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PAPERS

RELATING TO

THE FOREIGN RELATIONS

OF

THE UNITED STATES

TRANSMITTED TO CONGRESS WITH THE ANNUAL MESSAGE
OF THE PRESIDENT,

DECEMBER 4, 1871.

PRECEDED BY A

SYNOPTICAL LIST OF PAPERS AND FOLLOWED BY AN ALPHABETICAL INDEX OF PERSONS AND SUBJECTS.



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1871.

MESSAGE

OF

THE PRESIDENT OF THE UNITED STATES.

To the Senate and House of Representatives :

In addressing my third annual message to the law-making branch of the Government, it is gratifying to be able to state that during the past year success has generally attended the effort to execute all laws found upon the statute-books. The policy has been, not to inquire into the wisdom of laws already enacted, but to learn their spirit and intent, and to enforce them accordingly.

The past year has, under a wise Providence, been one of general prosperity to the nation. It has, however, been attended with more than usual chastisements in the loss of life and property, by storm and fire. These disasters have served to call forth the best elements of human nature in our country, and to develop a friendship for us on the part of foreign nations which goes far toward alleviating the distresses occasioned by these calamities. The benevolent, who have so generously shared their means with the victims of these misfortunes, will reap their reward in the consciousness of having performed a noble act, and in receiving the grateful thanks of men, women, and children whose sufferings they have relieved.

The relations of the United States with foreign powers continue to be friendly. The year has been an eventful one in witnessing two great nations, speaking one language and having one lineage, settling, by peaceful arbitration, disputes of long standing, and liable at any time to bring those nations into bloody and costly conflict. An example has thus been set which, if successful in its final issue, may be followed by other civilized nations, and finally be the means of returning to productive industry millions of men now maintained to settle the disputes of nations by the bayonet and the broadside.

I transmit herewith a copy of the treaty alluded to, which has been concluded, since the adjournment of Congress, with Her Britannic Majesty, and a copy of the protocols of the conferences of the commissioners by whom it was negotiated. This treaty provides methods for adjusting the questions pending between the two nations.

Various questions are to be adjusted by arbitration. I recommend Congress at an early day to make the necessary provision for the tribunal at Geneva, and for the several commissioners, on the part of the United States, called for by the treaty.

His Majesty the King of Italy, the President of the Swiss Confederation, and His Majesty the Emperor of Brazil, have each consented, on the joint request of the two powers, to name an arbitrator for the tribu-

nal at Geneva. I have caused my thanks to be suitably expressed for the readiness with which the joint request has been complied with, by the appointment of gentlemen of eminence and learning to these important positions.

His Majesty the Emperor of Germany has been pleased to comply with the joint request of the two governments, and has consented to act as the arbitrator of the disputed water boundary between the United States and Great Britain.

The contracting parties in the treaty have undertaken to regard as between themselves certain principles of public law, for which the United States have contended from the commencement of their history. They have also agreed to bring those principles to the knowledge of the other maritime powers and to invite them to accede to them. Negotiations are going on as to the form of the note by which the invitation is to be extended to the other powers.

I recommend the legislation necessary on the part of the United States to bring into operation the articles of the treaty relating to the fisheries, and to the other matters touching the relations of the United States toward the British North American possessions, to become operative so soon as the proper legislation shall be had on the part of Great Britain and its possessions. It is much to be desired that this legislation may become operative before the fishermen of the United States begin to make their arrangements for the coming season.

I have addressed a communication, of which a copy is transmitted herewith, to the governors of New York, Pennsylvania, Ohio, Indiana, Michigan, Illinois, and Wisconsin, urging upon the governments of those States, respectively, the necessary action on their part to carry into effect the object of the article of the treaty which contemplates the use of the canals, on either side, connected with the navigation of the lakes and rivers forming the boundary, on terms of equality by the inhabitants of both countries. It is hoped that the importance of the object and the benefits to flow therefrom will secure the speedy approval and legislative sanction of the States concerned.

I renew the recommendation for an appropriation for determining the true position of the forty-ninth parallel of latitude where it forms the boundary between the United States and the British North American possessions, between the Lake of the Woods and the summit of the Rocky Mountains. The early action of Congress on this recommendation would put it in the power of the War Department to place a force in the field during the next summer.

The resumption of diplomatic relations between France and Germany have enabled me to give directions for the withdrawal of the protection extended to Germans in France by the diplomatic and consular representatives of the United States in that country. It is just to add that the delicate duty of this protection has been performed by the minister and the consul general at Paris, and the various consuls in France

under the supervision of the latter, with great kindness as well as with prudence and fact. Their course has received the commendation of the German government, and has wounded no susceptibility of the French.

The government of the Emperor of Germany continues to manifest a friendly feeling toward the United States, and a desire to harmonize with the moderate and just policy which this Government maintains in its relations with Asiatic powers, as well as with the South American republics. I have given assurances that the friendly feelings of that government are fully shared by the United States.

The ratifications of the consular and naturalization conventions with the Austro-Hungarian Empire have been exchanged.

I have been officially informed of the annexation of the States of the Church to the Kingdom of Italy, and the removal of the capital of that kingdom to Rome. In conformity with the established policy of the United States, I have recognized this change. The ratifications of the new treaty of commerce between the United States and Italy have been exchanged. The two powers have agreed in this treaty that private property at sea shall be exempt from capture in case of war between the two powers. The United States have spared no opportunity of incorporating this rule into the obligation of nations.

The Forty-first Congress at its third session made an appropriation for the organization of a mixed commission for adjudicating upon the claims of citizens of the United States against Spain growing out of the insurrection in Cuba. That commission has since been organized. I transmit herewith the correspondence relating to its formation and its jurisdiction. It is to be hoped that this commission will afford the claimants a complete remedy for their injuries.

It has been made the agreeable duty of the United States to preside over a conference at Washington between the plenipotentiaries of Spain and the allied South American republics, which has resulted in an armistice, with the reasonable assurance of a permanent peace.

The intimate friendly relations which have so long existed between the United States and Russia continue undisturbed. The visit of the third son of the Emperor is a proof that there is no desire on the part of his government to diminish the cordiality of those relations. The hospitable reception which has been given to the Grand Duke is a proof that on our side we share the wishes of that government. The inexcusable course of the Russian minister at Washington rendered it necessary to ask his recall, and to decline to longer receive that functionary as a diplomatic representative. It was impossible with self-respect, or with a just regard to the dignity of the country, to permit Mr. Cataczy to continue to hold intercourse with this Government after his personal abuse of Government officials, and during his persistent interference, through various means, with the relations between the United States and other powers. In accordance with my wishes, this Government has been relieved of further intercourse with Mr. Cataczy,

and the management of the affairs of the imperial legation has passed into the hands of a gentleman entirely unobjectionable.

With Japan we continue to maintain intimate relations. The cabinet of the Mikado has, since the close of the last session of Congress, selected citizens of the United States to serve in offices of importance in several departments of government. I have reason to think that this selection is due to an appreciation of the disinterestedness of the policy which the United States have pursued toward Japan. It is our desire to continue to maintain this disinterested and just policy with China as well as Japan. The correspondence transmitted herewith shows that there is no disposition on the part of this Government to swerve from its established course.

Prompted by a desire to put an end to the barbarous treatment of our shipwrecked sailors on the Korean coast, I instructed our minister at Peking to endeavor to conclude a convention with Corea for securing the safety and humane treatment of such mariners.

Admiral Rodgers was instructed to accompany him, with a sufficient force to protect him in case of need.

A small surveying party sent out, on reaching the coast, was treacherously attacked at a disadvantage. Ample opportunity was given for explanation and apology for the insult. Neither came. A force was then landed. After an arduous march over a rugged and difficult country, the forts from which the outrages had been committed were reduced by a gallant assault and were destroyed. Having thus punished the criminals, and having vindicated the honor of the flag, the expedition returned, finding it impracticable, under the circumstances, to conclude the desired convention. I respectfully refer to the correspondence relating thereto, herewith submitted, and leave the subject for such action as Congress may see fit to take.

The republic of Mexico has not yet repealed the very objectionable laws establishing what is known as the "Free Zone," on the frontier of the United States. It is hoped that this may yet be done, and also that more stringent measures may be taken by that republic for restraining lawless persons on its frontiers. I hope that Mexico, by its own action, will soon relieve this Government of the difficulties experienced from these causes. Our relations with the various republics of Central and South America continue, with one exception, to be cordial and friendly.

I recommend some action by Congress regarding the overdue installments under the award of the Venezuelan claims commission of 1866. The internal dissensions of this government present no justification for the absence of effort to meet their solemn treaty obligations.

The ratification of an extradition treaty with Nicaragua has been exchanged.

It is a subject for congratulation that the great empire of Brazil has taken the initiatory step toward the abolition of slavery. Our relations

with that empire, always cordial, will naturally be made more so by this act. It is not too much to hope that the government of Brazil may hereafter find it for its interest as well as intrinsically right to advance toward entire emancipation more rapidly than the present act contemplates.

The true prosperity and greatness of a nation is to be found in the elevation and education of its laborers.

It is a subject for regret that the reforms in this direction, which were voluntarily promised by the statesmen of Spain, have not been carried out in its West India colonies. The laws and regulations for the apparent abolition of slavery in Cuba and Porto Rico leave most of the laborers in bondage, with no hope of release until their lives become a burden to their employers.

I desire to direct your attention to the fact that citizens of the United States, or persons claiming to be citizens of the United States, are large holders, in foreign lands, of this species of property, forbidden by the fundamental law of their alleged country. I recommend to Congress to provide, by stringent legislation, a suitable remedy against the holding, owning, or dealing in slaves, or being interested in slave property in foreign lands, either as owners, hirers, or mortgagers, by citizens of the United States.

It is to be regretted that the disturbed condition of the island of Cuba continues to be a source of annoyance and of anxiety. The existence of a protracted struggle in such close proximity to our own territory, without apparent prospect of an early termination, cannot be other than an object of concern to a people who, while abstaining from interference in the affairs of other powers, naturally desire to see every country in the undisturbed enjoyment of peace, liberty, and the blessings of free institutions.

Our naval commanders in Cuban waters have been instructed, in case it should become necessary, to spare no effort to protect the lives and property of *bona-fide* American citizens, and to maintain the dignity of the flag.

It is hoped that all pending questions with Spain growing out of the affairs in Cuba may be adjusted in the spirit of peace and conciliation which has hitherto guided the two powers in their treatment of such questions.

To give importance, and to add to the efficiency of our diplomatic relations with Japan and China, and to further aid in retaining the good opinion of those peoples, and to secure to the United States its share of the commerce destined to flow between those nations and the balance of the commercial world, I earnestly recommend that an appropriation be made to support at least four American youths in each of those countries, to serve as a part of the official family of our ministers there. Our representatives would not even then be placed upon an equality with the representatives of Great Britain and of some other

powers. As now situated, our representatives in Japan and China have to depend, for interpreters and translators, upon natives of those countries who know our language imperfectly, or procure for the occasion the services of employés in foreign business houses, or the interpreters to other foreign ministers.

I would also recommend liberal measures for the purpose of supporting the American lines of steamers now plying between San Francisco and Japan and China, and the Australian line—almost our only remaining lines of ocean steamers—and of increasing their services.

The national debt has been reduced to the extent of eighty-six million fifty-seven thousand one hundred and twenty-six dollars and eighty cents during the year, and by the negotiation of national bonds at a lower rate of interest, the interest on the public debt has been so far diminished that now the sum to be raised for the interest account is nearly seventeen million dollars less than on the 1st of March, 1869. It was highly desirable that this rapid diminution should take place, both to strengthen the credit of the country, and to convince its citizens of their entire ability to meet every dollar of liability without bankrupting them. But in view of the accomplishment of these desirable ends; of the rapid development of the resources of the country; its increasing ability to meet large demands, and the amount already paid, it is not desirable that the present resources of the country should continue to be taxed in order to continue this rapid payment. I therefore recommend a modification of both the tariff and internal tax laws. I recommend that all taxes from internal sources be abolished, except those collected from spirituous, vinous, and malt liquors, tobacco in its various forms, and from stamps.

