeasure of his government by military degradation or otherwise.

The President does not wish to have these inquiries presented in a minatory spirit and form; nevertheless, he feels that the maintenance of good relations with Spain depends upon her adherence to the statements and assurances hitherto given to this Government respecting the abandonment of the objectionable decrees, and the disavowal and punishment of the assassing who, under the guise of the form of trial, shocked the civilized world by the executions in Santiago de Cuba.

I am, &c.,

HAMILTON FISH.

CALEB CUSHING, Esq., &c., &c., &c.

No. 35.

Mr. Cushing to Mr. Fish.

No. 44.]

UNITED STATES LEGATION,

Madrid, June 27, 1874. (Received July 20.)

SIR: I inclose herewith copy of a communication addressed by me to the minister of state, in obedience to your instructions of the 9th instant.

The incident to which the instructions refer occurred prior to my arrival here, and, on reading the dispatches of Mr. Adee on the subject, which were of a nature to invite instructions, it seemed to me most discreet, before acting, to hear from the Department.

Meanwhile I had conference on this incident of the matter of the Virginius, as well as in regard to the question of indemnities, and the result of these interviews was to convince me that the circumstance of the action of the British government having preceded ours was of great advantage to the United States.

Mr. Adee informs me that he was influenced by the same consideration.

A report had been current of the promotion of General Burriel. I learn, upon inquiry, that this report is false, and that the promoted officer was another person, although of the same surname.

General Burriel's article, as printed in the Epoca, purports to have

been directed to the Revue des Deux Mondes, but I am not able to find it in any number of the Revue, and I think it was not printed therein.

It may be worth noting that the newspaper published at Madrid, entitled La Iberia, and which is understood to be the especial mouth-piece of Mr. Sagasta, did editorially deny the assertion of General Burriel, Mr. Sagasta being at that time minister of state.

I have, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

[Inclosure in No. 44.]

Mr. Cushing to Mr. Ulloa.

LEGATION OF THE UNITED STATES OF AMERICA, Madrid, June 27, 1874.

SIR: The Government of the United States, on learning that General Juan Burriel had published in one of the newspapers of Madrid, on the 14th of April last, a communication which, in the vain effort to defend his atrocious act of the summary execution at Santiago de Cuba of fifty-three persons of the crew and passengers of the Virginius, had rested his defense mainly on the pretended authority of a certain decree issued by Captain-General Dulce, of the 24th of March, 1869, might well have supposed that the Spanish government would have hastened, in some convenient form, official or unofficial, to contradict the assertion of General Burriel. No such contradiction having appeared, however, it becomes my duty to address your excellency on the subject.

Immediately on receiving information of the issue by Captain-General Dulce of the above-mentioned decree, the Secretary of State of the United States addressed the Spanish minister at Washington, Mr. Lopez Roberts, regarding the same, as follows:

"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 Spanish 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.".

Subsequently to this, the Government of the United States received official information from its officers at Havana, that for the decree of Captain-General Dulce, Captain-General Caballero de Rodas had substituted a new decree, that of July 7, 1869, which in effect and language annulled that issued by Captain-General Dulce. But the sixth article of the decree of July 7, 1869, being considered by the Governmeut of the United States to imply a wholly inadmissible claim of right to seize neutral vessels on the high seas contiguous to Cuba, representations in that sense were addressed to the Spanish minister, Mr. Lopez Roberts, the consequence of which was the issue by Captain-General Caballero de Rodas of a new decree of July 18, 1869, as follows :

[Translation.-From the Official Gazette, Havana, July 20, 1869.]

"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

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unnecessary interference, in the use of the faculties 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 essential articles.

"CABALLERO DE RODAS.

"HAVANA, July 18, 1869."

Thus it was impossible for the Government of the United States to entertain any doubt whatever of the fact, not only of the annulment of General Dulce's decree, but of the non-existence of any decree on the subject, except as in the five subsisting articles of the decree of Captain-General Caballero de Rodas.

The President of the United States still presumes that no authority whatever exists for the assertion of General Burriel in this respect, and that his action at Santiago de Cuba was not only in flagrant violation of the law of nations, but also a criminal infringement of the laws of Spain.

But in consequence of the uncontradicted assertion of General Burriel, the President instructs me to inquire of your excellency whether it be true that the decree of March 24, 1869, had not been abrogated when the executions in question took place at Santiago de Cuba. Also, whether that decree or anything equivalent to it, respecting jurisdiction on the high seas, is regarded by the Spanish government as still in force? Also, whether the executions made by General Burriel's orders are regarded by that government as having been made under authority of law?

The President also supposes that, if the government of Spain has omitted hitherto to institute steps for the punishment of General Burriel and his associates in the executions at Santiago de Caba, or to exhibit any marks of its displeasure, by military degradation or otherwise, the omission must have been caused by the extraordinary political condition of the Peninsula. If this supposition is incorrect, it is important that the same should be known. He therefore directs me to inquire whether proceedings of the character above mentioned have been instituted, and when and where they will probably take place.

Permit me to assure your excellency that these inquiries are not intended or presented in other than respectful spirit toward the government of Spain. Nevertheless, my Government feels that the maintenance of good relations with Spain depends upon the adherence of the latter to the statements and assurances hitherto given to the United States regarding the abandonment of the objectionable decrees, and upon the disavowal and punishment of those who, under the guise of forms of trial, shocked the civilized world by the executions in Santiago de Cuba.

I have, &c.,

C. CUSHING.

No. 36.

Mr. Cushing to Mr. Fish.

No. 60.]

UNITED STATES LEGATION,

Madrid, July 10, 1874. (Received August 4.)

SIB: I inclose herewith a communication from the minister of state, in reply to my note on the subject of General Burriel.

The disavowal of General Burriel's publication in this communication is positive and explicit, and so, also, is the declaration that the decree issued by Captain-General Dulce was wholly repealed by that of Captain-General Caballero de Rodas.

In what remains of this communication, the minister of state, in assuming that the conduct of General Burriel is to be regarded as but an incident of the capture of the Virginius, and so discussed, affords all possible advantage to the United States.

The capture of the Virginius, having been a violation of the law of nations, could not of itself impart any authority to the commandant of Santiago de Cuba; that is clear; but, if it were otherwise, in the massacres perpetrated by General Burriel not only did he proceed in violation of the law of nations, but also, as it is now admitted, in violation of the municipal laws of Spain. Hence his criminality is the legitimate and inevitable consequence of any possible view of the circumstances.

It is the more impossible for the Spanish government to escape these

conclusions at the present time, inasmuch as it is earnestly appealing to the sympathy of other governments as against alleged acts of cruelty committed or threatened by the Carlists in the existing civil war.

I propose, therefore, in conformity with instructions, to prepare and present, as soon as possible, a suitable reply to this communication of the minister of state.

I am, &c.,

Hon. HAMILTON FISH, Secretary of State.

[Inclosure 2 in No. 60.-Translation.]

Mr. Augusto Ulloa to Mr. Cushing.

MINISTRY OF STATE, Madrid, July 8, 1874.

SIR: I have acquainted myself thoroughly with the note you were pleased to address me, under date of the 27th ultimo, with respect to a writing published on the 14th of April in a Madrid journal, and subscribed by Brigadier Burriel, late governor of the Oriental department of the island of Cuba, in which it appears that its author affirms, among other things, that the decree issued by General Dulce, on the 24th of March, 1869, has never been abrogated.

Concerning this portion of your note, I have the honor to state to you that the appreciations and assertions which Mr. Burriel may have deemed it expedient to publish in that or in any other communication to the press of Spain, or of foreign parts, after ceasing to hold the official post he filled in Cuba, are of his own exclusive responsibility, and it does not pertain to the executive power to restrain, in any way whatever, the right, conceded by the laws to every Spanish citizen, of freely emitting his ideas through the medium of the press.

Neither does the government regard as one of its duties the difficult task of correcting the errors into which, voluntarily or unconsciously, those may fall who, devoid of all official character, and on their own private account, may have recourse to the battle ground of the press to explain their own acts or discuss those of others. But, even were this not so, in the case which now occupies us, this spontaneous intervention on the part of the government, of which you remark the omission, and which that of Washington awaited, considering it as a fulfilment of a duty, would have been, in my judgment, something more than an act contrary to right procedure, (*un acto improcedente*.) It would have signified that the veracity and good faith which govern all the declarations of the Spanish government were at the mercy of the assertions of any private party who might make them a subject of controversy, making in consequence an official rectification necessary to re-establish the truth. It would signify, in a word, that what the government of the nation had officially and solemnly notified to the country, and to the representatives of friendly powers, only deserved credit so long as it was not placed in doubt on individual authority, by any person whatever.

As you can do no less than comprehend in your enlightened discernment, the government neither can nor ought to descend, motu proprio, to this ground.

The Government of the United States assuredly did not fix its attention on these considerations when it expressed surprise at our delay in spontaneously hastening to correct what had been erroneously said by Brigadier Burriel; but persuaded at last that it was neither just nor possible to expect from the Spanish government the abdication of its decorum or any proceedings contrary to its dignity, it has adopted the right path, in which several friendly nations have already preceded it, by resorting to us directly to obtain fitting explanation, which there is no objection to giving it, and which, on the contrary, I have the greatest satisfaction in communicating to it through the authorized medium of yourself.

As early as the 30th of April, my worthy predecessor in this ministry gave a full explanation of this very matter to Her Britannic Majesty's representative, who was pleased to request it in a note of the 23d of the same month; an explanation which it will suffice for me to reproduce in order to satisfy the desires of the Government of the United States.

As soon as the government had cognizance of the decree issued on the 24th of March, 1869, by General Dulce, it communicated to the same, under date of April 22, the requisite orders, to the end that the decree in question should not take effect, (*para que que-dase sin efecto.*) and under the same date it brought this to the knowledge of our representative in Washington, who in his turn imparted it to the Government of the United States.

C. CUSHING.

General Dulce having been relieved, and General Don Antonio Caballero de Rodas having been appointed in his place, one of his first acts was the publication of the decree of the 7th of July, in the preamble of which the orders and decrees of the 18th and 26th of February and the 24th of March, of the same year, were positively declared repealed, (subrogadas.) The new decree of General Caballero de Rodas contained six articles; and in view of certain observations which were made to the government respecting the difficulty of applying the prescriptions of the last of the said articles, it was deemed fitting to leave, reduced to five, the enacting clauses of the above-mentioned decree in co-operation with the captain-general of Cuba, of all of which information was given to the United States and to the other friendly nations.

To this succinct statement the Spanish government has only to add the assurance that not one of the captains-general who have succeeded Mr. Caballero de Rodas in the government of the island of Cuba has exhibited the slightest doubt with respect to the repeal and annulment of the decree of the 24th of March, 1869.

With respect to the legislation referring to jurisdiction on the high seas, the Spanish government only regards as in force that established by international maritime law, and accepted by all nations, as well as that agreed upon in existing treaties.

As explicitly as I have had the honor to reply to the two preceding questions, would the Spanish government wish to answer the remaining points contained in your note; but all these being so intimately bound up with the main question of the seizure of the Virginius, it would be impossible to do so without prejudging many facts of which proof is still pending, and which, as I have had occasion to state in my note of yesterday, it is best should be previously cleared up and settled. When this is done, each of the two governments, with the loyalty which distinguishes them, will accept for its part the obligations imposed upon them and the rights conceded to them by the final result of this important question.

I improve this opportunity to repeat to you the assurances of my most distinguished consideration.

AUGUSTO ULLOA.

No. 37.

Mr. Fish to Mr. Cushiny.

No. 44.]

DEPARTMENT OF STATE, Washington, July 22, 1874.

SIR: Dispatches addressed by you to this Department, numbered 38, 39, 40, 41, 42, 43, 44, 45, 46, and 47, have been received.

With reference to your No. 44, of the 27th ultimo, relating to the article published by General Burriel in one of the newspapers of Madrid on the 14th of April last, I have to state that your action, as therein set forth, is approved by this Department.

I am, &c.,

HAMILTON FISH.

CALEB CUSHING, Esq., &c., &c., &c.

No. 38.

Mr. Cushing to Mr. Fish.

No. 64.]

LEGATION OF THE UNITED STATES, Madrid, July 22, 1874. (Received August 18.)

SIR: I inclose herewith a copy of note to the minister of state on the subject of officers, crew, and passengers of the Virginius.

On account of some new incidents bearing on the case, I withhold, for a few days, response to Mr. Ulloa's note respecting General Burriel.

I have, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

[Inclosure in No. 64]

Mr. Cushing to Mr. Ulloa.

LEGATION OF THE UNITED STATES OF AMERICA, Madrid, July 21, 1874.

SIR: I have the honor to acknowledge reception of your excellency's note of the 7th instant, in reference to the reparation claimed by the United States in behalf of the crew and passengers of the steamer Virginius; and, after according to the matter such due reflection as its importance requires and as respect for your excellency dictates, I beg leave herewith to present the view of the general question entertained by my Government.