In re-adjusting the tariff, I suggest that a careful estimate be made of the amount of surplus revenue collected under the present laws, after providing for the current expenses of the Government, the interest account, and a sinking fund, and that this surplus be reduced in such a manner as to afford the greatest relief to the greatest number. There are many articles not produced at home, but which enter largely into general consumption through articles which are manufactured at home, such as medicines compounded, &c., &c., from which very little revenue is derived, but which enter into general use. All such articles I recommend to be placed on the "free list." Should a further reduction prove advisable, I would then recommend that it be made upon those articles which can best bear it without disturbing home-production, or reducing the wages of American labor.

I have not entered into figures, because to do so would be to repeat what will be laid before you in the report of the Secretary of the Treasury. The present laws for collecting revenue pay collectors of customs small salaries, but provide for moieties (shares in all seizures) which, at principal ports of entry particularly, raise the compensation of those officials to a large sum. It has always seemed to me as if this system

must, at times, work perniciously. It holds out an inducement to dishonest men, should such get possession of those offices, to be lax in their scrutiny of goods entered to enable them finally to make large seizures. Your attention is respectfully invited to this subject.

Continued fluctuations in the value of gold, as compared with the national currency, has a most damaging effect upon the increase and development of the country in keeping up prices of all articles necessary in every-day life. It fosters a spirit of gambling prejudicial alike to national morals and the national finances. If the question can be met, as to how to give a fixed value to our currency, that value constantly and uniformly approaching par with specie, a very desirable object will be gained.

For the operations of the Army in the past year, the expense of maintaining it, the estimate for the ensuing year, and for continuing sea-coast and other improvements conducted under the supervision of the War Department, I refer you to the accompanying report of the Secretary of War.

I call your attention to the provisions of the act of Congress approved March 3, 1869, which discontinues promotions in the staff corps of the Army until provided for by law. I recommend that the number of officers in each grade in the staff corps be fixed, and that whenever the number in any one grade falls below the number so fixed, that the vacancy may be filled by promotion from the grade below. I also recommend that, when the office of chief of a corps becomes vacant, the place may be filled by selection from the corps in which the vacancy exists.

The report of the Secretary of the Navy shows an improvement in the number and efficiency of the naval force, without material increase in the expense of supporting it. This is due to the policy which has been adopted, and is being extended, as fast as our material will admit, of using smaller vessels as cruisers on the several stations. By this means we have been enabled to occupy at once a larger extent of cruising-ground, to visit more frequently the ports where the presence of our flag is desirable, and generally to discharge more efficiently the appropriate duties of the Navy in time of peace, without exceeding the number of men or the expenditure authorized by law.

During the past year the Navy has, in addition to its regular service, supplied the men and officers for the vessels of the Coast Survey, and has completed the surveys authorized by Congress of the Isthmus of Darien and Tehuantepec, and under like authority has sent out an expedition completely furnished and equipped to explore the unknown ocean of the north.

The suggestions of the report as to the necessity for increasing and improving the *materiel* of the Navy, and the plan recommended for reducing the *personnel* of the service to a peace standard, by the gradual abolition of certain grades of officers, the reduction of others,

and the employment of some in the service of the commercial marine, are well considered and deserve the thoughtful attention of Congress.

I also recommend that all promotions in the Navy above the rank of captain be by selection instead of by seniority. This course will secure in the higher grades greater efficiency and hold out an incentive to young officers to improve themselves in the knowledge of their profession.

The present cost of maintaining the Navy, its cost compared with that of the preceding year, and the estimates for the ensuing year, are contained in the accompanying report of the Secretary of the Navy.

The enlarged receipts of the Post-Office Department, as shown by the accompanying report of the Postmaster General, exhibits a gratifying increase in that branch of the public service. It is the index of the growth of education and of the prosperity of the people, two elements highly conducive to the vigor and stability of republics. With a vast territory like ours, much of it sparsely populated, but all requiring the services of the mail, it is not at present to be expected that this Department can be made self-sustaining. But a gradual approach to this end, from year to year, is confidently relied on, and the day is not far distant when the Post-Office Department of the Government will prove a much greater blessing to the whole people than it is now.

The suggestions of the Postmaster General for improvements in the Department presided over by him are earnestly recommended to your special attention. Especially do I recommend favorable consideration of the plan for uniting the telegraphic system of the United States with the postal system. It is believed that by such a course the cost of telegraphing could be much reduced, and the service as well, if not better, rendered. It would secure the further advantage of extending the telegraph through portions of the country where private enterprise will not construct it. Commerce, trade, and, above all, the efforts to bring a people widely separated into a community of interest, are always benefited by a rapid intercommunication. Education, the ground-work of republican institutions, is encouraged by increasing the facilities to gather speedy news from all parts of the country. The desire to reap the benefit of such improvements will stimulate education. I refer you to the report of the Postmaster-General for full details of the operations of last year, and for comparative statements of results with former years.

There has been imposed upon the Executive branch of the Government the execution of the act of Congress approved April 20, 1871, and commonly known as the Ku-Klux law, in a portion of the State of South Carolina. The necessity of the course pursued will be demonstrated by the report of the Committee to Investigate Southern Outrages. Under the provisions of the above act, I issued a proclamation calling the attention of the people of the United States to the same, and declaring my reluctance to exercise any of the extraordinary powers thereby con-

ferred upon me, except in case of imperative necessity, but making known my purpose to exercise such powers whenever it should become necessary to do so for the purpose of securing to all citizens of the United States the peaceful enjoyment of the rights guaranteed to them by the Constitution and the laws.

After the passage of this law, information was received from time to time that combinations of the character referred to in this law existed, and were powerful in many parts of the Southern States, particularly in certain counties in the State of South Carolina.

Careful investigation was made, and it was ascertained that, in nine counties of that State, such combinations were active and powerful, embracing a sufficient portion of the citizens to control the local authority, and having, among other things, the object of depriving the emancipated class of the substantial benefits of freedom, and of preventing the free political action of those citizens who did not sympathize with their own views. Among their operations were frequent scourgings and occasional assassinations, generally perpetrated at night by disguised persons, the victims in almost all cases being citizens of different political sentiments from their own, or freed persons who had shown a disposition to claim equal rights with other citizens. Thousands of inoffensive and well-disposed citizens were the sufferers by this lawless violence.

Thereupon, on the 12th of October, 1871, a proclamation was issued, in terms of the law, calling upon the members of those combinations to disperse within five days, and to deliver to the marshal or military officers of the United States all arms, ammunition, uniforms, disguises, and other means and implements used by them for carrying out their unlawful purposes.

This warning not having been heeded, on the 17th of October another proclamation was issued, suspending the privileges of the writ of *habeas corpus* in nine counties in that State.

Direction was given that, within the counties so designated, persons supposed, upon creditable information, to be members of such unlawful combinations should be arrested by the military forces of the United States, and delivered to the marshal, to be dealt with according to law. In two of said counties, York and Spartanburgh, many arrests have been made. At the last account, the number of persons thus arrested was one hundred and sixty-eight. Several hundred, whose criminality was ascertained to be of an inferior degree, were released for the present. These have generally made confessions of their guilt.

Great caution has been exercised in making these arrests, and, notwithstanding the large number, it is believed that no innocent person is now in custody. The prisoners will be held for regular trial in the judicial tribunals of the United States.

As soon as it appeared that the authorities of the United States were about to take vigorous measures to enforce the law, many persons absconded, and there is good ground for supposing that all of such per-

sons have violated the law. A full report of what has been done under this law will be submitted to Congress by the Attorney General.

In Utah there still remains a remnant of barbarism, repugnant to civilization, to decency, and to the laws of the United States. Territorial officers, however, have been found who are willing to perform their duty in a spirit of equity and with a due sense of the necessity of sustaining the majesty of the law. Neither polygamy nor any other violation of existing statutes will be permitted within the territory of the United States. It is not with the religion of the self-styled Saints that we are now dealing, but with their practices. They will be protected in the worship of God according to the dictates of their consciences, but they will not be permitted to violate the laws under the cloak of religion.

It may be advisable for Congress to consider what, in the execution of the laws against polygamy, is to be the status of plural wives and their offspring. The propriety of Congress passing an enabling act authorizing the territorial legislature of Utah to legitimize all children born prior to a time fixed in the act might be justified by its humanity to these innocent children. This is a suggestion only, and not a recommendation.

The policy pursued toward the Indians has resulted favorably, so far as can be judged from the limited time during which it has been in operation. Through the exertions of the various societies of Christians to whom has been intrusted the execution of the policy, and the board of commissioners authorized by the law of April 10, 1869, many tribes of Indians have been induced to settle upon reservations, to cultivate the soil, to perform productive labor of various kinds, and to partially accept civilization. They are being cared for in such a way, it is hoped, as to induce those still pursuing their old habits of life to embrace the only opportunity which is left them to avoid extermination.

I recommend liberal appropriations to carry out the Indian peace policy, not only because it is humane, Christian-like, and economical, but because it is right.

I recommend to your favorable consideration also the policy of granting a territorial government to the Indians in the Indian Territory west of Arkansas and Missouri and south of Kansas. In doing so, every right guaranteed to the Indian by treaty should be secured. Such a course might in time be the means of collecting most of the Indians now between the Missouri and the Pacific and south of the British possessions into one Territory or one State. The Secretary of the Interior has treated upon this subject at length, and I commend to you his suggestions.

I renew my recommendation that the public lands be regarded as a heritage to our children, to be disposed of only as required for occupation and to actual settlers. Those already granted have been in great part disposed of in such a way as to secure access to the balance by the

hardy settler who may wish to avail himself of them, but caution should be exercised even in attaining so desirable an object.

Educational interest may well be served by the grant of the proceeds of the sale of public lands to settlers. I do not wish to be understood as recommending, in the least degree, a curtailment of what is being done by the General Government for the encouragement of education.

The report of the Secretary of the Interior, submitted with this, will give you all the information collected and prepared for publication in regard to the census taken during the year 1870; the operations of the Bureau of Education for the year; the Patent Office; the Pension Office; the Land Office; and the Indian Bureau.

The report of the Commissioner of Agriculture gives the operations of his Department for the year. As agriculture is the ground-work of our prosperity, too much importance cannot be attached to the labors of this Department. It is in the hands of an able head, with able assistants, all zealously devoted to introduce into the agricultural productions of the nation all useful products adapted to any of the various climates and soils of our vast territory, and to giving all useful information as to the method of cultivation, the plants, cereals, and other products adapted to particular localities. Quietly, but surely, the Agricultural Bureau is working a great national good, and if liberally supported, the more widely its influence will be extended and the less dependent we shall be upon the products of foreign countries.

The subject of compensation to the heads of Bureaus and officials holding positions of responsibility, and requiring ability and character to fill properly, is one to which your attention is invited. But few of the officials receive a compensation equal to the respectable support of a family, while their duties are such as to involve millions of interest. In private life services demand compensation equal to the services rendered. A wise economy would dictate the same rule in the Government service.

I have not given the estimates for the support of Government for the ensuing year, nor the comparative statement between the expenditures for the year just passed and the one just preceding, because all these figures are contained in the accompanying reports, or in those presented directly to Congress. These estimates have my approval.

More than six years having elapsed since the last hostile gun was fired between the armies then arrayed against each other—one for the perpetuation, the other for the destruction of the Union—it may well be considered whether it is not now time that the disabilities imposed by the fourteenth amendment should be removed. That amendment does not exclude the ballot, but only imposes the disability to hold offices upon certain classes. When the purity of the ballot is secure, majorities are sure to elect officers reflecting the views of the majority. I do not see the advantage or propriety of excluding men from office merely because they were, before the rebellion, of standing and character sufficient to be elected to positions requiring them to take oaths to support the Con-

stitution, and admitting to eligibility those entertaining precisely the same views, but of less standing in their communities. It may be said that the former violated an oath, while the latter did not. The latter did not have it in their power to do so. If they had taken this oath it cannot be doubted they would have broken it as did the former class. If there are any great criminals, distinguished above all others for the part they took in opposition to the Government, they might, in the judgment of Congress, be excluded from such an amnesty.

This subject is submitted for your careful consideration.

The condition of the Southern States is, unhappily, not such as all true patriotic citizens would like to see. Social ostracism for opinion's sake, personal violence or threats toward persons entertaining political views opposed to those entertained by the majority of the old citizens, prevents immigration and the flow of much-needed capital into the States lately in rebellion. It will be a happy condition of the country when the old citizens of these States will take an interest in public affairs, promulgate ideas honestly entertained, vote for men representing their views, and tolerate the same freedom of expression and ballot in those entertaining different political convictions.

Under the provisions of the act of Congress approved February 21, 1871, a territorial government was organized in the District of Columbia. Its results have thus far fully realized the expectations of its advocates. Under the direction of the territorial officers, a system of improvements has been inaugurated, by means of which Washington is rapidly becoming a city worthy of the nation's capital. The citizens of the District having voluntarily taxed themselves to a large amount for the purpose of contributing to the adornment of the seat of Government, I recommend liberal appropriations on the part of Congress in order that the Government may bear its just share of the expense of carrying out a judicious system of improvements.

By the great fire in Chicago, the most important of the Government buildings in that city were consumed. Those burned had already become inadequate to the wants of the Government in that growing city, and, looking to the near future, were totally inadequate. I recommend therefore that an appropriation be made immediately to purchase the remainder of the square on which the burned buildings stood, provided it can be purchased at a fair valuation, or provided that the legislature of Illinois will pass a law authorizing its condemnation for Government purposes; and also an appropriation of as much money as can properly be expended toward the erection of new buildings during this fiscal year.

The number of immigrants ignorant of our laws, habits, &c., coming into our country annually has become so great, and the impositions practiced upon them so numerous and flagrant, that I suggest congressional action for their protection. It seems to me a fair subject of legislation by Congress. I cannot now state as fully as I desire the nature of the complaints made by immigrants of the treatment they

receive, but will endeavor to do so during the session of Congress, particularly if the subject should receive your attention.

It has been the aim of the Administration to enforce honesty and efficiency in all public offices. Every public servant who has violated the trust placed in him has been proceeded against with all the rigor of the law. If bad men have secured places it has been the fault of the system established by law and custom for making appointments, or the fault of those who recommend for Government positions persons not sufficiently well known to them personally, or who give letters indorsing the characters of office-seekers without a proper sense of the grave responsibility which such a course devolves upon them. A civil service reform which can correct this abuse is much desired. In mercantile pursuit, the business-man who gives a letter of recommendation to a friend, to enable him to obtain credit from a stranger, is regarded as morally responsible for the integrity of his friend, and his ability to meet his obligations. A reformatory law which would enforce this principle against all indorsers of persons for public place would insure great caution in making recommendations. A salutary lesson has been taught the careless and the dishonest public servant in the great number of prosecutions and convictions of the last two years.

It is gratifying to notice the favorable change which is taking place throughout the country in bringing to punishment those who have proven recreant to the trusts confided to them, and in elevating to public office none but those who possess the confidence of the honest and the virtuous, who, it will always be found, comprise the majority of the community in which they live.

In my message to Congress one year ago, I urgently recommended a reform in the civil service of the country. In conformity with that recommendation, Congress, in the ninth section of "An act making appropriations for sundry civil expenses of the Government, and for other purposes," approved March 3, 1871, gave the necessary authority to the Executive to inaugurate a civil service reform, and placed upon him the responsibility of doing so. Under the authority of said act I convened a board of gentlemen, eminently qualified for the work, to devise rules and regulations to effect the needed reform. Their labors are not yet complete, but it is believed that they will succeed in devising a plan that can be adopted to the great relief of the Executive, the heads of Departments, and members of Congress, and which will redound to the true interest of the public service. At all events, the experiment shall have a fair trial.

I have thus hastily summed up the operations of the Government during the last year, and made such suggestions as occur to me to be proper for your consideration. I submit them with a confidence that your combined action will be wise, statesmanlike, and in the best interests of the whole country.

U. S. GRANT.

EXECUTIVE MANSION, *December 4, 1871.*

CORRESPONDENCE WITH SPAIN.

IN TWO VOLUMES.

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323	do.	Sept. 30	[Telegram.] Transmitting the Spanish proposals on the same subject.	707
324	Mr. Fish to General Sickles.	Oct. 3	[Telegram.] Asking for repetition of telegram of September 30.	707
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326	General Sickles to Mr. Fish.	Oct. 14	Transmitting Mr. Sagasta's reply to his note of July 26; also of his rejoinder.	708
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328	Mr. Fish to General Sickles.	Nov. 18	Approving his course. Further instructions urging a decision.	730
329	General Sickles to Mr. Fish.	Nov. 19	The election of the Duke of Aosta as king.	731
330	Mr. Fish to Mr. Motley.	Nov. 17	Instructing him to telegraph General Sickles to insist firmly and vigorously on the American plan of adjustment.	732
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343	Mr. Fish to General Sickles.	Dec. 20	A telegram, sent through Motley, directing him to act as if his powers were received.	743
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S P A I N.

CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE
LEGATION OF THE UNITED STATES AT MADRID.

No. 319.

Mr. Fish to General Sickles.

DEPARTMENT OF STATE,

Washington, June 24, 1870.

No. 66.]

GENERAL: Inclosed you will find a copy of a note addressed to Mr. Lopez Roberts on the 9th instant, relative to the claims of citizens of the United States against Spain, growing out of summary arrests and imprisonments, military executions, arbitrary embargoes of property, and other acts done by the Spanish authorities in Cuba to the persons and properties of citizens of the United States, in violation of the provisions of the treaty of 1795 between the Government of the United States and the government of Spain. You will also find a further communication on the same subject in regard to a claim which was presented to the Department subsequent to the transmission of the note of the 9th instant. Each of the cases mentioned in the former of these notes had previously been the subject of instruction to the consul general of the United States in Havana, to be brought to the attention of the authorities in the island of Cuba, and of demand for redress. You will observe that these notes were sent to Mr. Lopez Roberts, under the supposition that the extraordinary powers as to Cuba which were conferred upon him by his government last year were still vested in him, and that they were broad enough to authorize him to arrest these infractions of the rights secured by the treaty, and to obtain the restoration of their properties to the citizens of the United States. I am informed, however, by Mr. Roberts that those powers are no longer efficient, and that he can do nothing in the premises.

I have therefore to instruct you to bring this whole subject to the notice of the Spanish government, and to say that the President hopes that immediate steps will be taken for the release of all the citizens of the United States who may be held in custody in Cuba in violation of the provisions of the treaty of 1795, or for their immediate trial under the guarantees and with the rights secured by that treaty. You are also instructed to ask for the restoration to the citizens of the United States of their properties and estates, so far as the same have been arbitrarily embargoed in violation of the provisions of that treaty. You will also endeavor to secure some mode for the early and equitable indemnification and satisfaction to the several parties, whose rights have been violated, of the amounts which should rightfully come to each claimant for the illegal detention of his property or his person. You will say that this suggestion is made in the interest of peace, of justice, and of good will, in order to secure a measure of damages in each case which shall be just as between the two governments. You will also say that it is extremely desirable to have the investigation conducted in this country. It cannot be done in Spain without subjecting the claimants to unnecessary expense. It cannot be done in Cuba, at present, without subjecting many of them to personal danger. In this connection I must again, on behalf of this Government, express, in the interest of good will and of the continued good understanding which we desire to maintain with Spain, the strong desire of the Presi-

dent that the government at Madrid will confer fresh powers upon Mr. Lopez Roberts (or upon such other person on this side of the Atlantic as may be selected for that purpose) to arrange all such questions with this Government.

The Spanish authorities in Cuba seem to be clothed with absolute power for the commission of such acts as are now complained of, but when redress is sought, we are referred to the distant cabinet of Madrid, where it is often found necessary to refer again to Cuba for information, and the case is thus suspended and delayed, to the grievous injury of the parties and at the hazard of irritation from the delay of which the necessity is not apparent to the impatient sufferers or to the public.

The President has respected the Spanish claim of sovereignty over the island of Cuba during the present contest against a strong sympathetic pressure from without. Spain owes it to the United States as well as to her own traditional honor and sense of justice that her sovereignty shall not be used for the oppression and injury of the citizens of this republic.

You will urge this point in every way that your good judgment may suggest.

I am, &c.,

HAMILTON FISH.

Mr. Fish to Mr. Lopez Roberts.

DEPARTMENT OF STATE,
Washington, June 9, 1870.

The undersigned is directed by the President to invite the earnest attention of Don Mauricio Lopez Roberts, envoy extraordinary and minister plenipotentiary of Spain, to the irregular and arbitrary manner in which the persons and properties of citizens of the United States are taken and held by the Spanish authorities in the island of Cuba.

When Count Valmaseda, in April of last year, issued a proclamation declaring that every man, from the age of fifteen years upward, found away from his habitation and not proving a sufficient motive therefor, would be shot; that every habitation unoccupied would be burned; and that every house not flying a white flag should be reduced to ashes, it became the duty of the undersigned to convey to Mr. Lopez Roberts the protest of the President against such a mode of warfare, and his request that the authorities in Cuba would take steps that no person having the right to claim the protection of the Government of the United States should be sacrificed or injured in the conduct of hostilities on that basis.

When again, about the same time, it came to the knowledge of this Government that the captain general of Cuba had, on the 1st day of April, 1869, issued a proclamation which virtually forbade the alienation of property in the island, except with the revision and assent of certain officials named in the decree, and which declared null and void all sales made without such revision and assent, the President again directed the undersigned to say that he viewed with regret such sweeping interference with the rights of individuals to alienate or dispose of their property, and that he hoped that steps would be speedily taken to modify that decree so that it should not be applicable to the property of citizens of the United States, and so that disputes and complaints that could not fail to arise if its execution should be attempted as to such property, might be prevented.

When, seventeen days later, a decree was issued creating an administrative council for the custody and management of embargoed property; and when, three days afterward, the captain general issued a circular extending the previous embargo to the property of all persons, either within or without the island, who might take part in the insurrection, whether with arms in their hands or aiding it with arms, munitions, money, or articles of subsistence, this Government confidently expected that the cabinet of Madrid, and the authorities of Spain in the island of Cuba, would regard the then recent expressions of its wishes, and would not willingly permit the rights of citizens of the United States to be interfered with or their properties to be sequestered without the forms of law to which they were entitled.

When the President directed the undersigned to invite attention to the possibility that the laws and decrees which had been promulgated in Cuba might lead to an infraction of the treaties between Spain and the United States, he was not unmindful of the disorganized condition of society in parts of that island, nor of the difficulties which

attended the enforcement of the authority of Spain. On the contrary, he was induced to make such representation by a desire to avoid increasing those difficulties, and to prevent further complications so far as the act of this Government could do so.

The seventh article of the treaty of 1795, between the United States and Spain, provides—

“That the subjects or citizens of each of the contracting parties, their vessels or effects, shall not be liable to any *embargo* or detention on the part of the other for any military expedition or other public or private purpose whatever; and in all cases of seizure, detention, or arrest for debts contracted, or offenses committed, by any citizen or subject of the one party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases. The citizens and subjects of both parties shall be allowed to employ such advocates, solicitors, notaries, agents, and factors as they may judge proper, in all their affairs, and in all their trials at law in which they may be concerned, before the tribunals of the other party, and such agents shall have free access to be present at the proceedings in such causes, and at the takings of all examinations and evidence which may be exhibited in the said trials.”

It is with great regret that the Government of the United States feels itself forced to say that it is informed that the provisions of this article of the treaty of 1795 have not been kept in mind by the authorities in Cuba during the present struggle. It appears to the President that the sweeping decrees of April, 1869, have been put in operation against the properties of citizens of the United States in violation of the treaty agreement that such property should not be subject to *embargo* or detention for any public or private purpose whatever.

Inclosed is a list of the citizens of the United States who, up to this date, have presented to this Government complaints of such *embargo* or detention of their property.

The decree of *embargo* is of itself an extraordinary exercise of supreme power, outside of the ordinary and regular course of legal or judicial proceedings, and even if properly exercised with respect to the subjects of Spain and their properties, appear to be in contravention of the rights secured by treaty to the citizens of the United States, and the proceedings under the decree against the properties of citizens of the United States have not, as is understood, been prosecuted by order or authority of laws only, but in the exercise of the extraordinary functions vested in or exercised for the occasion by the supreme political authority of the island, and have been arbitrary and unusual, and without the safeguards to personal rights and rights of property which ordinarily accompany legal proceedings, which the seventh article of the treaty guarantees.

It is understood that the citizens of the United States whose properties have been thus taken forcibly from them have not been allowed to employ such advocates, solicitors, notaries, agents, and factors as they might judge proper; on the contrary, as this Government is informed, their properties have been taken from them without notice, and advocates, solicitors, notaries, agents, or factors have not been allowed to interpose in their behalf. It is further understood that the names of parties whose properties are thus *embargoed* are from time to time published and their properties thereafter immediately seized, without opportunity to them or their agents to be present at any proceedings in regard thereto, or at the taking of examination or evidence.