These and other pertinent suggestions might be made, I repeat, if the question were an open one; which, however, it is not, it having been explicitly determined by the protocol of November.

Unlawful, therefore, as was the capture of the Virginius, prejudicial as this capture was to the maritime rights of all nations of either hemisphere, injurious as it would have been, in the long run, to the interests of Spain herself to have any such pretended right of capture interpolated into the law of nations—nevertheless, and all these premises being admitted, and whilst the mere capture itself would have constituted serious cause of complaint, still, if the Spanish authorities in Cuba had subsequently pursued the course indicated by international law and by the universal practice of nations, that is to say, if they had taken the vessel into port for examination, and for possible trial before a court of admiralty, simply detaining uninjured her crew and passengers meanwhile, in such circumstances the injury done to the United States, although seriously justifying demand of redress, would not have assumed the portentous proportions which it actually did in consequence of the wholesale massacre of her officers, crew, and passengers, perpetrated at Santiago, which shocked the public sense of Europe as well as of America.

It is of these incidents which it is my duty now regretfully to speak, and to characterize them as they deserve, in the name of international law, of humanity, and civilization, by aid of the lights furnished by Spain herself as well as by other governments.

For it was the great fact of the inhuman slaughter in cold blood at Santiago de Cuba of fifty-three human beings, a large number of them citizens of the United States, defenseless persons, shot without lawful trial according either to the law of nations or to treaty, shot without any valid pretension of authority in the laws of Spain herself, and to the horror of the whole civilized world—this it was which produced such intense emotion in the United States, and which placed the two nations in imminent peril of war, so happily averted by the superior wisdom and patriotic discretion of the governments of Spain and the United States.

Your excellency will pardon me for repeating that this act has no conceivable justification, either in the law of nations or in the municipal law of Spain, or in any conventional law; it being, on the contrary, in plain violation of treaty with the United States.

It was a dreadful, a savage act.

Your excellency, I feel sure, cannot condemn this language as too strong for the actual circumstances. For is it not the very language constantly applied at this day, in public documents and debates, to other acts of the same class, and especially to the shooting of defenseless prisoners it is it not the mere echo of the cry of indiguation and of horror which comes up from all Europe, in view of the military execution of twenty-three prisoners at Estella by Dorregary—the lamentable voice, as it were, of the outraged conscience of Christendom—and which still rings in our ears i

Nay, does not the fact of the unjust military execution of a single German subject at Estella inspire all Germany with indignation? And can the United States be silent in face of the equally unjust military execution of many of her citizens at Santiago de Cuba?

Pardon me for thus alluding to incidents of civil war in this country, which, however, have ceased to be domestic incidents, and belong now to the general history of our times, and which, strikingly in contrast as they are with the conduct of the armies of the republic, may not improperly be alluded to here, in view of their manifest pertinence, and at the same time in the spirit of perfect deference for the government of Spain.

Indeed it affords me gratification to witness and to honor the expressed determination on the part of the Spanish government, and of its generals in the field, never to lose sight of the sacred rights of humanity even in the presence of the worst excesses of pitiless war, and in the face of whatsoever provocation.

But that which is wrong at Estella cannot be right at Santiago de Cuba.

I will not cease to believe, therefore, that the government of Spain, manifesting as it does thus conspicuously its utter condemnation of such heinous acts, and providing, indemnity for the families of the victims thereof, will in the same sprit of exalted selfrespect be prepared to do justice to the present reclanations of the United States.

With which I have the honor to renew to your excellency the assurance of my highest consideration.

C. CUSHING.

No. 39.

Mr. Fish to Mr. Cushing.

No. 37.]

DEPARTMENT OF STATE, Washington, August 15, 1874.

SIR: Your dispatch No. 60, inclosing a copy of the reply of the minister of state to your note on the subject of General Burriel, is received.

It is satisfactory to know that the information previously communicated to this Department, concerning the repeal of the decree issued on the 24th of March, 1869, by General Dulce was correct, and that the government of Spain in no way supports the statement of General Burriel that the massacre of the passengers, officers, and crew of the Virginius was authorized by the terms of a decree in force in the island of Cuba. It may be that it affords an advantage to the United States on this question to regard the conduct of General Burriel simply as an incident of the capture of the Virginius, but every delay on the part of the Spanish government, in taking ground against the acts of General Burriel, so justly complained of, and in visiting upon him the displeasure of his own government, is unsatisfactory and is to be regretied.

In the opinion of the President the time has come when the government of Spain should no longer delay the consideration and adjustment of these questions.

I am, &c.,

CALEB CUSHING, Esq.,

dec., dec., dec.

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No. 40.

Mr. Fish to Mr. Cushing.

No. 59.]

DEPARTMENT OF STATE, Washington, August 21, 1874.

HAMILTON FISH.

SIE: Your dispatch No. 41, inclosing a copy of your note to Mr. Ulloa presenting the reclamation on behalf of the officers, crew, and passengers of the Virginius, was received upon the 17th of Jaly. Upon a careful reading of this note to the minister of foreign affairs, it appeared to place the reclamation, even in the case of those who had been executed, principally, if not entirely, on the ground that the capture of the vessel was illegal. While it may be said that, the capture being illegal, reparation must follow for all the subsequent acts, including the executions, at the same time it seemed that great stress might be laid upon the fact, at least so far as American citizens were affected, that such bloody deeds as were enacted at Santiago were contrary to the usages of civilized nations, in violation of treaty obligations, without parallel, and entirely without excuse, and demanded full aud complete reparation, entirely apart from the question of the illegality of the capture of the vessel.

The Department is now in receipt of your No. 64, inclosing a copy of your reply to the minister of state. Your reply has been read with care and lively satisfaction. You have very fully and properly exposed the fallacy of the arguments of the minister of foreign affairs looking to further delay in the consideration of the question, and have in terms fitting, and not too severe, denounced the cold-blooded murders of these defenseless people which took place at Santiago. No language can be too severe when applied to these bloody acts.

Your presentation of the case, and the light in which you have placed it, meet with the entire approval of this Department.

It is most disappointing and unsatisfactory to learn, after the presentation of the claim for reclamation had been delayed many months, when ample time had been given for every investigation which could be required, when an opportunity had arisen for the government of Spain to meet the question freed from the excitement which surrounded the acts which were complained of, when even the Spanish government had become loud in its expressions of horror at the execution of defenseless prisoners, in cold blood and without trial, that the answer submitted to your demand for redress for the occurrences at Santiago should be simply a plea for delay.

You will, on proper occasion, express to the government of Spain the strong feeling of this Government, that the questions so fully presented by you should be considered without delay, and that ample reparation, now too long deferred, should be promptly furnished.

This Department awaits with interest your further communication on this question, and the further steps to be taken by you in relation to General Burriel, as indicated in your No. 64.

I am, &c.,

HAMILTON FISH.

CALEB CUSHING, Esq., &c., &c., &c.

No. 41.

Mr. Cushing to Mr. Fish.

No. 106.]

LEGATION OF THE UNITED STATES, Madrid, September 27, 1874. (Received October 23.)

SIR: I have the honor to inclose herewith copy of a communication addressed by me to the minister of state on the 24th instant, in relation to the affair of Brigadier Burriel.

I have, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

[Inclosure in No. 106.]

Mr. Cushing to Mr. Ulloa.

LEGATION OF THE UNITED STATES OF AMERICA, Madrid, September 24, 1874.

SIR: I find myself constrained, not only in obedience to express general and special instructions of my Government to this effect, but also in the intimate personal con-

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viotion of the reason and justice of the considerations on which such instructions are founded, to address your excellency again in reference to the acts of Brigadier Burried, whilst governor of the eastern department of the island of Cuba, and to what he has said or done, since the time of his relief from that charge, and his return to the peninsula.

It affords me sincere gratification to be able to say, in the first place, that the President of the United States does full justice to the frankness and explicitness with which your excellency has been pleased to disavow all responsibility of the Spanish government for the publication made by Brigadier Burriel, in one of the newspapers of Madrid, in April last, in which that person undertook to justify the summary massacre of fifty-three persons of the crew and passengers of the Virginius, on the plea of this atrocious act being in conformity with and execution of a certain decree issued by Captain-General Dulce; and for the explicitness and frankness, also, with which your excellency has been pleased, at the same time, to contradict so peremptorily the baseless assertion of that person of the existing force and validity of the decree in question.

In declaring, as your excellency does, that General Dulce's decree was repealed by that of General Caballero de Rodas, and has never since been revived, your excellency justifies the understanding of the Government of the United States in this respect and frees that of Spain of all shadow of suspicion in the premises; which suspicion, indeed, did not exist until awakened by the extraordinary audacity of Brigadier Burriel in assuming to pass over the decree of Captain-General Caballero de Rodas, and fall back on that of General Dulce, in the desperate attempt to extenuate one of the most signal acts of cruelty and barbarity which the present age has witnessed, and which attempt on his part so to cover up his crimes did, in fact, involve imputation either express or implied—but that imputation, happily, a false one—of bad faith on the part of his own government.

It is satisfactory, also, to the President to know, as stated in your excellency's note, that your predecessor in the ministry of state had already given explanations in this matter, to the same effect, in a note addressed by him to the representative of the British government.

Thus, the honorable attitude of the Spanish government in this respect, and its perfect good faith in reference to the repealed decree of Captain-General Dulce, are doubly substantiated, and the honor of Spain is thoroughly vindicated as against the unqualfiable aspersions cast upon it by Brigadier Burriel.

But while anthorizing me to express entire satisfaction with the declarations thus far made by your excellency, the President instructs me further to say that the contents of your excellency's note confirm and fortify his opinion that it would be convenient for the Spanish government, in proper regard to the amicable relations of the respective governments concerned, to subject Brigadier Burriel either to summary punishment or to trial by court-martial, as may be most in conformity with the military jurisprudence of Spain.

In reference to this part of the subject it now becomes my duty to submit to your excellency some further observations, specially applicable to the case of Brigadier Burriel as it now stands.

Under false pretense of the subsistence of a decree of Captain-General Dulce, which decree he could not but know had been repealed by Captain-General Caballero de Rodas, this person perpetrates at Santiago de Cuba an act of wholesale ferocity and barbarity, for which no parallel then existed in modern history, or has until now existed previous to the similar acts of atrocity of Dorregary at Estella, and of Saballs at Olot.

Not content with the perpetration of this great crime at Santiago de Cuba, under false pretense of law or superior authority, but without any such justification in fact, as he could not but have perfectly well known, he now, on his return to Spain, presumes to put forward these false pretenses in the form of a solemn appeal to the world, addressed to the highest political and literary journal of Europe, and in so doing impliedly accuses his government, falsely, however, of scandalous breach of good faith in respect of the assurances it had previously given to foreign governments touching the repeal of General Dulce's decree by that of General Caballero de Rodas.

Now, it may be admitted, as your excellency suggests, that it is not *incumbent* on any government to take notice of publications in the newspapers. It will do so, or it will not, in its discretion or in accordance to the seriousness of the circumstances. Thus, in the case of the false rumors set on foot by the enemies of Spain in the United States, respecting the alleged purpose of the Spanish government to cede Puerto Rico to Germany, the Spanish government might well refuse to condescend to contradict the statement officially, unless called upon officially so to do, and so it might leave the falsehood to expire of itself or to be contradicted by the person most directly interested, namely, Admiral Polo de Bernabé, as it has been in such terms of just and honorable indignation.

But suppose-what is otherwise impossible, save as a hypothetical supposition-

suppose that, after being relieved from duty as minister, Admiral Polo himself had been the author of this false rumor, and had propagated it in a solemn communication addressed to the Revue des Deux Mondes, if in such a case the Spanish government should not condescend to go into the newspapers to correct false rumor, would it not have something to say to the inventor and propagator of the falsehood, and he an officer high in the military service of Spain ?

In like manner when Brigadier Burriel, in the face of the fact that the decree of Captain-General Caballero de Rodas did, in express terms, repeal the decree of General Dulce, and in the face of the further fact that the Spanish government had given to other governments the most explicit assurance of this repeal, and thus, in effect, pledged its faith to the non-existence of the decree of General Dulce; when, I say, in the face of these facts, Brigadier Burriel asserts, in a formal publication, the continued legal existence and effect of that decree, thus impeaching the good faith of his governmen and offending and insulting the honor of his country, will not the government flud some article of the military code of Spain importing condign punishment of the high officer of the army who does this great wrong to his country and his government **f** I will not enlarge on this topic, because it less directly concerns my Government than the acts perpetrated by Brigadier Burriel at Santiago de Cuba, to which the rest of this note will be dedicated.

Brigadier Burriel had undertaken to maintain that the shooting of unarmed prisoners in the gross, captured on the high seas, and outside, of course, of the territorial waters of Spain, was justified in legal theory by the letter and spirit of the decree of General Dulce:

Your excellency has disposed of this pretended legal justification of the act, by declaring, as good faith induced you to do, that the decree of General Dulce had been repealed by that of General Caballero de Rodas, and did not exist as law at the time of the capture of the Virginius and of the execution of her crew and passengers at Santiago de Cuba.