In many instances these proceedings have been taken against the properties of citizens of the United States who were not at the time, and who have not during the continuance of the disturbances, on the island of Cuba, been within the jurisdiction of Spain, and it is notorious that by going to the island of Cuba, after the official denunciation of their alleged conduct, they would subject themselves to arbitrary arrest and possible summary military trial, if not to the uncontrolled violence of popular prejudice.

The undersigned has also received representations from several citizens of the United States complaining of arbitrary arrest and of close incarceration without permission to communicate with their friends, or with advocates, solicitors, notaries, agents, and factors, as they might judge proper. In some of these cases the parties have been released; in others, they are understood to be still held in custody.

The undersigned has the honor to inclose a list of the citizens of the United States who, up to this date, have presented to this Government complaints of such arrest and detention.

In some cases, also, such arrests have been followed by military trial, without the opportunity of access to advocates or solicitors, or of communication with witnesses, and without those personal rights and legal protections which the accused should have enjoyed; and such summary trials, when ending in conviction, have been followed by summary execution. Such cases, so far as they have come to the knowledge of the undersigned, are included in the list herewith transmitted.

What has been already done in this respect is, unhappily, past recall, and leaves to the United States a claim against Spain for the amount of the injuries that their citizens have suffered by reason of these several violations of the treaty of 1795—a claim which the undersigned presents on behalf of his Government with the confident hope that the government of Spain, recognizing its justice, and making some proper and suitable

provision for ascertaining the amount which should rightfully come to each claimant, will also order the immediate restoration to the citizens of the United States of their properties which have been thus embargoed, and the release of those citizens of the United States thus held, or their immediate trial under the guarantees and with the rights accorded by the treaty.

As to the future, it is confidently expected that steps will be taken to insure against further violations of the treaty. The high sense of honor for which Spain is proverbial will (the President feels assured) prompt her to take vigorous steps to secure to citizens of the United States within Spanish dominions the full measure of the rights accorded to them by the treaty of 1795.

The extraordinary powers as to affairs in Cuba which were conferred upon Mr. Lopez Roberts by his government, and which were communicated to the undersigned on the 12th day of August last, are understood by the Government of the United States to be broad enough to authorize him to arrest these infractions of the rights secured by the treaty and to obtain the restoration of the properties. If, however, such is not the case, the undersigned then takes the liberty to ask Mr. Lopez Roberts to advise him of such absence of power, in order that instructions may be given to the minister of the United States at Madrid.

In closing this note, the undersigned must expressly reserve to the Government of the United States the right to restate its grievances on these points, as new facts may come to its knowledge showing further and other injuries to the properties of citizens of the United States from like causes.

The undersigned avails himself of this occasion to renew to Mr. Lopez Roberts the assurances of his highest consideration.

HAMILTON FISH.

Señor Don MAURICIO LOPEZ ROBERTS, *&c., &c., &c.*

1.—*List of citizens of the United States whose property has been embargoed.*

Angarica, José Garcia.	Madan, Cristobal.
Angarica, Joaquin Garcia.	Mora, Fausto.
Casanova, Inocencio.	Mueses, Martin.
Criado y Gomez, Ramon F.	Rivas y Lamar, Ramon.
Delgado, Joaquin.	Rozas, John C.
Danford, Knowlton & Co.	Taylor, Moses & Co.
Govin y Pinto, José,	

2.—*List of citizens of the United States who have been imprisoned, "incomunicado."*

Brito, José Vicente, arrested and imprisoned at Havana on February 12, 1869.
 Cabius, Theodore, arrested at Matanzas in January, 1869.
 Cabada, Emelio F.
 De Castro, Lucas A., imprisoned at Trinidad de Cuba in March, 1869.
 Del Villar, Gabriel Suarez, at Trinidad de Cuba in March, 1869.
 Edwards, James M., at Manzanillo in November, 1868.
 Jemot, Charles, at Trinidad de Cuba in May, 1869.
 McGregor, Douglass, at Trinidad de Cuba in August, 1869.
 Miranda, Thomas, confined in an iron cage at Havana.
 Powers, John E., arrested near Trinidad de Cuba in April, 1870. Still held "incomunicado" at last advices.
 Rozas, John C., arrested on February 3, 1869, near Sauta Maria del Rosario, and sent to Fernando Po on March 21.
 Simmons, A. T., at Puerto Principe in February, 1869.
 Sportuno y Prats, Mrs., at Trinidad de Cuba in February, 1870.
 Schultz, F. A., arrested at Madruga on August 23, 1869.
 Tate, James, arrested at Trinidad de Cuba on April 30, 1870, and, at last advices, still held "incomunicado."

3.—*List of other citizens of the United States who have been arrested and imprisoned in Cuba.*

De Silva, Emilio.	Ponce de Leon, José M.
Estrada, Rafael.	Polhamus, Charles J.
Fritot, Henry.	Pintado, Sebastian.
Gonzalez, Gregorio.	Portuondo, Juan F.
Machado, John A.	Santa Rosa, Augustin.
Morales, Angel.	Speakman, Charles.
Ortega, José Maria.	Wyeth, Albert.
Pedro, Patchol.	

No. 320.

General Sickles to Mr. Fish.

No. 136.]

LEGATION OF THE UNITED STATES,
Madrid, July 26, 1870. (Received August 11.)

SIR: I have the honor to transmit herewith a copy of my note to Mr. Sagasta, dated to-day, in regard to the matters embraced in your instructions of the 1st instant and 24th ultimo.

You will observe that I have recapitulated the substance of your note to Mr. Roberts, in order to bring up the whole issue for settlement here. Now that these questions are formally presented to this cabinet, I shall endeavor to impress upon General Prim the importance of prompt and friendly action, to which I suspect he will be more inclined by existing European complications.

I am, &c.,

D. E. SICKLES.

LEGATION OF THE UNITED STATES,
Madrid, July 26, 1870.

SIR: On the 9th ultimo, the Secretary of State of the United States addressed a note to the representative of Spain in Washington, setting forth sundry grievances suffered by citizens of the United States at the hands of the Spanish authorities in Cuba.

On the 18th ultimo another communication was made to Mr. Roberts by the Acting Secretary of State, Mr. Davis, in relation to a complaint which was presented to the Department of State subsequent to the transmission of the former note. The attention of the Spanish minister was invited to these matters under the supposition that he still exercised certain extraordinary powers, understood to have been conferred upon him with reference to questions arising out of the contest in Cuba, and that those powers were broad enough to authorize him to act in the premises.

On the 24th ultimo, Mr. Roberts informed the Secretary of State that, in view of the improved condition of affairs in the island of Cuba, the government of His Highness the Regent no longer deemed it necessary to continue the powers granted in August, 1869, to the representative of Spain in Washington.

All of the cases mentioned in the note of the Secretary of State to the Spanish minister in Washington had been the subject of instructions to the consul general of the United States in the Havana, in order that they should be brought to the attention of the authorities in Cuba, and redress be demanded.

On the 11th instant, I had the honor to inform your excellency that I had been instructed to bring these several matters to the notice of the government of His Highness the Regent, and in compliance with the intimation then given I proceed to perform that duty.

The reclamations I am directed to present are for injuries done to the persons and property of American citizens by the Spanish authorities in Cuba, in violation of Article VII of the treaty of 1795, between the United States and Spain. In numerous instances the property of citizens of the United States has been seized upon the mere order of the captain general, forcibly taken from their possession, or from the control of their agents, without judicial proceedings, and confiscated to the use of the Spanish authorities. In other cases, citizens of the United States have been arrested, imprisoned, and condemned to suffer the severest punishments without legal cause shown, and without the sanction or authority of any judicial tribunal.

Appended to this note your excellency will find a particular statement of the names of the parties whose property has been embargoed, and of those who have been imprisoned or put to death by the authority of the captain general of Cuba, in violation of the treaty of 1795. Nevertheless, the Government of the United States reserves the right to restate its grievances as new facts may come to its knowledge, showing further and other injuries to the persons and property of American citizens.

The United States have addressed repeated remonstrances to the government of Spain against the successive measures of the authorities in Cuba which have appeared to authorize acts inconsistent with the rights secured to American citizens under the treaty of 1795. It may be useful to recur to some of these representations. In April, 1869, General Valmaseda issued a proclamation declaring that every male person, above the age of fifteen years, found away from his habitation and not proving a sufficient

motive therefor, would be shot; that every unoccupied habitation, and every dwelling not flying a white flag, would be burned. The Secretary of State of the United States promptly protested, in the name of the President, against such a mode of warfare, and asked that the proper steps be taken so that the persons and property of those having the right to claim the protection of the Government of the United States should not be injured in the execution of Count Valmaseda's order.

About the same time, on or about the 1st of April, 1869, the captain general issued a proclamation, declaring void all sales and conveyances of property in the island made without the assent of certain officials named in the decree. As soon as this proceeding came to the knowledge of the President, he caused the government of His Highness the Regent to be informed of the regret with which he regarded such a prohibition of the rights of individuals to alienate their property, and, in order to prevent the complaints and controversies that could not fail to arise if the execution of the measure should be attempted, the Secretary of State requested that the decree might be so modified as not to be applicable to the property of citizens of the United States.

Seventeen days later a further decree was issued, creating an administrative council, for the custody and management of embargoed property; three days afterward the captain general promulgated an order extending the embargo already authorized to the property of all persons, either within or without the island, who might take part in the insurrection, whether with arms in their hands or aiding it with arms, munitions, money, or subsistence.

The President having expressed his apprehension that, in the execution of the extreme measures taken by the authorities in Cuba, the rights of citizens of the United States might be compromised, he confidently expected that the cabinet of Madrid and the superior political authority in Cuba would not suffer American citizens to be deprived of life, liberty, or property without due regard to the reservations and safeguards provided in the treaty of 1795.

The Government of the United States was not unmindful of the disorganized condition of affairs in parts of the island, nor of the difficulties which, in some localities, attended the enforcement of the authority of Spain. There was no allegation that the courts of law were closed in the Havana, where most of these proceedings occurred, or that the functions of the civil authority could not be performed in any of the principal towns of the island. And the President was induced to address his friendly representations to the government of His Highness the Regent, by a desire to avoid increasing the embarrassments growing out of the contest in Cuba, and to prevent further complications, so far as the act of the Government of the United States could do so. The seventh article of the treaty of 1795, between the United States and Spain, is as follows:

"And it is agreed that the subjects or citizens of each of the contracting parties, their vessels or effects, shall not be liable to any embargo or detention on the part of the other, for any military expedition or other public or private purpose whatever; and in all cases of seizure, detention, or arrest for debts contracted or offenses committed by any citizen or subject of the one party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases. The citizens and subjects of both parties shall be allowed to employ such advocates, solicitors, notaries, agents, and factors as they may judge proper, in all their affairs, and in all their trials at law, in which they may be concerned, before the tribunals of the other party; and such agents shall have free access to be present at the proceedings in such causes, and at the taking of all examinations and evidence which may be exhibited in the said trials."

It will be seen that, by the provisions of the article above cited, each of the high contracting parties has expressly renounced all right to embargo or detain the property of the citizens or subjects of the other. The broad and emphatic terms of this renunciation include every possible case in which the power could be exercised. No exigency of war, no requirement of the public service, no civil disorder is permitted by the stipulations of the treaty to sanction or excuse these prohibited acts of spoliation. Moreover, it is equally plain that it was the distinct and beneficent purpose of both governments to secure for their citizens and subjects respectively, within the dominions of the other, the protection of the laws of the land and of the courts of law, and of the essential safeguards for the administration of justice, in all prosecutions for any offense alleged to have been committed against the good order, peace, and dignity of the commonwealth.

It is with profound regret that the Government of the United States has learned that the provisions of this treaty have not been observed by the authorities in Cuba during the present struggle in that island. The decrees of April, 1869, have been put in operation against citizens of the United States, in violation of a solemn engagement that their property should not be subject to seizure, embargo, or detention for any public or private purpose whatever.

And American citizens have been arrested, imprisoned, and executed, without authority of law and regardless of the regular and established course of legal procedure

which should have been followed in conformity with the requirements of the convention between the United States and Spain. Whether authority may have been delegated to, or exercised by, the authorities in Cuba with reference to Spanish subjects, it is not to be supposed that the government of Spain would in any manner sanction the acts of its civil and military officers done in contravention of the rights of citizens of the United States guaranteed by the treaty of 1795, rights which could not be rescinded, suspended, or annulled without the consent of the United States. So far is any such supposition from the views of the President that he is persuaded that it is only necessary to bring to the notice of the government of His Highness the Regent the frequent instances in which the authorities in Cuba have deprived American citizens of liberty, property, and sometimes even of life, without regarding the reciprocal engagements entered into between the two countries, to insure such friendly and prompt action on the part of Spain as will repair the wrongs already done, so far as they can be repaired, and prevent the repetition of such injuries in the future.

The decree of embargo published by the captain general of Cuba is an extraordinary exercise of supreme power, outside of the ordinary and regular course of legal and judicial action. If properly exercised with respect to the subjects of Spain and their property, it appears to be in plain contravention of the rights secured by treaty to the citizens of the United States. And if we pass from the decree itself, and examine the methods by which it has been executed, it will be found that these also have been arbitrary, summary, and unusual, and contrary to the provisions of the treaty which should have controlled and regulated the acts of the authorities in Cuba affecting the property of American citizens.

The proceedings of the case of Mr. Joseph Hernandez, which are presumed to be the same as have taken place in the other cases enumerated in the appendix to this note, may be cited as an example of the manner in which the decree of embargo has been carried into effect. Mr. Hernandez, a civil engineer by profession, has resided in the United States some twelve years, where he married, and afterward, in conformity with the laws of the United States, became a naturalized citizen thereof. He is the owner of certain valuable lands in the island of Cuba, situated in the district of Vereda Nueva, and known as "El Retiro." On the 25th of February last a decree was published in the "Gaceta de la Habana," in which it is set forth that "his excellency the superior political governor has considered it convenient to declare comprehended in article 1 of the circular of the 20th of April of last year Mr. José de Jesus Hernandez y Macias, who resides abroad. This being an order from his excellency, it is published in the Gaceta for general information, and in order that the competent authorities proceed to seize all his property in accordance with the above-mentioned circular. Havana, 24th February, 1870. (Signed,) The secretary, Cesáreo Fernandez."

It appears, therefore, that the decree of embargo is executed by the same executive authority which issued it. It does not seem to be a law which the courts of justice are permitted to administer. It is rather an edict, enforced by a succession of orders not less extraordinary and imperial than the original fiat on which they are founded. Although it is understood that the courts of law are open in the city of Havana, where the proceedings took place, there is no evidence that the authorities filed any information or complaint against any of the citizens of the United States whose property has been confiscated; it does not appear that any citation was issued or published or served upon the parties, their agents, factors, or attorneys, notifying them to appear and show cause why judgment should not be pronounced against them; nor that they have been afforded any opportunity to be heard in their own defense, either in person or by their advocates, solicitors, and attorneys.

On the contrary, the Government of the United States is informed that the lands and property of many of its citizens have been taken from them without color of law, and in the exercise of the extraordinary functions vested in or exercised for the occasion by the supreme political authority of the island; that these unusual measures have been enforced against citizens of the United States who were not at the time in Cuba, and who had not been within the jurisdiction of Spain during the disturbances in that island; that they have been deprived of their estates without notice and without a hearing; that from time to time the names of these parties respectively have been published by the executive authority, with a declaration that their property is embargoed, and thereupon their goods, lands, and tenements have been immediately seized, without opportunity to the persons interested, or their agents, to be present at any inquiry or investigation in regard thereto, or at the taking of any testimony that may have been received and considered in the premises. And it therefore appears to the President that the sweeping decrees of April, 1869, so far as they have been enforced in Cuba against citizens of the United States, are inconsistent with the convention between the two countries; and that the proceedings taken to execute those decrees are arbitrary and unusual, without the safeguards to personal rights and the rights of property which ordinarily accompany the administration of justice in legal tribunals, and which are guaranteed by treaty to American citizens within the jurisdiction of Spain.

And I am accordingly instructed to ask for the restoration to the citizens of the

United States of their property and estates, so far as the same has been arbitrarily embargoed by the authorities in Cuba, in violation of the provisions of the seventh article of the treaty of 1795, between the United States and Spain, and for such reasonable and just indemnity for the wrongful seizure and detention of their property as will compensate the aggrieved parties. The provisions of the treaty of 1795 seem to have been likewise disregarded by the authorities of Cuba in the arrest, imprisonment, and punishment of certain American citizens. A brief memorandum of these cases will be found appended to this communication. These arrests are represented to have been arbitrary and without legal process or cause shown; the parties have been placed in close confinement, denied all communication with their friends, and prohibited from consulting such advocates, solicitors, and attorneys as they desired to employ; in a few instances, after an imprisonment of more or less duration, the parties have been released, while others are still held in custody. In some cases the accused have been condemned by a military tribunal, without the opportunity of access to counsel or witnesses, or other means of preparing for their defense, such as accused persons should have enjoyed; and several of these summary trials, when ending in conviction, have been followed by the immediate execution of the sentence of death. The President is persuaded that the government of His Highness the Regent will see in these proceedings grave violations of the rights secured to American citizens by the treaty of 1795. It is provided by the seventh article of the treaty that the arrest of a citizen of the United States, for an offense committed within the Spanish jurisdiction, shall be made and prosecuted by authority of law and according to the regular course of proceedings usual in such cases; that the accused shall have the aid and assistance of counsel in his trial; and that such counsel shall have free access to be present at all proceedings in the cause, and at the taking of all testimony which may be produced on the trial. In the cases which I have now the honor to bring to the notice of your excellency, I regret to be compelled to state that none of these safeguards, so essential to the administration of justice and the vindication of innocence, have been observed. So far as relates to the parties concerned there might as well have been no laws, no courts, no established course of legal procedure in Cuba. The arrests, the trials—when trials have taken place—and the punishments inflicted, are all represented to have been exceptional and arbitrary acts of executive or military authority. In presenting these facts and considerations to your excellency, I am instructed to say that the President hopes that immediate steps will be taken for the release of all the citizens of the United States who may be held in custody in Cuba, in violation of the treaty of 1795 between the United States and Spain; or for their immediate trial under the guarantees and with the rights secured by that treaty.

I am further instructed to invite the co-operation of your excellency in arriving at some decision as to the manner in which the two governments may most conveniently ascertain and determine the amount which should come to each claimant for the illegal detention of his person or his property, so that the several parties whose rights have been violated may receive early and equitable indemnification and satisfaction for the injuries they have sustained. This suggestion is made by my Government in the interest of peace, of justice, and of good will, in order to secure a measure of damages in each case which shall be just as between the two governments.

It is extremely desirable that the investigation should be conducted in the United States. It cannot be done in Spain without subjecting the parties to unnecessary expense and delay. It cannot proceed in Cuba, at present, without subjecting many of them to personal danger. I hope, therefore, it may be agreeable to your excellency to appoint a time when we may have a conference on this subject, which I do not permit myself to doubt would have a satisfactory result. If, for example, the government of His Highness the Regent would designate or authorize his excellency the minister of Spain in Washington to choose one of the Spanish consuls in the United States, or some other suitable person, to act in conjunction with an agent of the United States to be named for this purpose, I am confident that the inquiry could be so conducted with convenience to all parties, and that the conclusions reached would be satisfactory to both governments.

And I am also instructed to express on behalf of my Government, in the interest of the continued good understanding which the United States wish to maintain with Spain, the strong desire of the President that the cabinet of Madrid will confer fresh powers upon Mr. Lopez Roberts, or upon such other person on the other side of the Atlantic as may be selected for that purpose, to arrange with the Government of the United States the class of questions presented in this note. The authorities in Cuba seem to be clothed with ample power to do the acts which have been the subject of the present and of former communications; but when redress is sought the matter is transferred to the distant cabinet of Madrid, where it is often found necessary to remand the case to Cuba for information; and thus the most urgent questions, often involving the liberty and even the lives of American citizens, are suspended, to the grievous injury of the parties and at the hazard of irritation from the delay, of which the necessity is not apparent to the impatient sufferer or to the public.

It appears from the note addressed to the Department of State, on the 24th ultimo, by the representative of Spain in Washington, Mr. Lopez Roberts, that in view of the favorable situation in the island of Cuba, the government of His Highness the Regent deems it no longer necessary to continue the powers heretofore given to Mr. Roberts. And in asking for this suggestion the attention of your excellency, I am directed to state that if the situation in Cuba be so favorable as to render these powers unnecessary, it is hoped that the arrests and embargoes complained of will cease, and that immediate reparation will be made for those that have occurred. The President has respected the Spanish claim of sovereignty over the island of Cuba during the present contest, against a strong sympathetic pressure from without. He has scrupulously performed all the duties imposed upon him by treaties and by international law, to restrain and prevent the citizens of the United States from doing acts prejudicial to Spain. And when it is considered that the struggle in Cuba could not fail to engage the sympathies of a neighboring people who had themselves thrown off the domination of a European power and established a republican form of government, your excellency will appreciate the high sense of public duty which animated the President in the execution of his difficult task. The American Government, while evincing its profound respect for the obligations imposed upon it by treaties and its relations of amity with Spain, cannot do less than recognize at the same time the susceptibility with which the people of the United States regard offenses committed at home or abroad against the persons or property of their fellow-citizens. It is therefore incumbent upon the President to insist upon the rights Spain owes to American citizens by virtue of the treaty of 1795, with the same firmness he has manifested on his part in restraining all persons within the jurisdiction of the United States from acts injurious to Spain.

The treaty of 1795, negotiated on the part of Spain by the Prince of Peace and ratified during the administration of George Washington, recalls some of the earliest traditions of the cordial and uninterrupted friendship which has been so long preserved between the United States and Spain.

In the name of these traditions and for the sake of that friendship, I appeal to your excellency to cause such instructions to be given to the authorities in Cuba as will prevent further injuries to citizens of the United States who may be found within that jurisdiction or who may have property there. There was no moment of the long and exhausting civil war in the United States when Spanish subjects within our territory were injured in person or property without due process of law, or were refused any of the safeguards which belong to the administration of justice. And Spain owes it to the United States, as well as to her own high sense of honor and of justice, that her sovereignty shall not be used anywhere for the oppression and injury of the citizens of the republic.

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

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

No. 321.

General Sickles to Mr. Fish.

[Extract.]

No. 140.]

LEGATION OF THE UNITED STATES,
Madrid, August 3, 1870. (Received August 17.)

SIR: Last night, in the course of a conversation with the president of the council, I referred to my note of the 26th ultimo, addressed to the minister of state, in regard to the treatment of American citizens in Cuba, and expressed the hope that it would be agreeable to his excellency to facilitate a satisfactory settlement of the questions I had presented. General Prim replied that he had already read my communication, and that it should receive immediate attention; that he appreciated the friendly action of the President, and that he was extremely anxious to remove every source of misunderstanding between the two countries; that the cabinet had now under consideration some

general rules for the guidance of the authorities in Cuba, which, when made the subject of precise instructions, would prevent the recurrence of similar causes of complaint; that he had no doubt instances had occurred in which, through an excess of zeal, the authorities in Cuba had proceeded without sufficient care and deliberation; and that in all cases of just complaint he was disposed to make proper reparation. He added that I would soon hear from Mr. Sagasta on the subject, and he hoped the action of the Spanish cabinet would be found satisfactory to the President. I remarked that your note to Mr. Roberts of the 9th June had been communicated to Congress; that the long list of grievances complained of had painfully impressed public opinion in the United States, and I was therefore all the more desirous that his excellency should appreciate the importance of prompt action.

I am, &c.,

D. E. SICKLES.

No. 322.

General Sickles to Mr. Fish.

No. 146.]

LEGATION OF THE UNITED STATES,
Madrid, August 12, 1870. (Received September 6.)

SIR: This being the usual day of reception at the ministry of state, I called upon Mr. Sagasta, with the intention of expressing my hope that I might soon receive an answer to my note of the 26th ultimo. After some conversation in regard to the news of the day, his excellency himself introduced the subject by saying that the delay in his answer had been occasioned by the necessity of obtaining from the ministry of ultramar fuller information in regard to various points that existed in the department of state; that these notes were now completed, and he would prepare his reply as soon as possible.