I might well assume, in the absence of this decree of General Dulce, that neither the capture nor the executions were justifiable by any provision of the municipal jurisprudence of Spain.

I go further, and venture to suggest that if there did exist any text of the domestic laws of Spain capable of being forced into this question—I do not stop to inquire if there be any such—I say no provision of local law, if any such there be, could apply to citizens of the United States, or to subjects of Great Britain, found on the high seas, and beyond the jurisdictional waters of Spain.

In this remark I associate, as the note of your excellency does in effect, subjects of Great Britain with citizens of the United States, since it is not only a question between the United States and Spain, but also between Great Britain and Spain; and thus, of imperative necessity, it passes from the narrow domain of municipal law into the higher and broader region of the law of nations.

Your excellency plainly expresses this idea by saying, in the note under consideration, that, "with respect to legislation referring to jurisdiction on the high sea, the Spanish government considers in force only that established by the maritime international law and accepted by all nations, or that stipulated in subsisting treaties."

In what provision of subsisting treaties or in what text-book of the law of nations can Brigadier Burriel discover any justification or extenuation of these acts? He and other unadvised persons talk loosely about "pirates" and "piracy" in connection with the Virginius and her crew and passengers. But these phrases of popular prejudice and superficiality, which may be fit for the columns of augry newspapers, do not belong to the language of diplomacy or jurisprudence. And I take pleasure in recognizing that your excellency declines to descend to the use of any such inappropriate language in the discussion of the case of Brigadier Burriel,

In truth, it is palpably absurd to apply the term "piracy" to the voyage of the Virginius, or the term "pirates" to her crew or passengers. The essence of piracy, by the law of nations, as universally defined in the text of all writers on public law and of all books of doctrine and jurisprudence, is armed cruising for the purpose of pillage and plunder, without lawful authority of any government. Such persons only are pirates according to the law of nations. And there is no suggestion or pretense that the Virginius was fitted out for any such purpose, or that she was armed as a cruiser, or that she ever made, or attempted or intended to make or attempt any capture, prize, pillage, or plunder. Whatever, if anything, there may have been wrongful in the character of the Virginius, she was not a piratical ship by the law of nations, nor her officers and crew pirates.

I adopt in this respect the language of the dispatch, applicable to this point, of Earl Grauville to Mr. Layard, both because of the clearness and precision of the language of that dispatch, and because of the absolute identity of the relation of the two goveruments, in this respect, to that of Spain.

"The real ground of complaint, Her Majesty's government hold," says Lord Granville, "is that, even assuming the vessel to have been lawfully seized and the crew properly detained, there was no justification for their summary execution after an irregular proceeding before a drum-head court-martial. No possible aspect of the character of the Virginius and her crew could authorize or palliate such conduct on the part of the Cuban authorities. There was no pretense for treating such an expedition as piracy jure gentium.

"If the Virginius was to be regarded as a vessel practically engaged in a hostile or belligerent enterprise, such treatment would not be justifiable. Much may be excused in acts done under the expectation of instant damage in self-defeuse by a nation as well as by an individual. But, after the capture of the Virginius and the detention of her crew was effected, no pretense of imminent necessity of self-defense could be alleged; and it was the duty of the Spanish authorities to prosecute the offenders in proper form of law, and to have instituted regular proceedings on a definite charge before the execution of the prisoners.

"Her Majesty's government maintain that there was no charge, either known to the law of nations or to any municipal law, under which persons in the situation of the British crew of the Virginius could have been justifiably condemned to death.

"They were persons not owing allegiance to Spain; the acts done by them were done out of the jurisdiction of Spain; they were essentially non-combatants in their employment; and they could by no possible construction be liable to the penalty of death."

I assume, therefore, as your excellency does, that here is no question of the municipal law of any country, but only of international right, as settled by theory, practice, or convention.

And, in reasoning with a person of your excellency's enlightenment and large experience in administrative and diplomatic affairs, it would be waste of time here to enter into the consideration of those questions of assimilated piracy, which arise out of the local law of sundry governments or special provisions of treaty, none of which apply to the case of the Virginius. It is indisputable, in short, that in the eye of the law of nations he only can be characterized as a pirate who puts himself in the condition of hostis humani generis—a sea-robber of all mankind. It does not suffice that he should be the private enemy of one government only; as, for instance, Spain, or the United States, or Great Britain.

Why, indeed, should we not fix our attention at once and wholly on the undeniable truth of the case, namely, that if there were anything wrong in the acts or the intention of the Virginias, it was only that quasi wrong, the relations and consequences of which are thoroughly defined by the law of nations, as understood in all Europe and America, namely, the transportation of military persons or stores, which may subject the vessel or cargo to condemnation, but which never to this day was deemed a cause of shooting the officers and crew as pirates, except in the perverse imagination of Brigadier Burriel.

In fine, it is too plain for contradiction or dispute that the wholesale shootings perpetrated by him at Santiago de Cuba were an act of mere arbitrary military violence, in the highest degree unwise and inexpedient as well as criminal, falling at once into the category of the atrocities committed by the Carlists at Estella, at Cuenca, and at Olot. Historians in all future times will speak in the same accents of horror of the military assassinations of Estella, of Olot, of Cuenca, and of Santiago de Cuba.

The government of President Serrano would repel with indignation the idea that this government, the supreme representation of Spain and the Spanish na ion, is to assume the responsibility of those acts of transcendent cruelty on the part of Dorregaray, of Saballs, of Alfonso de Este, although they be Spaniards.

Will not the government of President Serrano in like manner repel all responsibility for the acts of equally transcendent cruelty on the part of Brigadier Burriel, although a Spaniard in the service of a previous government?

Suppose a military officer of Spain to-day, operating against the Carlists in Vizayo, Guipuzcoa, Alava, Navarre, Catalonia, Aragon, Valencia, or Murcia, should arbitrarily shoot in cold blood, with or without pretense of verbal court-martial, fifty-three prisoners of war, whether Carlist-Spaniards, or even Carlist-Frenchmen. What must follow ? Would not such officer besubject to immediate destitution and punishment ?

Spain has appealed to the world in the eloquent and impressive language of your excellency's diplomatic circular, and even more impressively and by the language of action, in the decrees of the executive power, against the massacres of Estella and Olot. Can she to-day, in the face of these appeals to Europe in condemnation of the barbarities of Dorregary and Saballs, justify—nay, accept and affirm the barbarities of Burriel, perpetrated, as we know, contrary to the purpose—nay, in violation of the orders of the supreme government of the time i

Permit me respectfully to suggest that, for Spain now to assume such responsibility would not only be a measure of direct affront to the United States, and to Great Britain equally aggrieved with the United States, but indirectly of affront also to Gremany, to Austria-Hungary, to Italy, to Portugal, to Belgium, to the Netherlands, and to all the rest of Europe now drawn toward General Serrano's government, not only as representing the conservatism, but also as representing the civilization of Spain. I cannot suppose that your excellency will entertain the idea that such acts as those under cousideration are at any time beneficial to the government in whose name they may have been perpetrated. Such a supposition would carry us back into the times and usages of mere barbarian and savage war, even to worse times than the invasions of Attila and Alaric.

But if a Christian government in the nineteenth century could be tolerated in perpetrating such acts because of any false imagination of the benefits to be derived from them, is it not self-evident that if those acts be to the prejudice of any foreign government, then the government which enjoys the benefit, such as it is, should, with no grudging hand, pay the price of that benefit in reparation of the injured government **f**

But your excellency will concur with me, I feel sure, in doubting the ultimate usefulness of any wrongful act. Certainly, in the present case, the imaginary immediate advantage to the Spanish colony of Cuba was nowise commensurate with the manifest injury to Spain herself. She has no cause of thanks to Brigadier Burriel.

If the foregoing considerations possess in fact all the cogent force with which they present themselves to my mind, there does not exist that occasion which your excellency supposes for the further discussion of the true legal character of the Virginius, preliminary to the trial or punishment of Brigadier Burriel. It is not the capture of the Virginius which is here in debate. If, on being captured and taken into Santiago de Cuba, that vessel had been carried before a court of admiralty for regular trial according to law and treaty—if, meanwhile, her officers, crew, and passengers had been held for examination in like manner, according to law and treaty—there would have been nothing in the case, such as there is now, of superlative and surpassing gravity. It was the rash, cruel, lawless, and criminal act of Brigadier Burriel, which raised the case into a perilous international controversy between Spain and the two governments of Great Britain and the United States.

The conclusion is inevitable, that Brigadier Burriel has, by his own deeds of wanton wrong, rendered himself amenable to the penal laws of Spain.

The President of the United States, therefore, has the amplest possible reason to expect that the Spanish government will in due time, and with no unnecessary delay, vindicate her own dignity and her own laws by subjecting to punishment the contumacious officer who, by mingled wickedness and folly, has brought all these calamities upon his country in wantonly giving occasion to the present controversy between Spain and the United States.

I make no account of the rumor that, under present circumstances, Brigadier Burriel can be an aspirant for the cross of San Hermenegildo, the recompense not only of constancy in military service but of untarnished honor—constancia en la milicia y honor acrisolado.

The President conceives that that which is expected by him of Spain is no more than what is done by all other governments in like circumstances, and which the United States themselves have done in repeated and signal instances.

The German government did not hesitate to subject to trial by court-martial a distinguished officer of its own, Captain Werner, who, in the performance of an act beneficial to the Spanish government, had apparently trespassed on the sovereign rights of Spain.

Not long since a distinguished and meritorious officer of the Navy of the United States, Captain Collins, also trespassed on the sovereign rights of Brazil, in performing an act beneficial to the United States and involving no actual injury to Brazil. But, on the suggestion of the Brazilian government, he was tried by a court-martial and condemned on the precise charge of a technical violation of the law of nations.

During the same period of time a similar act of trespass on the jurisdictional waters of Spain occurred on the part of another respectable officer of the Navy of the United States, Commander Hunter, and he also was in due time ordered before a court-martial on the charge of a violation of the law of nations to the prejudice of Spain, and was tried, condemned, and sentenced. These proceedings were had quite as much for the vindication of the honor of the United States as for the satisfaction of the Spanish government. It is true, nevertheless, that the Spanish government called for such reparation with the same earnestness that the Government of the United States now calls for reparation in the case of Brigadier Burriel.

Passing over other examples of the same class, it will suffice to refer to one more of conspicuous significance, also occurring in the relations of Spain and the United States.

David Porter was an officer, second only to the highest in rank in the Navy of the United States. He had been pre-eminently distinguished in many famous actions of war, and had attained, deservedly, the universal respect of his countrymen. Being employed in the command of a fleet in the West Indies, for the pursuit there of pirates, gennine pirates—hostes humani generis—with which those seas then swarmed, the United States in this respect acting in concert with Spain, Great Britain, and other governments, he did an act, which, although beneficial to Spain, was an act of technical violation of the sovereignty of Spain. For this error he was tried by court-martial on accusation of violating the law of nations, condemned, and sentenced, in spite of his high rank, great services, and unsurpassed personal popularity.

Assuredly, therefore, what the United States themselves have done, of their own accord, willingly, spontaneously, in like circumstances, in order to render international justice to Spain, it would be no derogation on her part to do for the satisfaction of the United States.

Nay, in the case of Porter, he, with the proud spirit of a gallant soldier, on finding that his act had been impugued, and asserting that he had been guilty of no wrong in the premises, himself demanded that court of inquiry, which resulted in his being tried by court-martial.

Brigadier Burriel has also been guilty of a violation of the law of nations, and of such intensity and aggravation that the inculpated acts of Werner, of Collins, of Hunter, of Porter, are but as nothing in comparison. Neither of them had outraged the conscience of mankind, as Burriel did; neither of them had done acts of inhumanity and brutality, like those of Burriel, at the thought of which all mon shudder with horror; neither of them had slanghtered helpless captives by the wholesale, as Burriel did; neither of them had perpetrated enormities like those of Burriel, to the eternal disgrace of themselves and to the dishonor of their name and nation, and of the human race itself; neither of them had, like Burriel, by the commission of a crime of monstrous iniquity, but not less of monstrous unwisdom and inexpediency, involved their country in critical conflict with two powerful states; they had not their hands dripping with innocent blood; they had simply committed a technical breach of the rights of national sovereighty to the prejudice of no one and to the benefit of all the world; and yet they were subjected to the rigor of penal law by the voluntary command of their own governments, impelled by motives of national self respect and of international comity. And shall this Brigadier Burriel go " unwhipped of justice i" Will Spain be less regardful of the claims of international right and comity, than other governments i I cannot and I will not believe it of her.