I said that I was very desirous to be able to transmit to my Government a satisfactory answer at the earliest possible day; adding that your dispatches on the subject had, in accordance with the custom of our Government, been communicated to Congress, and that the list of grievances presented had of course painfully impressed the public opinion; that this consideration increased the importance of an early and satisfactory solution. I referred to the official accounts of the improved situation in Cuba, and urged this as another reason for the prompt redress of existing grievances, and the prevention of their recurrence in future.

His excellency expressed his hearty assent to these views. He said as soon as he had completed his examination of the questions involved, he would invite me to a conference, and did not doubt we would come to a satisfactory arrangement.

I am, &c.,

D. E. SICKLES.

No. 323.

General Sickles to Mr. Fish.

No. 167.]

LEGATION OF THE UNITED STATES,
San Ildefonso, September 30, 1870. (Received October 18.)

SIR: The following cable telegram has been dispatched from this legation, via Lisbon and Valencia Bay:

FISH, *Secretary of State, Washington:*

Minister of state replies to my note of twenty-sixth July that Spanish government will agree to appointment of arbitrators to estimate damages and fix indemnity to be paid, when certain preliminary conditions shall have been complied with, if it shall then appear that any American citizen has been aggrieved.

These conditions are:

First. The claimants must prove their citizenship before the Spanish authorities.

Second. Their respective claims must be separately presented, in due form, with particulars.

Third. It must appear that the claimants respectively have personally presented their reclamations to a Spanish court, or that the United States consul has intervened in their behalf, without result.

The answer is long, evasive, and dilatory. Will forward copy by mail with my reply.

SICKLES.

MADRID, *September 29.*

A duplicate copy was forwarded by mail to the United States minister in London for retransmission by telegraph from that place.

I am, &c.,

D. E. SICKLES.

No. 324.

Mr. Fish to General Sickles.

[Telegram.]

DEPARTMENT OF STATE,
*Washington, October 3, 1870.*SICKLES, *Minister, Madrid:*

Repeat from without result to end of dispatch. Opinion on terms reserved till full telegram can be read.

FISH.

No. 325.

Mr. Fish to General Sickles.

[Telegram.]

DEPARTMENT OF STATE,
*Washington, October 10, 1870.*SICKLES, *Minister, Madrid:*

The conditions of the proposed arbitration mentioned in your telegram are entirely objectionable, and cannot be admitted. You characterize them properly.

FISH.

No. 326.

General Sickles to Mr. Fish.

No. 172.]

LEGATION OF THE UNITED STATES,
Madrid, October 14, 1870. (Received November 15.)

SIR: I have the honor to forward herewith translations of three notes from the minister of state, dated respectively September 12, 15, and 20, in answer to the communication I addressed to him under date of July 26, in obedience to your instructions, Nos. 66 and 67, on the subject of injuries to the persons and property of American citizens done by the Spanish authorities in Cuba; also a copy of my reply of this date. I transmit likewise a translation of an unofficial note from Mr. Sagasta, dated September 27, in answer to mine of the 25th, inquiring whether the last paragraph of his note of the 12th was intended to intimate that arbitrators might be named immediately to ascertain the amount of damages the several claimants should respectively receive. You will also find inclosed an extract from the *Gaceta* of the 13th instant, containing the Regent's decree of the 12th, appropriating the proceeds of sales of embargoed property toward the payment of the expenses of maintaining the government in Cuba, and to which a reference is made in my reply. I have endeavored, while following your instructions by telegram of the 10th instant, in treating the proposed conditions of arbitration as inadmissible, to fortify our position on the questions involved in the discussion, by some additional facts and considerations, and you will observe that I have also renewed in a more amplified form the suggestion thrown out in my note of July 26, as to the manner in which the several reclamations should be submitted to arbitrators. Permit me to call your attention to some indications in Mr. Sagasta's argument of a purpose on the part of Spain to deny the right of expatriation, and revive the old dogma, "Once a subject, always a subject."

I am, &c.,

D. E. SICKLES.

APPENDIX A.

Mr. Praxedes Mo. Sagasta to General D. E. Sickles.

[Translation.]

MINISTRY OF STATE, MADRID, *September 12, 1870.*

SIR: I have received the note which you were pleased to send me under date of the 26th of last July, and have now the honor to reply to its different statements on behalf of the government of His Highness the Regent of the kingdom.

The representations you are pleased to make in the name of the Government of the United States are of two classes; some referring to the manner in which Spain has directed, and still directs, operations to attain the complete pacification of the island of Cuba, and others, more explicit, upon the treatment of certain North American citizens residing in that island.

Respecting the first charges, your note begins by setting forth the arbitrary way in which, in your judgment, the persons of subjects of the United States are detained and their property embargoed; and, in this connection, you cite the proclamation of Count Valmaseda, of the 4th of April, 1869, at the same time stating that the Cabinet of Washington hastened to protest at once against that order, and against such a mode of warfare, and evinced its solicitude that the Cuban authorities should take such measures that the persons and property of those who had a right to claim the protection of the Government of the United States might not be comprehended in the execution of the said proclamation. To complete the record of this matter, in so far as

it concerns the interests of the North American Government, I deem it proper to add that, on the 2d of June of the same year, this ministry informed your worthy predecessor, Mr. Hale, that telegraphic instructions had been sent to the authorities in Cuba to observe the utmost possible moderation in carrying out all those orders and measures whose execution might interest foreign governments, protesting, nevertheless, against any unjustifiable interference with the exercise of our authority within the limits of the jurisdiction which, by virtue of her sovereignty, belongs to Spain as an independent state.

Neither the Spanish government nor the authorities of Cuba have been informed that any reclamation whatever has been presented, on the part of any foreign subject, against the enforcement of the proclamation referred to; whence it is logically to be inferred, either that Count Valmaseda's decree was never carried into effect, or that, if it were, its operations did not reach those subjects. This decree was doubtless a stratagem of war, having for its only object the readier discrimination of the insurgents, as, in fact, proved to be the case without the necessity of enforcing it; and that, even in this sense, it was subsequently annulled by a circular of General Caballero de Rodas, on assuming the superior command of the island.

The Government of the United States should take into consideration the fact that Céspedes and his accomplices inaugurated their criminal rebellion by burning and devastating plantations and towns; nor can it be ignorant that many American citizens, influential proprietors in that island, were reduced to want in consequence of the barbarous excesses of these enemies of Spain. Neither should it be forgotten that before the orders of Count Valmaseda were issued, there were innumerable decrees and proclamations of amnesty and pardon emanating from the captain-general of Cuba, as well as from the governor of the eastern department, with the humane purpose of ending the insurrection.

From the foregoing statements you will be enabled to see that the proclamation so severely and harshly judged was in obedience to a legitimate instinct of defense, and a peremptory necessity of war, loudly called for by the acts of the insurgent hordes.

History abounds in these examples, and it would be derogatory to your intelligence to detain you by citing the governments which, in similar circumstances, have employed like measures in the legitimate defense of their rights, and in favor of the most speedy restoration of the tranquillity of the country. In our own time, during the civil war of which the republic of the United States was the theater, the columns of the brave General Sherman, in their march from Atlanta to Savannah, devastated that portion of the country without warning, leveling whatever they found in their path, driven to such a painful extremity by the supreme necessity of subduing the rebellion, and at once freeing the Union from the horrors of war.

And in so doing, there was certainly no infringement of the principles of the rights of persons, nor of the rules of modern international law, as practiced by civilized nations, and as they were at that time affirmed with noteworthy foresight by the Government of Washington, in the memorable "Instructions for the armies in the field," issued by Mr. Stanton, Secretary of war, during the conflict with the South. This celebrated document, which has the honor of being the first codification of the laws of war, and whose bases are attributed by public opinion to one of the most distinguished jurists of America, says, in Article XV:

"War authorizes the destruction or mutilation of armed enemies and of all persons whose destruction is incidentally inevitable in encounters of arms; it authorizes the capture of all armed enemies and of all enemies useful to their Government or dangerous to the captors; it authorizes the destruction of all kinds of property, the cutting of roads, canals, and other means of communication, the interception of provisions and munitions, the seizure of all that the enemy's country may supply for the subsistence and security of the army," &c., &c.

Article 15 says:

"Those persons are counted as rebels who, in a territory occupied or conquered by an army, rise against it or against the authorities it has established. They incur the penalty of death, whether they may have risen in insurrection singly or in parties more or less considerable, or have been incited to rise by their own government or not. If they are captured, they are not prisoners, nor are they to be treated as such, even when they are discovered and arrested before the conspiracy has attained open rebellion, or before they may have committed any acts of violence."

Whatever authority may be accorded to these "instructions" as an expression of the present views of mankind respecting the mode of warfare between civilized peoples, it is at least certain that the Government of the United States will not disallow these principles; and as the Spanish government is convinced, not only that it has not exceeded them during its contest with the Cuban rebels, but that it has not even fully made use of the means which at other times and by other nations have been declared legitimate, there is cause for surprise that it should be so severely judged, and a pretense found for denying it the same powers and rights as are conceded to other nations in a state of war.

You next treat of the decree of the 1st of April, 1869, issued by the captain-general, in which are declared null and void all sales and conveyances of property in the island of Cuba, made without the intervention of the officials designated by the same decree.

The Secretary of State, Mr. Fish, stated, in fact, to the government of His Highness that he considered this prohibition as contrary to the exercise of the rights of property, and requested that, in order to avoid disputes and controversies which could not but arise if it were carried into effect, the decree might be modified so as not to be held applicable to the property of citizens of the United States.

The Spanish government at once took occasion to inform the cabinet of Washington that this regulation was demanded by the existing circumstances of the island, and by the necessity for energetic proceedings against the enemies of peace and public tranquillity; and that, in consequence, it was extremely important to prevent the rebels, comprehending among these not only those who had taken up arms, but also the *emigrés* who fomented the rebellion in foreign countries, from making simulated sales and contracts, which would permit them to continue in possession of their property, and to dispose of the proceeds thereof for the support of the insurrection.

In this connection the attention of the Government of the North American republic was called to the well-known fact of all manner of dealings having been carried on in the island after the publication of the decree, without any hinderance; and that both Spanish citizens and those foreigners who obeyed the laws and respected legitimate authority had continued to dispose freely of their property and to carry on all their transactions with increased facility day by day, and without any other requirement than the filling up of a simple form in completing their contracts, by which the authorities might have cognizance of the transfers of real estate, and prevent abuses and criminal concealments, (*ocultaciones*;) and that the measure therefore contained nothing which could be stigmatized as vexatious. So that, as the captain-general justly observed in his communication of the 26th of March to the Spanish representative in Washington, the Government of the United States should have been completely convinced that up to that time no obstacles nor impediments had been placed in the way of lawful transactions; and that all that was necessary for the legalization of any transaction whatever took no more time than was required for revising the abstract which accompanied the instrument, to ascertain that no person whose property was embargoed sought to alienate his estates, an operation which at the most might occupy ten minutes. But, besides these reasons, there is a fact more eloquent still, which is, that until now not a single reclamation has been presented in this connection, notwithstanding the time that has elapsed.

In entering upon the question of embargoes and of the pretended violation of the treaty of 1795, I desire, before all, for the sake of clearness, to call your attention to the foundation upon which appears to rest the series of claims of this nature preferred against Spain by the Government of the United States.

It is indisputable, even for a moment, that neither in the note to which I have the honor to reply, nor in any other document concerning the affairs of Cuba since the outbreak of the insurrection, is there an indication of interference with the legitimate right that belongs to Spain of adopting the measures she may deem proper for effecting the pacification of any part of her territory. It may be deduced from this that only in the name of the interests of North American citizens whose persons or property are injured or menaced, and solely by virtue of the protection which your republic owes to them as citizens, can the Government of Washington be considered as entitled to complain of and comment upon those acts which, more or less directly, may affect the interests of its countrymen; from which it follows that, when not treating of those who have a right to the protection of the American flag, no reclamation should be made, nor should it be deemed necessary to touch upon matters which, as in this case, belong to our internal government. Granting this, it would seem natural that, before instituting any action founded upon a personal right, the circumstances from which are derived the right thus appealed to, should first be verified, and that the character with which the claimants invest themselves should be sufficiently demonstrated by legal means, dissipating any possible doubt which may arise as to its legitimacy. But when, in violation of the most logical course, a privilege or an exemption is claimed *a priori*, reserving until later the proof of the personality of him who demands it; when, in fine, the legitimate privileges are claimed which are conceded by international law and treaties to foreigners, leaving until after a result is attained concerning the fact of the embargo any demonstration of the character of foreign citizenship upon which the claim is founded, which, without it, would be a usurpation of the immunity which only belongs to the subjects of friendly powers, there cannot fail to follow a confusion of obligations and rights which, looked at in a false light, would induce a palpably unjust interpretation of the acts of the Spanish authorities.

Unfortunately, no other course has been followed by the United States in their reclamations made in favor of those who, without any right whatever, have invoked the North American nationality. The Government of Washington, in its solicitude that its countrymen should not lack its protection, has never paused to examine the legiti-

macy of the claim upon which it was invoked, and so has permitted the growth of its catalogue of wrongs and of persons aggrieved, which a considerate examination would doubtless have reduced to less dimensions.

In this aspect of the case, the good faith of the United States Government has been imposed upon and made use of by worthless men, whose only object is to create international complications and conflicts. The data and official documents of the Spanish government enable it to make a classification of the greater part of these claimants, reducing them to three classes, namely: 1st, claimants who have never possessed a right to foreign nationality; 2d, individuals who enjoy its benefits, but whose property has never been embargoed; and, 3d, persons to whom, in consideration of their being foreigners, their embargoed estates have been restored on the least evidence.

Moreover, the Government of the United States cannot be ignorant of the fact that the greater portion of the natives of Cuba who have given allegiance to the American flag have done so with the studied intention of making use of it at some future day as a shield for their criminal designs. Many cases might be cited of individuals who have lived in the island of Cuba as Spanish citizens, and did not remember their American citizenship until affairs went against them. These abuses caused the issue of the important instructions concerning the rights of citizenship, communicated by the Department of State of the United States on the 3d of May, 1869, to their consul-general at the Havana, it being noticeable that these instructions were given at the request of the said officer, who continually found himself embarrassed by the reclamations of Cubans naturalized as Americans, who had returned to the Havana and resided there permanently without disclosing their change of nationality; some of them having accepted employments and offices which Spanish subjects are alone permitted to hold.

Lastly, I end my reply to this portion of your note by calling your attention to the circumstance that the reclamations of the Government at Washington for offenses against American nationality are not set forth with precision in respect to the facts and circumstances of the several cases, (the only manner in which they can be discussed and the proper reparation ascertained,) and that they are limited to denunciations in general terms, attested by lists of persons who consider themselves aggrieved, but who are in no way shown to have affirmed their nationality before the courts, or to have been refused a hearing of their demands by the authorities, or in any other form to have sufficiently proved their character as foreigners.

If this be not duly proven, the Government at Washington cannot justly charge that of His Highness, the Regent, with having ignored, in the island of Cuba, the rights which belong to those who have the protection of the American flag, much less with having infringed the treaty of 1795; which point I shall now take up separately. The seventh article of the treaty of 1795, between Spain and the United States, upon which your note rests for declaring illegal the embargo of the property of American citizens, when carefully considered, proves inapplicable to the question both in spirit and in letter. The article is composed of three clauses; the first refers only to the embargo, or detention of vessels, or effects for the use of any military expedition, or for public or private purposes—in a word, the embargo commonly known by the name of *angaria*.* The second does not treat at all of estates or property, but only of the citizen himself, when apprehended or arrested, either for debts or for offenses, and the third treats of the means of defense which shall be guaranteed to him in the foregoing case. We can in no way occupy ourselves with the first clause, since the estates embargoed have not been taken for any of the objects therein expressed, but because the superior authority of the island was convinced, in view of information received from our consuls in the United States, that the proceeds of those estates were being applied to the sustenance and encouragement of the insurrection. And if this be true, can it be maintained that such American citizen, devoted to planning and committing acts hostile to Spain, should be included in either of the cases provided for by the aforesaid seventh article? Is it even rational to suppose that a State would celebrate and ratify a convention with another power, by virtue of which the subjects of one of the contracting parties would enjoy all the exemptions and advantages stipulated for, even in the case of being personally in open hostility and conspiracy against security and public peace? Can a treaty be conceived of whose stipulations would sanction impunity in favor of individuals, who, by their conduct, might compromise the existence of the State? It would not be easy to cite an example of such a convention, framed in opposition to all the principles, not merely of law, but of common sense. Consequently it is not consistent with reason, logic, or prudence that the treaty of 1795 can in any sense limit the power of the contracting governments to provide for the security of their respective territories against the secret plotting of the subjects of either. It may certainly favor the exercise of the rights of subjects against subjects, but not of these against their governments; since otherwise, whatever measures may have been taken, or may be taken in the future, to attack the situation in the island of Cuba at its root, would be baffled, and the enemies of Spain, residing in the United States, would rise shamelessly to aid

* *Angaria*—Retraso forzoso impuesto a la salida de un buque para emplearlo en un servicio público mediante salario ó retribucion.—*Dictionary of the Spanish Academy.*

the insurrection with the proceeds of their property, though now they are not secure of impunity unless sheltered by a recognized right.

As for embargoes, considered in general, the Spanish government does not believe that it deserves censure for making use of them, nor that there is any pretense for attributing to it the originality of the step; since on the 22d of July, 1862, the Secretary of War of the United States, by the authority of the President, issued an order directing the military commanders of Virginia, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Arkansas to seize and appropriate all personal and real property in the districts under their command which might be necessary for the supply of their troops, or for any other military purpose. The House of Representatives and the Senate had already approved, on the seventeenth of the same month, a law for the seizure and confiscation of the property of southern rebels, the fifth section of which says, textually:

"Be it also enacted, That in order to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, stocks, credits, and effects of the persons hereinafter named in this section, and to apply and use the same and the proceeds thereof for the support of the Army of the United States."

Your note further treats of such American citizens as have been arrested and held in close confinement, with an accompanying list; adding that, in some cases, the arrests have been followed by military trials, without the privilege of the intervention of counsel or attorneys, or of communication with witnesses, the personal rights and legal protection to which all accused persons are entitled being denied, and that, lastly, what has been done under this head oversteps the bounds, and gives the United States the right to demand reparation from Spain for the injuries suffered by their citizens by reason of the various infractions of the treaty of 1795.

The explanatory list which I have the honor to inclose with this dispatch, stating the causes of arrest and the penalty imposed upon each of the citizens who were apprehended, will demonstrate how little foundation there is for the protest of the Government at Washington.

There is not a single case of sentence, except of those who were apprehended with arms in their hands, and shot as privates, in which the penalty has not been commuted, and the accused turned over to their consul, to be sent out of the country.

The Government of the United States affirm, nevertheless, that even in this case the treaty of 1795 has been violated on the part of Spain, forgetting, doubtless, that the stranger who violates the laws of the country in which he lives is denied the protection of that to which he belongs, and consequently puts himself out of the reach of international law, and remains wholly subject to that of the place where he resides.

Your note concludes by expressing in the name of your Government the hope that Spain, recognizing the justice of the reclamations, and taking some proper and convenient steps to ascertain the amount which should come to each claimant, will at once order the restoration to citizens of the United States of such of their property as may be embargoed, as well as the release of those who are still imprisoned, or will cause them to be immediately brought to trial, under the guarantees and with the rights secured by the treaty of 1795.

In presenting such a demand, as well as in seeking to show that the seventh article of the treaty referred to has been violated by Spain, the Government of the United States forgets that, as the embargo is the penalty imposed for an offense, it cannot be rationally pretended that a vindictory proceeding should commence by the remission of the penalty. I have previously had the honor to occupy your attention upon this point, and it is useless to bring forward either the seventh article or the twentieth to prove the contrary.

The Spanish government has a representative accredited near the Government of the United States, and recognized consuls in the greater part of the ports of the republic. There have been many cases in which the captain general of Cuba has caused the American consul at the Havana to be notified when complaints have arisen concerning the embargo of the property of natives of Cuba naturalized as American citizens, that they might justify their political conduct before the authorities in his presence; but the fact is that, up to this time, this has not even been attempted; and, on the contrary, they have pretended that their justification should be made through the medium of the American authorities, as if such an intrusion of the jurisdiction of one state on the dominions of another were possible. Two of them, nevertheless, have exhibited their extreme ignorance by presenting a certificate signed by Don José Miguel Aldama, as president of the so-called Cuban Junta, of New York, and verified before a notary public of that city, to prove that they have never taken part in the operations of the junta. To crown all, this document was presented to one of the authorities of Cuba by the consul of the United States, under instructions, it is said, from his Government. This, however, is not the occasion to comment upon this fact, to which I have called the attention of His Highness the Regent, and instructions have been sent to our representative in Washington. You will find a copy of both documents annexed.

So much concerning the embargoes; as for the American citizens, the very list which you were pleased to append to your note makes it patent that natives of the United States are not concerned, but naturalized Cubans. The former, with very few exceptions, according to the information furnished by the authorities of Cuba, have conducted themselves as honest men who attended to their own affairs, respecting the laws of the country they have chosen for their residence. With regard to such persons, in the exceptional case of the arrest of one of them, the judgment of the courts has been followed by a pardon, (*indulto*), and he has been placed at the disposition of the consul of his nation.

The latter, that is, the naturalized Cubans, have, on the contrary, sought in a foreign nationality a defense against the rigor of the law; they have shown themselves to be arrogant; they have caused trouble, and they have succeeded in creating complications between government and government.

Returning, lastly, to the views which I have previously had the honor to make known to you in reply to your note, and in answer to the allegations therein contained, I have to state that the course of the authorities of Cuba, in the investigation of cases and in the execution of sentences, has been as prudent and as considerate as the extraordinary and anomalous circumstances through which the island of Cuba was passing would allow. This is demonstrated by the circulars of the 3d of May and the 5th of July, 1869, directed to the governors and commanders, strictly enjoining upon them the observance of the most equitable principles in all their acts, and more especially in those relating to subjects of friendly nations. And notwithstanding that the state of insurrection demanded recourse to extreme measures, the superior authorities directed that the necessity should be manifest before taking steps against foreigners, notifying them that in case they should be obliged to effect the arrest of such, proceedings should be immediately instituted according to the gravity of the offense, and information of the facts given to the superior authority; and the facility with which all classes of reclamations were heard became so great, that a simple note to the consuls, even without signature, was sufficient to cause the claims therein presented to be considered and acted upon. The various communications of the consuls to the superior civil governor, conveying their acknowledgments of the attention with which the complaints and reclamations of those they represented had been heard, are a striking proof of this, and are alone a refutation of the accusations which have been preferred. The government holds possession of these documents, and is ready to exhibit them.

To prove that the seventh article of the treaty of 1795 has been infringed, it is necessary that the Government of the United States should designate, with sufficient particularity, the instances in which the convention has been violated; and in order that the Spanish government may do justice to the reclamations of American subjects, it is above all indispensable, firstly, that these should prove their citizenship before the Spanish authorities, and should present their demands in due form in each particular case, since it is not alleged that these requisites have been complied with; and, secondly, that the aggrieved parties should show that they have themselves appeared before some tribunal, or that the consul has made the proper reclamation in their name, and that the Spanish government has failed to make reparation. In any other way, and merely in view of a list of individuals who, for the most part, bear Spanish names and have been regarded as Spaniards, it is impossible, in a legal sense, to know their nationality, and to indemnify them for injuries which are to be imputed only to themselves.

Thus far the embargo in Cuba has been only a preventive proceeding, and its execution a consequence of a purely political measure: it is not based upon any law which ordains the sequestration of property. It is, therefore, no more than an extraordinary means of defense, having for its object to deprive the insurrection of powerful resources for its support. Its execution as a political measure belongs only to the superior governor. The courts of justice thus far are strangers to it, although they decide all questions of right which arise respecting it. To these, therefore, should be addressed the reclamations of those citizens of the United States who claim to have unjustly suffered the embargo of their property.

The formalities above indicated once complied with, the particulars of the several cases mentioned in your note supplied, and the allegations made in support of them duly sustained, the Spanish government will make just reparation to such American citizens as may appear to have been aggrieved.

And, desiring to act under conditions of perfect equity, the government of His Highness will thereupon* agree to the appointment of arbitrators named by each of the two nations, to appraise the damages sustained, and to fix the indemnity to be paid therefor.

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

PRAXEDES Mo. SEGASTA.

* Desde luego.

[Inclosure No. 1.—Translation.]

MINISTRY OF STATE.

*Rights of naturalized citizens defined.—Important instructions from the Secretary of State*DEPARTMENT OF STATE,
Washington, May 3, 1869.