And what an example is not that of Porter for Brigadier Burriel? If he be the man of honor which an officer of his rank in the army of Spain should be; if he be, as he professes, confident of the rightfulness of his acts, should he not, instead of filling the newspapers with shallow and disingenuous arguments on the subject, manfully come forward and demand a trial by a court of his peers, and thus, by the only appropriate means, vindicate his character, if it admits of vindication, and also relieve his government and his country of the painful controversy which he has bronght on between Spain on the one hand, and on the other the United States and Great Britain i

Juan Burriel, I repeat, might well imitate the example "hus set to him, and this without any diminution of personal dignity; for he needs to live many years of a higher life than heretofore, and to fill those years with loftier achievements, in order to approach to the brilliant military fame and the personal authority and popularity of David Porter.

I assure your excellency that nothing could be more unwelcome to me than the duty of submitting these observations to the attention of the Spanish government. But it is a duty, the performance of which has been the necessary and unavoidable result of the conduct of Brigadier Burriel. On his head be the blame. And I sincerely trust that, even without any necessity on your part of prejndging the imputed blood-guiltiness of Brigadier Burriel, your excellency will perceive, in the arguments submitted by me, and especially in the examples cited, of what other governmeuts, including the United States, have been accustomed to do in the same circumstances, abundant justification for such action in the premises on the part of paris, shall tend to strengthen the ties of international amity between her and the United States.

I avail myself of this occasion to tender to your excellency the assurance of my highest consideration.

C. CUSHING.

His Excellency the MINISTER OF STATE.

No. 42.

Mr. Fish to Mr. Cushing.

DEPARTMENT OF STATE,

Washington, October 29, 1874.

SIR: Your dispatch No. 106, dated September 27, transmitting a copy of your note to the minister of state, further urging the prosecution and punishment of General Burriel, has been read with satisfaction and approval.

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It is noticed that no direct reference is made to the stipulations to the protocol of November 29, as follows:

"It being understood that Spain will proceed according to the second proposition made to General Sickles, and communicated in his telegram read to Admiral Polo on the 27th instant, to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty obligations, and will arraign them before competent courts, and inflict punishment on those who may have offended."

The second proposition made to General Sickles was as follows :

"So, if it be proved that, in the proceedings or sentences pronounced against foreigners by the authorities of Santiago de Cuba, there has been an essential failure to comply with the provisions of our legislation or of treaties the government will arraign those authorities before the competent tribunals."

By the terms of the protocol the government of Spain bound itself, now almost a year ago, to investigate whether General Burriel had infringed Spanish laws or treaty obligations in his barbarous and cruel acts. There is no evidence that any investigation has been commenced, and the facts may be said to be all admitted. The decision upon this question ought not to be delayed, and is not, by the terms of the protocol or otherwise, dependent on any other question. It is deemed important that the government of Spain should meet this question, and decide whether General Burriel did or did not infringe Spanish law and treaty obligations by his acts at Santiago. There can be but one answer to this question, and it is believed that the government of the United States may properly insist that it be decided.

I am, &c.,

CABEL CUSHING, Esq., &c., &c., &c.

No. 43.

Mr. Cushing to Mr. Fish.

No. 171.]

LEGATION OF THE UNITED STATES,

Madrid, December 1, 1874. (Received December 26.) SIR: I inclose herewith copy of a note addressed by me to Mr. Ulloa, yesterday, insisting on the arraignment, in conformity with stipulation by protocol, of local authorities implicated in the transactions at Santiago de Cuba. I trust nothing will have been lost by the omission to make this point in previous notes. Indeed, it seems to me quite opportune at the present time.

I have, &c.,

C. CUSHING.

HAMILTON FISH.

Hon. HAMILTON FISH, Secretary of State.

[Inclosure 1 in No. 171.]

Mr. Cushing to Mr. Ulloa.

LEGATION OF THE UNITED STATES OF AMERICA.

Madrid, November 30, 1874.

SIR: I have received instructions to call the attention of your excellency, in connection with pending negotiations, to certain stipulations of the protocol of November 29th, 1873, as follows:

"It being understood that Spain will proceed according to the second proposition made

to General Sickles, and communicated in his telegram read to Admiral Polo on the 27th instant, to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty obligations, and will arraign them before competent courts, and inflict punishment on those who may have offended."

The second proposition made to General Sickles was as follows :

"So, if it be proved that, in the proceedings or sentences pronounced against foreigners by the authorities of Santiago de Cuba, there has been an essential failure to comply with the provisions of our legislation or of treaties, the Spanish government will arraign those authorities before the competent tribunals."

It is to be observed that the above stipulation on the part of the Spanish government is definite and precise, and that it is not, by the terms of the protocol or otherwise, dependent on any other question.

And it is further to be noted that the particular stipulation assumes that the Spanish government will, of its own motion, arraign the offending authorities before the competent tribunals, provided it should be proved that, in the proceedings against foreigners at Santiago de Cuba, there was an essential failure to comply with the provisions of the legislation of Spain or of her treaties with other governments.

As a question of construction, it seems to me to be the manifest intent of the protocol that the illegality of the proceedings in question is to be ascertained by the spontaneous act of the Spanish government. "It being understood" (are the words) "that Spain will proceed * * * to investigate," &c.

I assume that such failure, if not otherwise apparent to the Spanish government, has been fully established in the communications on the subject, especially that of September 24th, regarding Brigadier Burriel, which I have had the honor heretofore to address to your excellency.

Hence, if (which I cannot admit) there be room to infer, from the tenor of the "second proposition" above cited, that it might be incombent on the United States to show to the Spanish government the illegality of the proceedings at Santiago de Cuba, and that the Spanish government might, in strict right, wait for such manifestation, that has now been done, and, according to the express and explicit terms of the stipulation, it would now devolve on the Spanish government to "arraign those authorities before the competent tribunals."

Permit me to add, that I have been informed, and have good occasion to believe, that on this point the Spanish government at the time consulted the Señores Canovas, Calderon Collantes. Alonso Martinez, Nocedal, Rivero, Martos, Alvarez, (D. Cerilo,) Duque de la Torre, and Marquis del Duero, and that all these eminent personages were unanimously of opinion that there was no legal justification for proceedings such as had been had at Santiago de Cuba.

In view, therefore, of the established illegality of those proceedings, my Government feels authorized to expect that the action in the premises, stipulated by the Spanish government, will, as a matter of course, now take place, as one of the elements of the full and final settlement betweeh the two governments of this painful controversy. I have regarded it as due to the frankness which has presided over all our official intercourse, to our mutual earnest desires and hopes of accommodation, and to the confidence, on my part, in the good faith of the Spanish government, which I have constantly expressed to my own, to submit the suggestions to your excellency at this time. I avail myself of this occasion again to offer to your excellency the assurance of my

highest consideration.

C. CUSHING.

No. 44.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, December 4, 1874.

Fish, Secretary of State, Washington:

Regarding Burriel, Mr. Ulloa says substantially :

With reference to your note of 30th November, expressing the desire of the United States to see protocol fulfilled respecting second proposition of Sickles, Spain desires and is ready to adhere faithfully to protocol, and will give orders that inquiry shall be instituted by the competent tribunals as to conduct of authorities at Santiago in trial and execution of American citizens, exacting of them due responsibility for infringement of Spanish laws or treaties. The judicial power being independent of the executive, no responsibility rests on the latter for judicial acts of the tribunals of Santiago, which have operated within their attributions, and are only subject to such responsibility as may be exacted of them in the *juicio de residencia*, the only competent tribunal, even though the government, on December 26, separated Burriel from his command.

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No. 45.

Mr. Cushing to Mr. Fish.

No. 177.] LEGATION OF THE UNITED STATES, Madrid, December 5, 1874. (Received December 24.) SIR: I inclose herewith translation of an official note from the minister of state, * * * * * * *

I am compelled to postpone * * * some observations which have occurred to me on the subject.

I have, &c.,

Hon. HAMILTON FISH, Secretary of State.

C. CUSHING.

[Inclosure 1] in No. 177 .- Translation .- Extract.]

Mr. Augusto Ulloa to Mr. C. Cushing.

MINISTRY OF STATE, Madrid, December 3, 1874. (Received December 3, 1874–12 uight.)

* * * The terrible consequences which the rash and criminal expedition of the Virginius has had for some of the unhappy persons who were on board—consequences which the orders of the executive power could not avert, being unfortunately received in Santiago de Cuba too late by reason of the interruption of the telegraph lines by the insurgents —could not do less than move the generous sentiments of the Spanish government, so painfully situated between the strict fulfillment of the laws in special circumstances, and the impulses of humanity and of commiseration common to all honorable men, but which should be violently stifled before the imperious voice of duty and the defense of the high interests confided to the public powers.

That duty fulfilled, sentiments of humanity may still recover all their force, and endeavor to seek, not a remedy for an irreparable punishment, but alleviation and consolation for those persons who, without having had part in the commission of the crime, participate fatally in the terrible consequences of the explation imposed by law.

It remains to me to answer, Mr. Minister, the last note which, under date of the 30th ultimo, you have been pleased to address me, and in which you express to me the desire of the Government of Washington to see the fulfillment of the article of the protocol of November 29, 1873.

The government desires and is prepared to fulfill in every point all the stipulations contained in the protocol of the 29th of November, 1873; and considering the contents of the second proposition made by your predecessor as one of the elements of the complete and final settlement of the question which occupies us, it will proceed to give the proper orders, to the end that by the competent tribunal shall be instituted an inquiry with respect to the conduct of the authorities of Santiago de Cuba who intervened in the conduct of the trial and sentence of the American citizens who were executed in that city, exacting of them the responsibility which they may have incurred for infractions of law or of international treaties. You are not unaware that one of the bases of our political constitution is the independence of the judicial power and the liberty of action with which it performs its functions within its own sphere, without the least intervention of the other powers; and you will understand, therefore, that no responsibility whatever can have rested on the government, as the executive power, either in the proceedings or in the judgment of the tribunals of Santiago de Cuba, which have operated within the circle of their attributions, although of course subject to the responsibility borne of the self-same independence of their functions, and which may be exacted of them in the *juicio de residencia*,* which is the competent jurisdiction; although the government motu propio decreed on the 26th of December, 1873, that is, consequent upon the affair of Santiago, the removal from command of Brigadier Burriel, then comandante-general of the eastern department of the island of Cuba.

AUGUSTO ULLOA.

The MINISTER PLENIPOTENTIARY of the United States.

No. 46.

Mr. Fish to Mr. Cushing.

[Telegram.]

DEPARTMENT OF STATE, Washington, December 7, 1874.

Third. On third point Spain seems to claim that the investigation into the conduct of authorities at Santiago must be made by courts whose independence of action from political or military control is asserted. This is inconsistent with the practice which has been pursued in Cuba, and with rights which have been asserted to enforce martial law.

Burriel justified his acts under an alleged extraordinary decree which had been issued, but revoked. He did not profess to act, nor did he proceed, under ordinary judicial proceedings.

It is, therefore, illogical to claim that the investigation must be through the ordinary judicial channels.

You will take care on this point that Spain is not released from, and does not change, her engagement under the protocol signed with Polo, which ought to have been fulfilled many months ago.

> FISH, Secretary.

No. 47.

Mr. Fish to Mr. Cushing.

No. 108.]

DEPARTMENT OF STATE, Washington, December 30, 1874.

SIR: Your dispatch No. 177, with which was inclosed a copy of the elaborate note of Mr. Ulloa on the question of the Virginius, in reply to your communications, and of his private note forwarded at the same

^{*} The investigation instituted with respect to one who has held public office as to his conduct in the discharge of his duties. The investigating court combines inquisitorial and punitory functions.—C. C.

time, has been received. I have read the note of Mr. Ulloa with interest and careful attention.

While I cannot agree with many of his assumptions and arguments, I must express satisfaction with its general tone and tendency, and with its temper and conciliatory expressions.

In this view, it is in marked contrast with some of the papers which have in the past emanated from the officials of Spain.

I must, however, express my regret that Mr. Ulloa should have deemed it necessary, even if in deference to public feeling in Spain, to refer to the executions at Santiago as "the strict fulfilment of the laws in special circumstances," or as called for by "the imperious voice of duty," or to take from the moral effect of the indemnity proposed by characterizing the reparation as actuated by sentiments of pity consequent on a "duty fulfilled," and as caused by a desire to alleviate the misfortunes of those who suffer through punishment imposed on others by the law. I could have hoped that a review of all the facts attending the executions, and a consideration at this late day of those barbarous and cruel acts, happily without parallel, would have deterred the accomplished minister of state from the use of any expressions, and from allowing himself to be committed to any view, tending to justify those executions.

Without considering what supposed necessity may demand such an apparent justification, I cannot but believe that, had Spain joined the civilized world in a denunciation of these executions, and had she long since visited prompt and effective punishment on the guilty parties, the moral support she would have gained thereby would have largely exceeded any corresponding detriment.

I am, &c.,

HAMILTON FISH.

CALEB CUSHING, Esq., &c., &c., &c.

No. 48.

Mr. Fish to Mr. Cushing.

129.]

DEPARTMENT OF STATE, Washington, February 19, 1875.

SIR: I have read your No. 238 with lively satisfaction. * * * In this connection, and particularly because it is of great importance that this controversy, once settled, should be finally determined, I allude to the matter of the punishment of General Burriel.

It will be remembered that, by the protocol of November 29, Spain bound herself to proceed, according to the second proposal made to General Sickles, to investigate the conduct of those of her authorities who had infringed Spanish laws or treaty obligations, and to arraign and punish them therefor. I am aware that Mr. Ulloa, in his note of December 3, informed you that the Spanish government would proceed to give proper orders for an inquiry respecting the conduct of these authorities in reference to the trial and sentence of the citizens of the United States, discussing at the same time the independence of the judicial power

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within its own sphere. As to what steps have been taken in that direction, I am not informed; but if it be conceded that the executions and the contemporary proceedings were wholly indefensible, so much so that the president of the council and the minister of state are unwilling to be considered as justifying or defending them, is not any formal inquiry, with all the attendant delay, and with the bad effect of a want of complete adjustment, simply injurious and futile ¶

If the new government of Spain frankly avows that indemnity cannot be refused, and that it will not permit a longer withholding of reparation for this wrong, will it hesitate and delay punishment of the great offender, who not only put to death fifty-three of his fellow-creatures under circumstances exceptionally brutal and cruel, but who, long after the occurrence, paraded his share in the murders before the civilized world in a labored article, and falsely pretended that a decree, known to have been repealed, furnished him a justification ?

I am unwilling to believe that Mr. Castro can be less frank and outspoken in reference to the punishing of General Burriel than to this question of indemnity; and I am quite as unwilling to think that the result of any inquiry can fail to coincide with the universal sentiment upon this question. In view of the fact that the present ministry has really denoanced the acts and offered reparation, that the former ministers of Spain have at all times denounced similar acts committed in their own country, and that the civilized world has long since recorded its judgment, I must express the earnest hope that while a further presentation of this matter should not embarass or delay the settlement about to be made, that upon a presentation at the proper time, the government of Spain will feel not only ready but desirous of putting an end to this entire controversy, and promptly punishing this chief offender; and I cannot imagine any more proper time for this most proper act than the earliest moment when the punishment can be inflicted.

I am, &c.,

HAMILTON FISH.

CALEB CUSHING, Esq., dc., dc., dc.

No. 49.

Mr. Cushing to Mr. Fish.

No. 388.]

LEGATION OF THE UNITED STATES, Madrid, May 17, 1875. (Received June 3.)

SIR: I have made only incidental reference to Brigadier Burniel in recent dispatches; but I have not lost sight of him, or, I might rather say, of his case; for he himself has quite disappeared from public view, having slunk away, it is said, into some obscure corner of Galicia. In fact, the whole affair has proved, as it ought, to be a calamitous one to him. Although some of his friends timidly suggest in his behalf that he acted under a mistaken sense of duty, still the reprobation excited by similar acts on the part of the Carlists, such as the affair of Olot and that of Cuenca, neutralizes all efforts to justify or extenuate his conduct.

You will readily conceive that considerations of public policy on the part of the government, both that of President Serrano and that of King Alphonso, will have tended to produce condemnation of all such acts; and the public indignation is kept alive by new incidents. Thus, not long since, the Carlist chief, Mendiri, shot by decimation a number of prisoners at Estella, on some frivolous cause of complaint, for the purpose of terrorizing the soldiers of the army of the north. Everybody is rejoicing to learn that the German government, on the application of Spain, ordered the extradition of D. Alphonso de Este, because of the acts perpetrated by him at Cuenca; and that, for the same cause, the inhabitants of Gratz, in Styria, where he had taken refuge, have mobbed him and his wife in the streets, driven him out of the cathedral, and attacked him in his dwelling-house.

In these circumstances, the Spanish government is neither disposed nor able to defend military executions; and tempted, as it has been, to retaliate in the same way on the Carlists, it abstains, and limits itself to issuing an order for the transportation of a certain number of Carlist prisoners in retorsion of the execution of soldiers of the government. Thus it is that, while nobody can efficiently defend Burriel, he remains without promotion; humiliated by seeing that his government is humiliated on account of his acts, and is forced, as it were, to throw a mantle of gold over the blood he shed, by paying heavy sums to the United States and to Great Britain for the relief of the families of the victims of Suntiago de Cuba, and subject himself to the process of residencia. Of course, the government looks with no friendly eye on an officer who has drawn upon it so much reproach, exposed it to so much complaint and tribulation, and thrown upon it so much expenditure. Knowing that his case was before a council of war, it did not seem to be necessary to do more than allude to it occasionally with Mr. Castro, while the matter of the indemnity was on the carpet.

* * * I shall have been on official duty here just one year on the 30th instant; and I trust, ere that day arrives, to be able to report to you a solution in principle, if not in detail and fact, of all our reclamations against Spain.

I have, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

No. 50.

Mr. Fish to Mr. Cushing.

No. 185.|

DEPARTMENT OF STATE, Washington, June 4, 1875.

SIR: Your No. 388 has been received. I congratulate you upon what has been accomplished during the year of your stay in Madrid, and hope you may not be disappointed in your expectation of a speedy and satisfactory solution of all outstanding reclamations.

Concerning the case of General Burriel, to which you principally refer, it is quite natural that he should have retired from Madrid, and should desire to avoid publicity.

After indemnity has been paid for acts which he claimed were justified by the authority of his government, and after the enormity of military executions elsewhere has been brought home to the Spanish people, when practiced by the Carlists on their own soil, it must be expected that he would cease to be a prominent figure, and retire, temporarily or permanently, into obscurity. Still, under these circumstances, obscurity is a refuge, not a punishment. During all this negotiation I have been of the opinion that the government of Spain, both on account of the positive agreement in the protocol, and on general grounds, ought_not to allow the principal offender to remain unpunished.

l am still of this opinion. Moreover, it seems to me to be greatly to the interest of both countries that no one should be afforded the opportunity of saying that Spain has left an important part of the protocol unfulfilled.

At the same time I am quite content to leave the question as to the manner and time of its further presentation, to your good judgment.

I am, &c.,

HAMILTON FISH.

MADRID, August 23, 1875.

CALEB CUSHING, Esq., &c., &c., &c.

No. 51.

Mr. Cushing to Mr. Fish.

[Telegram.]

Matter of Burriel is under discussion between Minister of State and myself. Copy of note and report of several personal interviews by mail. CUSHING.

No. 52.

Mr. Cushing to Mr. Fish.

No. 487.]

• LEGATION OF THE UNITED STATES, Madrid, August 23, 1875. (Received September 9.)

SIR: I was greatly surprised to learn, by the newspapers of the 3d instant, that Brigadier Burriel had been promoted.

I immediately sought interview with the minister of state in the purpose of calling for explanations; but, in consequence of his almost continued absence at San Ildefonso, with his family, it was not until after several efforts that I secured an interview, by appointment, on Saturday, the 14th. I then expressed to him in strong terms my regret and surprise on hearing of the promotion of Burriel. He replied that the information of it had surprised him as much as myself; * * * that it had been done by the minister of war during his absence; that he would bring the subject before the council of ministers, which was then about to assemble, and would call at my house on the morning of the next day, (Sunday,) the 15th, in order to consider the subject at length.

At that interview I entered at length into the whole matter, recalling to his attention the terms of the protocol of November, 1873, and the subsequent assurances of the residentiation of Burriel, with appropriate comments; all of which it is unnecessary for me to repeat, as what I said was afterward put in writing, with more detail and precision, in the note of which a copy is annexed.

H. Ex. 90-5

Mr. Castro replied, admitting the force of my suggestions, and declaring that the government of H1s Majesty was fully aware of, and would perform, all its engagements to the American Government in the premises; that the promotion of Burriel had for its only motive the deficiency of competent officers of his grade and the overpowering necessities of the war; and that the amplest explanations on this point would be given for the satisfaction of the United States. I told him that, in my opinion, the exceeding gravity of the subject required that it should not be left to mere verbal explanation, but should be discussed in writing, in which he concurred.

On Tuesday, the 17th instant, I called, by appointment, to inform him that I had prepared a note for presentation, but nothing of importance then occurred, he being in fact on the point of starting for San Ildefonso; in consideration of which it was agreed that we should meet again on Saturday, the 21st, afterward deferred, at his written request, to Sunday, the 22d.

Meanwhile, to prevent delays, suggestion had been made in the proper quarter to have a translation of my note made immediately. I called, by appointment, on Sunday (yesterday, the 22d,) and found the minister of state with a translation of my note before him.

His first observation was that he thought the language of my note rather severe. I replied that the circumstances seemed to me to require of me to speak in plainness; that we had succeeded in disposing of the indemnity question by plain speaking on both sides, and might well pursue the same course on this occasion, in which he acquiesced.

In so far as regards Burriel, I have before me your instruction (No. 185) of June 4. The discretion you there commit to me will be sparingly exercised, and rather in respect of incidental points than of the groundwork of arrangement.

I have, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

[Inclosure 1 in No. 487.]

Mr. Cushing to Mr. Castro.

LEGATION OF THE UNITED STATES, Madrid, August 18, 1875.

SIR: It has been to me the occasion of great surprise to learn, through the medium of the public prints, that D. Juan Burriel has been promoted from the grade of brigadier to that of mariscal de campo in the military service of Spain, and the intelligence will be received with equal surprise by my Government.

As a general rule, it is true, neither my Government nor myself would concern itself in regard to promotion or other changes in the officiality, military or civil, of the Spanish government.

And my Government might hesitate to go beyond the point of informal or friendly suggestion, if so far, in the case of the bestowment of military honors by a foreign government on a subject who should merely have drawn to himself the attention of the world by acts of exceptional violence, cruelty, or inhumanity as an officer or as a man. Nor would the simple fact that D. Juan Burriel, in the wholesale execution at Santiago do Cuba of numerous passengers and crew of the ill-fated Virginius, raised a cry of horror throughout Europe and America not surpassed in loudness or intensity by that which the similar acts of atroeity of Seballo at Olot, or of Alphonso de Este at Cuenca, produced, ihave required me to make his promotion the object of the present communication. Nor is this communication induced by the mere circumstance that all the persons whose lives were thus taken by D. Juan Burriel were captured on the high seas under the flag of the United States, and that many of them were citizens thereof, executed as my Government conceives, by judgments passed in violation of express treaty, as well as of public law.

These considerations might, indeed, have sufficed of themselves to justify remonstrance on the part of my Government against the bestowment of promotion on D. Juan Burriel. But the question has passed beyond that point.

It cannot be forgotten that in view of these occurrences the Spanish government expressly engaged "to investigate the conduct of those of her authorities who have infringed Spanish laws or treaty obligations, (in the said occurrences,) and will arraign them before competent courts and inflict punishment on those who may have offended." It cannot be forgotten that the Spanish government has already paid considerable sums of money to the governments of Great Britain and the United States for the satisfaction of the families or the persons of the subjects or citizens of those governments aggrieved by the acts of D. Juan Burriel at Santiago de Cuba.

It cannot be forgotten that the Spanish government, in view of the representations made by that of the United States, expressly engaged "to give the opportune orders to the effect that by the competent tribunal should be instituted an information respecting the conduct of the authorities of Santiago de Cuba, which intervened in the substantiation of the process and sentence of the citizens of the United States who were executed in that place, exacting of those authorities the responsibility which they may have incurred by infraction of law or of treaty obligations;" that is to say, as repeatedly explained orally and in writing, by subjecting those authorities, especially D. Juan Burriel, to the "juicio de residencia." In making these engagements the Spanish government reminded that of the United States of the separation between judicial and executive functions in Spain, and the consequent necessity of judicial proceedings, according to law, against D. Juan Burriel. My Government willingly accepted this explanation as having reference to doctrines of constitutional law, such as prevail in the United States. It was satisfied with the general engagement of Spain to "investigate" and to "arraign" the parties before "competent courts." It was satisfied with the special engagement of Spain to subject the inculpated parties to the "juicio de residencia" as the only competent legal jurisdiction.

And it patiently awaited the result, confiding without reserve in the good faith of the Spanish government.

In the presence of these premises and considerations, my Government will of necessity presume that the stipulated investigation of the conduct of D. Juan Burriel, and his submission to the "juicio de residencia," have resulted in acquitting him, not only of auy violation of the municipal law of Spain, but also of any infringement of treaty bestipulations; a decision that is in conflict with the explicit stipulations of treaty between the United States and Spain. I should be wanting in accustomed frankness toward your excellency were I to suppress the expression of opinion that, even in this view of the circumstances, the situation is grave, very grave; since, by the universally received rule of the modern law of nations, the final judgment even of a competent court may be the subject of diplomatic complaint and reclamation as for denial of justice. And the situation will wear an aspect of still greater gravity, if, in the absence of any such acquittal of D. Juan Burriel, the Spanish government, notwithstanding such general engagement of arraignment to the end of punishment, and such special engagement of arraignment by *residencia*, shall have selected that officer for promotion on the assumption of the commendablencess of his acts at Santiago de Cuba.

I therefore solicitously await your excellency's explanations of this untoward and unexpected circumstance.

I purposely confine myself in this note to the discussion of the specific subject; but I cannot forbear to say that the present incident (whatever may come of it) renders it urgent that we should take up, and, if possible, adjust the treaty question (with its adjuncts) which lies at the foundation of this protracted and still perilous controversy between our respective governments.

I have the honor to renew to your excellency the assurance of my most distinguished consideration.

C. CUSHING.

His Excellency the MINISTER OF STATE.

No. 492.

No. 53.

Mr. Cushing to Mr. Fish.

UNITED STATES LEGATION IN SPAIN, San Ildefonso, August 25, 1875. (Received September 13.)

SIR: I had hoped to be able to transmit to you, with my note of the 18th, the reply of the minister of state; but the latter did not come in

I now inclose copy and translation of Mr. Castro's note, with my rejoinder, in the purpose of keeping you punctually advised of all the successive steps of the pending negotiation, especially in the new aspect it has assumed.

l anticipate interview with Mr. Castro this evening or to-morrow morning.

I am, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

[Inclosure 2 in No. 492.-Translation.]

Mr. Castro to Mr. Cushing.

MINISTRY OF STATE,

The Palace, August 23, 1875. (Received August 25.)

MOST EXCELLENT SIR: I have acquainted myself fully with the note your excellenc y has been pleased to address to me on the 18th of the present month in consequence of the promotion to the rank of mariscal de campo obtained by the brigadier of th Spanish army, Don Juan Burriel. Your excellency lays down, and recognizes as a general rule, that neither your excellency, nor your Government, may interfere in th changes and promotions which the government of which I have the honor to form part, may deem it convenient to order and carry into effect with respect to the military or civil functionaries dependent upon it, and in obedience to this incontrovertible principle you give assurance that your Government might have hesitated to go beyond the limits of some purely friendly indication in the case of the concession of military honors on the part of a foreign government to subjects who might have attracted attention to themselves by reason of acts of exceptional cruelty or violence. But, referring thereupon to the case of Don Juan Burriel, which gives motive to your communication; and with reference to the executions ordered by the same in Santiago de Cuba, and of the reclamations of which they were the object, you recall the compromises contracted by the Spanish government to submit to a formal investigation the conduct of the authorities who, in those melancholy occurrences, might have infringed the laws of the land or the obligations of treaties, imposing upon them the punishments to which they might have rendered themselves amenable, if in effect they were proved to be culpable.

The government of His Majesty which voluntarily contracted the compromises which your excellency justly invokes, recalls them likewise, in its turn, and finds itself firmly resolved to fulfill them, without the higher grade to which General Burriel has been elevated exempting him from the responsibility he may have contracted, or either augmenting or diminishing his means of defense.

In effect, if the necessities of the war and of army organization on the one hand, and, on the other, the consideration that it was not allowable to the government to anticipate in a certain sense the result of the pending judgment, counseled it to promote to the next higher grade a general officer, neither with reference to that has it been possible to take into account the memories evoked by your excellency, nor can the act to which you refer have the least influence on the consequences of the investition, which continues pending, or on the *juico de residencia* to which it may give occasion.

Both matters are following, and will follow, their due course, without other delays than those inevitable in this class of proceedings. Justice will pronounce its judgment, and be this what it may, the government of His Majesty will enforce its execution without other considerations than those imposed upon it by its own dignity and the rigorous fulfillment of its pact.

I believe, Mr. Minister, that these frank explanations will be sufficient to demonstate to your excellency the true and only character of the step to which you have deemed it convenient to call my attention; and as for the urgency of bringing to the most speedy termination possible the affair, of which the fact which now occupies us is only a mere, although important, incident, the government of His Majesty shares fully in this opinion, and will omit none of the means within its reach to the end that your desires may remain speedily satisfied. With this object it has already incited the zeal of the high consultative body, to whose elevated and impartial criterion are already submitted the acts which have orignally given origin to the present controversy.

I improve this opportunity to repeat to your excellency the assurances of my most distinguished consideration. A. CASTRO.

THE MANDER DEPUTOTENTIADY OF THE UNITED STATES

[Inclosure 3 in No. 492.]

Mr. Cushing to Mr. Castro.

LEGATION OF THE UNITED STATES OF AMERICA,

San Ildefonso, August 25, 1875.

SIR: I have the honor to acknowledge the reception of your excellency's note of the 23d instant, in response to mine of the 18th, on the subject of D. Juan Burriel. The tenor and general spirit of its contents afford me a great satisfaction, and they

will, I am sure, be regarded in the same light by my Government.

It is particularly satisfactory to learn that the government of His Majesty, by its own voluntary act, has participated in the compromises referred to in my note, and that it is resolved to comply therewith ; without the fact of the promotion of General Burriel having been designed or being allowed to exercise any influence to the prejudice of the pending preliminary investigation in this behalf, or to that of the *juicio de residen-*cia to which that investigation may give occasion, or of the judgment which may en-sue. I had confided in the manifestations of good fatih heretofore exhibited by His Majesty's government in its negotiations with the United States so far as to be prepared to expect from your excellency the assurances now with such honorable frankness ex-

pressly given to this effect. Indeed, investigations of this class have been so frequent in the history of Spain, as applied, not only to subordinate governors, but also to the highest functionaries of her possessions of Ultramar, and they constitute a peculiar feature of public administration so creditable to her national policy, that it seems to me impossible to suppose that His Majesty's government could accord to D. Juan Burriel exemption from inquiries to which a Cortes, a Mendoza, or a Revilla-gigedo had been subjected, especially when ample cause therefor existed in complaints to that end on the part of a friendly gov-ernment. I can well conceive, also, that in the unhappy civil war which to my own deep regret now afflicts Spain, His Mejesty's government should feel that every officer of the army owes a paramount debt of patriotism to his country, which he might be called upon to discharge according to his capacity, notwithstanding the pendency of charges respecting his administrative conduct in another field of action. Nevertheless, your excellency, accustomed as you are to responsibilities of public trusts, and conscientiously punctilious as you are in the performance of them, cannot fail to perceive how incumbent on me it was to call attention to the subject, in view not merely of the pro-motion of D. Juan Burriel, but of circumstances attending it which are susceptible of the construction of implying favorable pre-judgment of his acts at Santiago de Cuba. Finally, I assure your excellency of the hearty co-operation which it will be my

great pleasure to render in a concurrent endeavor on our part to adjust, once for all, the outstanding points of controversy between our respective governments, in the confident belief that it is in our power thus to be of commendable service to both of them, and in the earnest personal aspiration of being able to resign my present official functions in due time without leaving a shade to remain on the friendly intelligence of Spain and the United States.

I avail myself of this opportunity to repeat to your excellency the assurance of my most distinguished consideration.

C. CUSHING.

His Excellency the MINISTER OF STATE.

No. 54.

Mr. Cushing to Mr. Fish.

No. 497.]

LEGATION OF THE UNITED STATES, Madrid, August 31, 1875. (Received September 23.)

SIR: In my dispatch to you, No. 487, of the 23d, I reported the statement of the minister of state that the promotion of Brigadier Burriel had been made in his absence and without his knowledge. I now remember that he also said it was done in the absence of the minister of Ultramar.

It has afforded me satisfaction * * * to receive information that the promotion was made * * * in the absence and without the knowledge * * * of the proprietary minister, General Jovellar.

I have, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

No. 55.

Mr. Fish to Mr. Cushing.

No. 238.]

DEPARTMENT OF STATE, Washington, September 22, 1875.

SIR:

Your proceedings, as set forth in your No. 492, of the 25th ultimo, in regard to the promotion of General Burriel, are approved by this Department.

I am, &c.,

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HAMILTON FISH.

CALEB CUSHING, Esq., &c., &c., &c.

No. 56.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, September 28, 1875.

The promotion of Burriel, and omission to observe the engagement to investigate, involve very grave consequences, and cannot be considered other than a serious disregard of the obligations of Spain to this Government.

FISH, Secretary.

No. 57.

Mr. Cushing to Mr. Fish.

[Telegram.]

MADRID, September 29, 1875.

Telegraph of twenty-eighth received; shall I take new steps on if at once, or wait for specific instructions on my numbers four eighty-seven, four ninety-two, and five-hundred one.

CUSHING.

No. 58.

Mr. Fish to Mr. Cushing.

[Telegram.]

WASHINGTON, October 1, 1875.

Remonstrate strenuously against preferment; urge compliance with protocol and promises.

FISH, Secretary.

No. 59.

Mr. Cushing to Mr. Fish.

No. 579.]

LEGATION OF THE UNITED STATES, Madrid, October 6, 1875. (Received October 29.)

SIR: I received a note from the minister of state on the 4th, appointing the next day, the 5th, for the interview requested by my note of the 3d, communicated to you with my No. 570.

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I proceeded at once to inform the minister of the painful effect produced in the mind of my Government by the promotion of D. Juan Burriel, accompanied as it was by the omission of the Spanish government for a space of nearly two years to execute the explicit engagement of the protocol of November 29, 1873, and the absence still of any apparent progress in such investigation, even after the assurances on that subject given successively by Mr. Ulloa and Mr. Castro; in consequence of which I had received instructions to remonstrate and insist further in this behalf. And as a more efficient means of impressing on him the gravity of the situation than any words of mine could, I read to him your telegrams of the 28th ultimo and the 1st instant. He seemed not to be familiar with the early stages of the question; but proceeded to say, in repetition and enlargement of the suggestion made by Mr. Castro in his note of the 23d of August, namely, that the promotion of D. Juan Barriel had been dictated exclusively by the consideration of military exigencies of the moment; that, oppressed as the Spanish government was by civil war in the peninsula and in Cuba, it was constrained to put its hand on every accessible military officer of competency; that it could not afford to leave such officers in idleness: and therefore—and therefore alone—it had promoted and employed D. Juan Burriel.

I replied that it seemed to me that Spain had general officers enough and good ones, without being constrained to promote and employ an officer under such serious charges; that it was not customary in any service, within my experience or observation, to promote officers in such condition; that it would, it seemed to me, have been quite easy for the Spanish government, if satisfied of the immediate need of an additional general in the north, to promote some other of the many brigadiers in the army, or to bring D. Juan Burriel promptly to trial, acquit him if innocent, or punish him if guilty, and, after having thus discharged its obligation, then to decide whether the exigencies of the public service required his further employment in the army; and that, after all, it was the conjoint fact of promoting him while failing to try him which constituted the gravamen of the circumstances as respects the United He rejoined, reiterating the military argument, but professing States. his ignorance of the state of the criminal investigation, or the reasons of its having been so long delayed, while expressing earnest desire that everything should be done in the premises which could be justly called for by the United States. I then spoke to him of the odiousness of the acts of Burriel at Santiago de Cuba, of his want of upright sentiment in not relieving his government of embarrassment by demanding trial, as honorable men were accustomed to do in other countries; and of the repeated occasions on which the United States had subjected her officers to trial at the instance of foreign governments, including Spain. He seemed to be unacquainted with these cases.

I informed him that he would receive a note from me on the subject, to include reference to some of these cases, and general recapitulation of the diplomatic history of the case.

I remain, &c.,

Hon. HAMILTON FISH, Secretary of State. C. CUSHING.

No. 60.

Mr. Cushing to Mr. Fish.

No. 580.]

LEGATION OF THE UNITED STATES, Madrid, October 6, 1875. (Received October 29.)

SIR: I annex hereto copy of a note on the matter of Burriel, presented to the minister of state, after seeing him by appointment, as described in my No. 579 of this date.

I have, &c.,

C. CUSHING.

Hon. HAMILTON FISH, Secretary of State.

[Inclosure in No. 580.]

Mr. Cushing to the minister of state.

LEGATION OF THE UNITED STATES OF AMERICA.

Madrid, October 4, 1875.

SIR: I am under the disagreeable necessity of once more asking the attention of His Majesty's government to the matter of D. Juan Burriel and the other authorities of Caba compromised in the affair of the Virginius.

To begin, let me remind your excellency that, according to the protocol signed at Washington on the 29th of November, 1×73, by the Secretary of State of the United States and the Spanish minister D. José Polo de Bernabé, it was expressly and unequivocally stipulated that Spain will "proceed * * * to investigate the conduct of them of them of them in the protocol state of the secretary of them in the secretary of those of her authorities who have infringed Spanish laws or treaty obligations, and will arraign them before competent courts and inflict punishment on those who may have offended."

On assuming charge of this legation, in May, 1874, I found that the Spanish govern-

ment had not yet taken any steps in execution of the above-cited stipulation. Accordingly, on the 19th of June, 1874, I addressed a note to his excellency D. Augusto Ulloa, the then minister of state, calling his attention especially to a publication on the subject by D. Juan Burriel, to which Mr. Ulloa replied.

Subsequently, on the 24th of September, 1874, I addressed to Mr. Ulloa a second note, discussing the main question, and representing the enormity of the crimes against the obligations of treaty and the laws of Spain, and of humanity itself, which had been perpetrated at Santiago de Cuba, and respectfully appealed to the Spanish government to execute its relative convention with the United States.

In this note I suggested, further, that on several signal occasions, for the satisfaction of Spain, the United States had tried and condemned officers of more importance than D. Juan Burriel, and guilty of less offenses; nay, that those officers, unlike D. Juan Burriel, had manfully come forward and spontaneously demanded trial, in order to relieve their Government of all embarrassment in the premises.

To this note no specific answer was ever made by Mr. Ulloa, thus impliedly admitting the right and the force of the representations of the United States.

I then addressed to him a third note on the subject, that of November 30, 1874.

Meanwhile, however, another question was pending between the United States and Spain, that of the indemnities claimed by the former on account of the acts of D. Juan Burriel; and, at length, on the 3d of December, 1874, while discussing the questions of law involved in the claims of indemnities, Mr. Ulloa, in conclusion, and without discussing at all the precise question of the merits or demerits of D. Juan Burriel, yet engaged that the stipulated investigation of his acts, and the contingent arraignment of him therefor, should proceed, and that the proper orders to that effect would be addressed to the competent tribunal.

On the faith of this engagement, I then took up in the most cordial spirit, and concluded, the negotiation of indemnities with his excellency D. Alejandro Castro, assuming throughout the subsistence and pendency of the stipulated investigation and arraignment of D. Juan Burriel.

No reason of doubt on this point occurred to me until informed by the public newspapers that D. Juan Burriel had been promoted, and even promoted out of course, and with expressions which might well have been construed as express condonement of the specific offenses committed by him at Santiago de Cuba.

I then addressed to Mr. Castro my note of the 18th of August ultimo, soliciting explanations on this new and unexpected incident, as being a thing apparently in conflict with previous stipulations and engagements for the trial of Burriel.

Mr. Castro promptly replied, with assurances not only that the promotion of D. Juan Burriel involved no purpose of disregard of engagements to the United States, nor any thought of desisting from his trial, but, on the contrary, that the investigation was proceeding, and would proceed, without being affected in any way by that promotion.

It seemed to me that in giving this assurance the government of His Majesty performed an act of high respect for its own dignity, worthy of the traditional *hidalguia* of Spain.

For inasmuch as no specific reply had been made (or has to this day been made) to so much of my notes of June 27 and September 24, 1874, as emphatically impugued the acts of D. Juan Burriel at Santiago de Cuba, on the ground of being illegal, equally by municipal law and by treaty, and inasmuch as the notes expressly put those acts on the same footing as similar acts of atrocity perpetrated by the Carlists at Olot, at Cuence, and at Estella, I assumed (and was I not justified in assuming !) that such also was the tacit appreciation of them on the part of the Spanish government.

It seemed to me impossible, therefore, to suppose that such acts would not in due time receive condign punishment.

Accordingly, in the interest of harmony and peace, I accepted these assurances of Mr. Castro, while not failing to convey to him impressions of the extreme gravity of the situation, and of its violent strain on the amicable relations of the two governments.

But on a retrospect of this whole transaction, my Government is of opinion that it has good cause of complaint and remonstrance in the premises, not solely because of the promotion of D. Juan Burriel, but of that promotion in connection with the absence of any ostensible apparent or definite action in execution of the protocol of November 29, 1873; in respect of which my instructions are to insist, respectfully, but earnestly, as for a step, which my Government might rightfully expect from the high and honorable character of His Majesty's counselors as a spontaneous act even had the stipulation to that effect made by a previous government not been expressly re-affirmed by that of His Majesty.

Finally, I solicit your excellency's attention to the subject, in the sincere hope of receiving such explanations as may serve to allay my own solicitude and to tranquilize the dangerous uneasiness existing in the United States.

I avail myself of this occasion to renew to your excellency the assurance of my most distinguished consideration.

C. CUSHING.

His Excellency the MINISTER OF STATE.

No. 61.

Mr. Cushing to Mr. Fish.

LEGATION OF THE UNITED STATES, Madrid, October 20, 1875. (Received November 8.)

SIR: I annex hereto copy and translation of a note just received from the minister of state in reference to the investigation of Burriel, and the other implicated authorities of Santiago de Cuba, and copy of my reply.

The Conde de Casa-Valencia, you perceive, states that the preliminary formalities in the matter have been fulfilled, that is—as I understood the matter in the light of what Mr. Castro said to me on the subject the administrative examination of the subject by the council of state to the conclusion of recommending legal process. The ministers of war and marine are now to act respectively as to the officers of the army and those of the navy.

I will at an early day transmit to you legal details regarding the whole procedure.

You will observe that the minister of state, in reference to the previous notes of mine recapitulated in my note to him of the 4th instant, says: "and to which replied successively Messrs. Ulloa and Castro." This phrase appeared to me to go a little beyond the mark, and to imply (contrary to the fact) that my notes to Mr. Ulloa of June 27, 1874, and of September 24, 1874, had all received contestation.

And, as the parallel between the massacres of Santiago de Cuba and those of Olot, Cuenca, and Estella, drawn in my note of the 24th of September, 1874, had not been disputed at the time it was presented, it seemed to me out of season on the part of the Conde de Casa-Valencia to raise the issue now, incidentally, in response to the simple retrospective allusion to the point contained in my note of the 4th instant.

Hence the observations on the subject contained in my last note.

Complaining bitterly, as Madrid does, at every act of military execution on the part of the Carlists, which acts have never done the least good to the cause of D. Carlos either as retaliation or as terror, it might be really beneficial to right-minded Spaniards to be compelled to see that neither have similar acts of passionate violence of theirs in Cuba done the least good to *their* cause either as retaliation or terror, while involving Spain in a series of perilous controversies with Great Britain, France, and the United States.

I have, &c.,

C. CUSHING.

HON. HAMILTON FISH, Secretary of State.

[Inclosure 1 in No. 614 - Translation.]

The Conde de Casa-Valencia to Mr. Cushing.

MINISTER OF STATE,

The Palace, October 17, 1875. (Received October 19.)

YOUR EXCELLENCY:

SIR: I have received the note of your excellency, of date 4th instant, wherein you are pleased to state to me that you have instructions from the Government of the United States to call the attention of that of His Majesty the King to the delay which has occurred, on the part of Spain, in the execution of one of the clauses agreed upon in the protocol signed in Washington by the minister plenipotentiary of Spain and the Secretary of State of the American Republic, on the 29th of November, 1873, in consequence of the question of the Virginius.

With this motive, your excellency is pleased to recall to mind the notes which, on different occasions, from the time you took charge of your legation until now, you had addressed to my predecessors in this ministry, and to which replied successively Messrs. Ulloa and Castro, confirming the engagement contracted and the constant purpose of the Spanish government to carry it into effect so soon as the state of the general *expediente* in the matter of the Virginius should permit it to proceed without embarrassment to the special investigation referred to by what is stipulated in the aforesaid protocol.

This case having arrived, and the legal formalities prescribed by existing enactments having been now fulfilled, nothing opposes the execution by the Spanish government of its agreement with that of the United Statcs, and with this object I have addressed myself to my colleagues, the ministers of war and marine, to the end that, resolving which ought to be the competent tribunal within the proper jurisdiction of each one of those branches of the administration, there be submitted thereto the examination and investigation of the conduct of the authorities of Cuba who intervened in the process of the Virginius, conformably with the stipulations in the protocol of Washington.

General Burriel being one of the military authorities of Santiago de Cuba, at the time when the capture of the Virginius took place, he will, in such conception, be comprehended in the proceedings which are ordered to be instituted; and it behooves me, in this relation, to repeat to your excellency the assurances which were given to you by my predecessor, Mr. Castro, that the actual rank of General Burriel in the army will have no influence on the result of the investigation which is now about to take place, as well as that his official promotion in no wise prejudges his conduct in the events of Cuba.

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This is not the occasion to examine or to judge those occurrences, but I can do no less than state to your excellency that there is not exactitude in comparing them with those which took place at Olot, Cuenca, and Estella, which your excellency recalls in your note.

In acquainting your excellency with the resolution adopted by the government of His Majesty, to the end of executing that which was stipulated in the protocol of the 29th of November, I flatter myself that the Government of Washington will behold therein the sincerity wherewith Spain is accustomed to fulfill her engagements, and that it will be persuaded, moreover, that the delays which this matter has suffered hitherto have exclusively arisen from the state of the general *expediente* of the Virginius, and from the duty which was incumbent upon the government to await the scrupulous observance of all the formalities which are exacted in the progressive proceedings of this class of affairs.

I avail myself of this opportunity to reiterate to your excellency the assurances of my most distinguished consideration.

EL CONDE DE CA8A-VALENCIA.

THE MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

[Inclosure 2 in No. 614.]

Mr. Cushing to the Conde de Casa-Valencia.

LEGATION OF THE UNITED STATES OF AMERICA, Madrid, October 20, 1875.

SIR: I have the honor to acknowledge reception of your excellency's note of the 17th instant, in which you inform me of the actual initiation of proceedings against the authorities of Santiago de Cuba, in pursuance of the protocol of the 29th of November, 1873. It affords me great satisfaction to know that this step, so long deferred by previous governments, has at length been taken by that of His Majesty. It also affords me satisfaction te receive renewed assurance that the recent promotion of D. Juan Burriel will constitute no obstacle to the full examination of his participation in the inculpated acts, as, indeed, I already fully believed, in reliance on the declaration of his excellency Mr. Castro, and the recognized honorability and good faith of His Majesty's government.

I doubt not the step thus taken, and the related assurances given by His Majesty's government, will afford the same satisfaction to my Government, to which your excellency's note has been promptly transmitted, with appropriate commentaries.

Incidental expressions in that note would seem to imply that all my previous notes to the ministry of state on this subject had been replied to, which compels me to ask myself whether I had been, perchance, laboring under a misapprehension, in supposing, as indicated in my note of the 4th instant, that no specific answer was ever made by any minister of state to my note of the 24th of September, 1874, arguing the culpability of D. Juan Burriel, and presenting reasons for his arraignment and punishment by his government, or to so much of a previous note of the 27th of June, 1874, as touched the same point. If such misapprehension existed, it should and would be cheerfully confessed, and the inferences founded thereon withdrawn.

I have, therefore, caused the files of the legation to be carefully re-examined in this respect, and with the following results:

His excellency, the minister of state for the time being, replied, under date of July 8th, 1874, to so much of my note of the 27th of the previous June as called in question the validity of D. Juan Burriel's plea in justification of his action at Sanitago de Cuba, assumed by him to be found in a certain order issued by General Dulce, which his excellency, Mr. Ulloa, admitted had been repealed by General Caballero de Rodas, and, therefore, did not constitute justification in the premises; but he did not take issue with me on the main question of the imputed demerits of D. Juan Burriel.

I am unable to discover that the particular considerations adduced in my note of the 24th of September, 1874, to show why D. Juan Burriel should be arraigned, were ever specifically met, or even that the reception of that note was ever acknowledged.

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The long and able argumentative note of his excellency Mr. Ulloa, of the 3d of December, 1874, was professedly and in fact in response to a note of mine of July 21, 1874, consecrated to the distinct question of the indemnities claimed for the officers and crew of the Virginius, shot at Santiago de Cuba.

In the same note, it is true, his excellency disposes of the particular question of D. Juan Burriel; but in express response to my note of November 30, 1874, alone.

Can it be that my note of the 24th of September, 1874, miscarried, and by some untoward accident failed to reach the minister of state? I should be sorry to find it so, for (sotto voce, and without presumption, be it said) I had flattered myself that the points it presented were well put, first, in contending that the wholesale executions in cold blood at Santiago de Cuba were worse than those of Olat, Cuenca, and Estella, since the former were not only, like the latter, of unarmed men and of prisoners, but, in addition to that, of non-combatants; and, secondly, because of the examples exhibited by me of officers of equal (and even higher) category and merit than D. Juan Burriel having been tried and (although for less offenses) cashiered by the Government of the United States at the instance of that of Spain.

I abstain, however, at the present apparently auspicious stage of this protracted controversy, from re-opening those questions; and I beg pardon for having even touched upon them thus briefly in a note of which the sole aim was originally, and the main object still is, to express my own satisfaction and anticipate that of my Government, in view of the information contained in your excellency's note; the digression from which to a minor matter has been partly, it is true, in discharge of my own conscience, but still more for the due satisfaction of your excellency.

I avail myself of this occasion to reiterate to your excellency the assurance of my most distinguished consideration.

C. CUSHING.

His Excellency the MINISTER OF STATE.

No. 62.

Mr. Fish to Mr. Cushing.

No. 265.]

DEPARTMENT OF STATE, Washington, November 5, 1875.

SIR: The receipt of your Nos. 487, 492, and 497, reporting the promotion of Brigadier-General Burriel, without any effective steps having been taken to carry out the protocol entered into in November, 1873, gives rise to renewed serious consideration touching our relations to Spain.

Since the receipt of the above mentioned dispatches in reference to General Burriel's promotion, your Nos. 555, 570, 580, and 589 have also been received. In your No. 555 you convey the agreeable intelligence that instructions have been issued by Lord Derby to Her Majesty's representative to co-operate with you on this question, and in your No. 589 you inform the Department of an interview between Mr. Layard and the minister of state. In your No. 570 you give a history, and present the actual state of this negotiation, and in your No. 580 you forward a copy of your late note to the minister of state. Without information as to the effect of your remonstrances, it is advisable to recur to the subject, and to consider the course of the Spanish authorities in reference thereto.

Upon the 26th November, 1873, Mr. Carvajal, then minister of state, in a communication to General Sickles, made a proposition of settlement of the question arising out of the Virginius, in order, as he stated, to give public testimony that his government had no desire to indefinitely postpone the settlement of this matter, and in pursuance of the firm resolution of giving satisfaction for these wrongs, in accordance with the duties imposed by universal law and particular treaties. This was a spontaneous offer on the part of the government of Spain.

In so doing, Mr. Carvajal made four propositions, the second of which provided, in substance, that if it be proved that in the sentences and proceedings at Santiago there had been an essential failure to comply with the provisions of legislation or of treaties, the Spanish government would arraign those authorities before the competent tribunals. The protocol of November 29th thereupon stated that if, before December 25th, Spain should prove, to the satisfaction of this Government, that the Virginius was not entitled to carry the flag of the United States, the salute agreed upon would be dispensed with; it being understood that Spain would proceed, according to this second proposition made to General Sickles, "to investigate the conduct of those of her authorities who have infringed Spanish law or treaty obligations, and will arraign them before competent courts, and inflict punishment on those who may have offended."

I need not remind you that this Government faithfully and promptly performed its obligation. The Attorney General, after a consideration of the evidence transmitted to him, gave his opinion, bearing date December 17th, that the Virginius was not entitled to carry the flag of the United States; and this Department, on the 22d of December, informed Admiral Polo of this conclusion. In like manner it was the duty of the authorities of Spain, without the necessity of any pressure from this Government, promptly and fairly, without delay or equivocation, to investigate the conduct of General Burriel and the other authorities; and to fearlessly bring to justice those who had infringed law or the provisions of treaties.

I propose briefly to examine the question as to the manner in which that government has performed this obligation.

Between the date of the protocol and of your general instructions, dated February 10th, no steps in the matter were taken by the authorities of Spain, as far as I am informed.

With this engagement, however, entirely unperformed, and before you had reached your post, General Burriel, over his own signature, published a communication in the "Epoca" of the 21st April, not only justifying his acts, but claiming they were directly authorized by a decree of General Dulce. He asserted them to be laudable and proper, and, pursuant to this decree, expressly authorized by Spanish law.

Under date of June 9, 1874, I referred to this publication as meriting a disavowal, particularly as the decree in question was well known to have been repealed, and stated that it was supposed that the neglect to take steps for the punishment of Burriel had been caused by the extraordinary condition of things in Spain; and that, if so, it was desirable to know that fact. Inquiry was then made whether proceedings were to be taken; and, if so, as to the time and nature thereof.

In your No. 60, of July 10, you forward a copy of the reply of the minister of state to your note in reference to this publication, and making inquiries as to the prosecution, in which Mr. Ulloa, while distinctly stating that the decree to which General Burriel refers had been repealed, asserts the right of that person, although an officer in the army of Spain, to freely publish his ideas, as he had ceased to hold official position in Cuba; and expressed his unwillingness to discuss the question of his prosecution as being bound up with the main question of the Virginius.

The minister of state seemed to have forgotten, as other ministers before and since have forgotten, the terms of the protocol and the obligation of his government. We find, therefore, a prominent officer in the army of Spain not only willing in his cooler moments to justify executions, the haste and objectionable features of which have no parallel in moderntimes, but claiming that the acts were done pursuant to certain decrees which it was well known had been repealed; and we further find, what appears more surprising, that the minister of state is not only unmoved at such a publication on the part of an officer charged with these high offenses, and whom his government had failed to prosecute, but is ready to advocate his right to freely express his "opinions." In your comments upon this note of Mr. Ulloa, you concur in the suggestion that it might be advantageous to discuss the question of Burriel in connection with the general settlement; and, in reply, under date of August 15th, 1 expressed the opinion that delay, although some such advantage as you referred to might be obtained thereby, was unsatisfactory, and that it was the opinion of the President that the time had come for something definite to be accomplished.

In your No. 106, of September 26th, you transmit a copy of a note addressed to the minister of state, which forcibly and distinctly presents the question of the guilt of General Burriel and the necessity of his punishment; and subsequently, with your No. 171, of December 1, you forward a copy of a further note, calling particular attention to the protocol, entirely unperformed, as distinguished from the general question. Nevertheless, in the reply of the minister of state, under date of December 3, Mr. Ulloa contents himself with expressing his intention to adhere faithfully to the protocol, and states that he will give orders that inquiry shall be instituted by the competent tribunals, proceeding, however, to argue as to what particular tribunal ought to be called upon to enforce these provisions, and showing a particular care as to the machinery by which the inquiry was to be conducted, not always remarkable in similar investigations conducted by that government.

It therefore appears that, for over a year, no steps whatever had been taken, and the Spanish government was still, at this late day, discussing certain abstract questions, when the investigation should have been made immediately by the authorities of Spain, without the necessity of any communication from, or reference to, this Government.

I referred to this question in my telegram to you of December 7th, and called attention to the solicitude shown that General Burriel, although an officer of the army, and one who had been charged with grave offenses, committed while holding a high command, should have the benefit of such unusual solicitude as to the manner in which the inquiry should be conducted.

In your No. 178, however, of December 8th, nothing yet being done, you report that Mr. Ulloa had informed you that he would address the minister of war to institute proceedings against the implicated parties; and in your telegram of December 9th you stated that the acceptance of the offered indemnity, on the terms proposed, assured executive arraignment of the authorities, and their trial by criminal process, equivalent to our own court-martial.

After the settlement of the indemnity question, however, no advance seems to have been made in reference to the trial of General Burriel. For this reason, in my No. 129 of February 19th, I referred again to the question, insisted that the protocol should be performed, and that Mr. Castro, who had succeeded Mr. Ulloa as minister of state, having freely expressed his opinions as to the general question of indemnity, could not be less frank in reference to this offender; and while the presentation of the question was left to your discretion, I expressed my opinion that the proper time was the earliest moment when punishment could be inflicted.

In your No. 388, of May 17th, you speak of the retirement of General Burriel from Madrid, of his humiliation, and the general reprobation of his acts; and add that knowing that his case was before a council of war, it seemed requisite to do no more than to make occasional references to it. It now appears doubtful whether his case was ever before any council of war, and it may be assumed as certain that nothing was done by the council if any such ever assembled. Since that date occasional references have been made by you to Genoral Burriel's case, but only as one of the elements of general settlement.

You may judge, therefore, after all that has been said, and after the engagement so distinctly made, the performance of which has been so often avoided, always, however, with renewed promises of fulfillment, of the surprise of this Government on learning that General Burriel had been suddenly promoted and taken into active service.

On reading the verbal and written explanations furnished you by Mr. Castro, and reported in your Nos. 487 and 492, I can find nothing either explaining such steps, affording any excuse for the promotion of this officer without a trial, or furnishing any evidence that the Spanish government intended to fulfill its engagement. It is not material who issued the order for General Burriel's preferment, by whose procurement or by what means it was accomplished, or whether the minister of state was absent or knew the facts. It is the act of the government of Spain. His history, his offense, and the failure to bring him to justice were well known to the authorities, and his promotion is the act of his government in full view of all these facts.

The want of military officers has been urged as an excuse; but even if under all these facts the necessities of Spain made it necessary to employ General Burriel, it was not necessary to promote him. If it was feared that proper punishment would remove him from the service of Spain, it was not requisite that marks of favor and approval should be shown him. It may be well to inquire, also, whether mariscal del campo, the grade to which it is announced he has been promoted, is, in fact, the next grade to that which he formerly held.

Pending some further information as to the effect of your remonstrances, I abstain from further discussion of this general question, simply observing that the statement of Mr. Castro, in his note to you of the 25th August, that, notwithstanding the promotion of General Burriel, it was the intention of the Spanish government to perform their promises in the protocol, is entirely unsatisfactory when considered with the entire neglect which has occurred in meeting these obligations in past times, and without some definite information as to precisely what is to be done, and the details thereof.

It is requisite to the maintenance of our relations with Spain that we should fully, frankly, and fairly understand precisely what has been done on this question and what is to be done. If nothing has been done and nothing is to be done, we should know that fact. If anything is to be done to carry out this long-delayed promise, it should be done without further discussion or delay, and in a manner calculated to produce an effect. It is believed that all the facts are at hand, that no prolonged investigation can be required, and it is but proper to say that simply putting in train some sort of investigation to wind its slow length along and produce no speedy or conclusive result, will not be satisfactory to this Government. In fine, the time has long passed when it should be definitely known whether the Spanish government does or does not take upon itself to say whether the acts of General Burriel were or were not in accordance with Spanish law and treaty obligations; and it is expected that an early and satisfactory reply to your note of the 4th day of October to the minister of foreign affairs, communicated with your dispatch to the Department, No. 580, of the date of October 6th, will enable you to ascertain the intentions of the Spanish government on these points, and to inform the Department at the earliest possible moment.

In prosecuting such inquiries, in bringing the Spanish government to recognize the position and importance of this question, and in obtaining a decisive ending thereof, I am happy that you have the assistance and co-operation of the representative of Great Britain. I have read with satisfaction the incidents of Mr. Layard's interview with the minister of state, referred to in your No. 589, and am of opinion that his frank and plain statement of the case will contribute to place this matter in its proper light. I am satisfied that the matter must be placed strongly and plainly before the Spanish government, which must be made to recognize that serious difficulty may follow further dilatory proceedings.

As to the manner of prosecuting this question and making the necessary inquiries, and having particular reference to the statements and suggestions in your confidential dispatch No. 570, I have to say that you have rightly interpreted the meaning of the telegrams of the 28th September and 1st October. It is the strong desire of this Government, as it has been, fairly and honorably to perform all its duties to Spain. It has the right to insist in return that the government of Spain shall, in the same spirit of fairness, perform its engagements and obligations to this country. It cannot be doubted or questioned that on this subject such obligations have been postponed, evaded, and left unperformed.

It has been and is our desire to satisfactorily adjust this and every other question, and in this desire we have been patient almost to the limit of endurance.

In this same spirit and in this view you have again been instructed to represent to Spain the injury that her course in reference to General Burriel inflicts on both countries, and its effect upon our relations, and it is earnestly hoped that the representation may be received and responded to in the same spirit.

Whether this question should precede or follow the treaty question, or the confiscation cases, I cannot at this distance intelligently direct; but I can, however, and do, express the strong opinion that in reference to all these questions, equally, the relations of this country with Spain are endangered by delay, and that as to all, equally, the Spanish government should be informed that the maintenance of good relations with this Government depend on an early, a satisfactory, and a conclusive adjustment.

1 am, &c.,

HAMILTON FISH.

CALEB CUSHING, Esq., &c., &c., &c.

No. 63.

Mr. Cushing to Mr. Fish.

[Telegram.]

FISH, Secretary, Washington:

MADRID, November 16, 1875.

CUSHING.

Spanish note has come in.

It repeats assurance of trial of Burriel.

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No. 64.

Mr. Fish to Mr. Cushing.

No. 284.]

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DEPARTMENT OF STATE, Washington, January 6, 1876.

SIR: Referring to instruction No. 265, under date of the 5th November last, treating of the trial of General Burriel, and to your No. 614, of the 20th of October, in which you inclose a copy, in translation, of a note from the minister of state, informing you of certain proceedings looking toward his arraignment,

I have to state that *** *** it would seem that the information requested in my No. 265, as to the particulars of the coming trial, should be obtained, in order that the record may be complete.

The general statement contained in the note of the then minister of state, addressed to you under date of the 17th October, 1875, stating that General Burriel would be comprehended in certain proceedings which are ordered to be instituted, does not of itself appear to go much further toward a trial than the other assurances which have heretofore been given.

I presume, however, that proceedings have been taken toward a trial, and that you may be able to respond to the inquiries contained in my No. 265.

I am, &c.,

HAMILTON FISH.

CALEB CUSHING, Esq., &c., &c., &c.

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