SIR: I have to acknowledge the receipt of your dispatch, No. 30, stating that in many cases natives of the island of Cuba, after having been naturalized as citizens of the United States, have returned to Cuba, residing there permanently without making known their change of nationality, and that in some cases they have accepted offices which can only be filled by Spanish subjects, and asking for instructions for your guidance in such cases, if your official intervention is solicited.

In answer, I have to say that it is clearly impossible to lay down rules to guide your proceedings in all the cases which may be presented.

Both native and naturalized citizens are entitled to the same protection when in foreign countries, and both, in such cases, are ordinarily subject to the laws of those countries, and are obliged to obey those laws in the same way as their own citizens or subjects have to observe them. If they fix their domicile in foreign countries, they are moreover compelled to observe toward the government of that country the duties and obligations belonging to permanent residents.

It is also quite possible that a naturalized citizen may return to his own country and remain there with the evident intention of residing permanently, or that he may accept offices incompatible with his adopted citizenship, or that he may, for a time, conceal the fact of his naturalization, and pass for a citizen of his native land, until some circumstance leads him to claim the intervention of the land of his adoption, or that in some other way he may exhibit the intention of abandoning his acquired rights by resuming his original citizenship, and absolving the government of his adopted country from the obligation to protect him as a citizen while he remains in his native country.

In the cases which come before you, you are to act with great discretion in determining whether those who solicit your interference have, in good faith, maintained their allegiance to the United States, being assured that this Department will sustain you in carrying out the principles of these instructions.

I am, &c., &c.,

HAMILTON FISH.

HENRY C. HALL, Esq.,
Vice-Consul General of the United States at Havana.

A faithful translation from the original. Havana, 17th July, 1870.

RODRIGO TAVIRA,
Government Interpreter.

A copy.

The Secretary, CESAREO FERNANDEZ.

A correct copy.

[Here follows the rubric of the minister of state.]

[Inclosure No. 2.—Translation.]

MINISTRY OF STATE.

Memorandum of citizens of the United States whose property has been embargoed.

No. 1.—*Don José Garcia Angarica.*—Does not appear to have been embargoed; as however, was a certain Don Manuel, expelled from the jurisdiction of Cardenas, of which he was a native, in consideration of his bad political antecedents, and of his having gone to a foreign country without a passport.

No. 2.—*Don Joaquin Garcia Angarica.*—His property was embargoed because he was in connivance with the individuals forming the Cuban Junta of New York. Admiral Poor having addressed a communication, on the 14th of January of the current year, concerning the removal of the embargo on his estate, answer was made that if proof were shown of the inaccuracy of the data in possession of the government, the recommendation of the United States minister would be complied with, and no notice taken of the conspiracy and double citizenship. In February, 1869, this individual passed for a Spanish subject, according to the documents presented in applying for a passport, and in January, 1870, he claimed to be an American citizen.

No. 3.—*Don Inocencia Casanora.*—It is not known to this government that his property was embargoed. Perhaps some reclamation was made of which this government

is ignorant, by reason of his being comprehended in the embargo of the property of his brothers, under the belief that he was identified with them.

No. 4.—*Don Ramon Criado y Gomez, (sic.)*—Of the same nature as the preceding, since a certain Don José Fernandez Criado is the only one embargoed.

No. 5.—*Don Joaquin Delgado.*—Was a standing member of the Cuban Junta of New York on the 7th April, 1869.

No. 6.—*Damford, Ruvorton & Co., (sic.)*—It does not appear that their property is embargoed; but they have a reclamation pending before the council concerning their implication in Nuevitas with Don Manuel Marquez, whose estates were embargoed, which reclamation will be disposed of as soon as the information asked for is obtained.

No. 7.—*Don José de la Cruz Gorin y Pinto, (sic.)*—His property was embargoed on account of his being active in New York in favor of the insurrection, and giving large sums to aid it, according to intelligence possessed by this government.

No. 8.—*Don Cristobel Madan.*—Denounced by the consul as belonging to the Cuban Club in New York; his property was embargoed, but the incorrectness of the information having been subsequently proved, the embargo was removed.

No. 9.—*Don Fausta Mora.*—His property was embargoed because the consul in New York ascertained that he had contributed sums of money to the insurrection. His good antecedents having been testified to by persons of recognized loyalty, the embargo was removed, and the fact made known in Washington.

No. 10.—*Don Martin Mueces, (sic.)*—His property was embargoed because of his bad antecedents, and for quitting the island without a passport. He came with the expedition of Narcisa Lopez, in the year 1850, and at present appears to be in New York contributing money to the insurrection. There is no evidence of his American citizenship.

No. 11.—*Don Ramon Rivas y Lamar.*—This individual took part in the original Cuban Junta established in New York, and continues to be identified with the present club. The consul general of the United States in this place (the Havana) was told, on the 19th of February of this year, that if he were proved to be unconnected with the junta in question, and to have taken no part in its operations, his recommendation would have great weight. His good antecedents having been established by persons of recognized loyalty, the embargo was removed, and the fact made known at Washington.

No. 12.—*John C. Rozas.*—It does not appear that this individual's property has been embargoed.

No. 13.—*Moses Taylor & Co.*—It does not appear that their property has been embargoed, and there is only a reclamation concerning a large portion of the embargoed property of Don Antonio Fernandez Bramosio, a member of the Cuban Junta of New York since its foundation, said to have been purchased by them. This proceeding is under examination, to ascertain the legality of the purchase.

A correct copy.

No. 2.

MINISTRY OF STATE.

Memorandum of the citizens of the United States who have been imprisoned, (incomunicados.)

No. 1.—*Don José Vicente Brito.*—Was arrested in this city under suspicion of disloyalty February 12, 1869, and set at liberty on the 14th.

No. 2.—*Don Teodoro Cabias.*—Arraigned for complicity in the assassinations which took place in this capital on the 12th of February, 1869. The case having been abandoned so far as he was concerned, the audiencia decided that he might be proceeded against as a vagrant. The case being opened, the American consul presented himself, and asked that he might be released, alleging that he was a citizen of the United States, and he was given up to him on condition of quitting the country. This individual was a telegraphic operator employed by the government, to which he had taken an oath of fidelity.

No. 3.—*Don Emilio Carada, (sic.)*—Was arrested with several others in Cienfuegos on suspicion of disloyalty, and set at liberty in a few days because no motive was found for proceeding against him.

No. 4.—*Don Lucas A. de Castro.*—Was arrested at Trinidad at the beginning of last year, and sent to the Peninsula as a political exile. He was deeply implicated in the insurrection. He was a captain of volunteers in Trinidad, and resigned a few days before the movement broke out in that district. Neither he nor the American consul at that place made any allegation concerning his citizenship.

No. 5.—*Don Gabriel Suarez de Villar, (sic.)*—Was arrested at Trinidad on the same day as the preceding, and under like circumstances. The American consul demanded his

release, pretending to establish his rights as an American citizen. Proceedings were instituted, and it was shown that the said individual obtained a certificate of American citizenship in 1854. He then went to reside in Trinidad, where he exercised his profession as a lawyer without having competently established his right to practice; was justice of the peace and syndic of the town council. He was prosecuted for having held offices forbidden to foreigners, when he proved that he had renounced his American citizenship. The audience of this island made the same decision.

No. 6.—*Don James M. Edwards*.—Was arrested at Manzanillo the 23d of November, 1868, and was proceeded against for being in communication with the insurgents. The charge was abandoned, being unsupported, and he was set at liberty the 31st of January, 1869.

No. 7.—*Don Carlos Jesmot (sic)*.—Was arrested at Trinidad for being in connivance with the insurgents, and condemned, by a council of war, to imprisonment for life. He was pardoned, turned over to his consul, and went back to his country.

No. 8.—*Mr. Duglass McGregor, (sic)*.—Was arrested at Trinidad, accused of conveying supplies and information to the insurgents, and of having been several times in their encampment. He was sentenced to death. He was pardoned and turned over to his consul, who sent him back to his country.

No. 9.—*Don Thomas Miranda*.—Was arrested at Guanajay for disloyalty, (*infidencia*.) He was sentenced to be transported from the island, and in consequence was sent to the Isle of Pines. He produced no documents to show his American citizenship, and only stated that he was a native of Saint Augustine, in Florida.

No. 10.—*Mr. John Rosas, (sic)*.—Arrested in the district of Guanabacoa for an attempt at sedition in the district of Santiago de las Vegas. He was sent to Fernando Po, where he escaped.

No. 11.—*Don Alberta Simons, (sic)*.—Was arrested at Puerto Principe, accused of having spoken against the nation in public conversation. A manuscript document was found in his possession highly offensive to the throne of Spain and inciting to insurrection. The consul of his nation in this capital having alleged that he considered his offense (*falta*) sufficiently punished by the imprisonment he had suffered, the case was abandoned, and he was set at liberty, being placed at the consul's disposition.

No. 12.—*Doña Maria Spotuna, (sic), Doña Aurelia, and Doña Elisa Cudlipp*.—Were arrested at Trinidad, accused of giving aid to the insurgents. They were condemned by a council of war, the first and the third to confinement during the existing state of affairs, and the second to ten years' imprisonment. The consul of the United States having made representations in their favor, they were pardoned on condition of leaving the country.

No. 13.—*Don Carlos Polhamus, (sic)*.—Arrested in Santa Cruz del Sur, in the act of communicating with the insurgents. He was tried by a council of war and convicted, and having confessed his crime, was shot. After his execution, a chest was found on board a coasting steamer, containing correspondence from the junta of New York for Céspedes, addressed to this Polhamus.

No. 14.—*Don Sebastian Pintado*.—Arrested at Matanzas for holding meetings of colored people in his house, to whom he read incendiary publications. He was set at liberty, and turned over to his consul to be sent out of the country.

No. 15.—*Don Angel Morales y Armas, (sic)*.—Arrived at this port in the steamer Columbia from New York, where he had become an American citizen, and, upon information that he held a commission from the Cuban Junta, he was arrested and was expelled from the island within three days, and sent to his adopted country.

No. 16.—*Don Juan Alberto Machado, (sic)*.—Was arrested, on arriving from New York, for carrying correspondence from members of the junta, and subversive publications. He was set at liberty on condition of leaving the country. Documents were found on him by which he appeared to be an American citizen and a subject of Brazil.

No. 17.—*Don Gregoria Gonzalez*.—Was arrested in this capital for subversive language, and sentenced by a council of war to one year's imprisonment. It does not appear from the evidence that he alleged his citizenship of the United States, neither did the counsel make any representations.

No. 18.—*Don Pedro Pachot, (sic)*.—Was arrested, July 23, 1869, on landing from the steamer that brought him from the United States, for carrying correspondence in violation of the postal regulations, which related to the insurrection, and was set at liberty on the 29th.

No. 19.—*Don José Ponce de Leon, (sic)*.—Was arrested at Cardenas, accused of being an agitator, and was shown to be the ringleader of a rising which was to have taken place in that district. He was transported to Fernando Po. His American citizenship was not shown.

No. 20.—*Don José Maria Ortega*.—His arrest was ordered because of information that he was engaged in a conspiracy in Pinar del Rio. He resided in this capital awhile, and was set at liberty. It does not appear that he alleged his American citizenship.

No. 21.—*Don Juan Franco, Portuondo, (sic)*.—Was arrested, with others, in Santiago de Cuba because it was discovered that he was in connivance with the insurgents in the

field. While being removed with the rest to the mill of San Juan, in El Cobre, he attempted to escape, and was fired at by those having him in charge, and was killed. This individual was expelled from Cuba in 1855, and in the following year his wife presented a petition, praying that he might be allowed to return on condition of renouncing his American citizenship, which was refused; but having returned from the United States to this city, he was permitted to remain in Cuba, on condition of making a formal renunciation of his citizenship, which was done upon his own petition.

No. 22.—*Don Agustin Sta. Rosa, (sic.)*—Was arrested in this capital toward the close of 1868, for being implicated in the insurrection, and was brought before a court-martial. Being set at liberty, in consequence of General Dulce's decree of amnesty, he was one of those concerned in the robbery of the steamer Comandataria.

No. 23.—*Don Carlos Speakman, (sic.)*—Was one of the fillibusters landed by the schooner Grapeshot, (*sic.*) being taken with arms in his hands, he was shot by virtue of the sentence of a council of war.

No. 24.—*Albert Werth, (sic.)*—The same grounds and the same results as in the preceding case.

No. 25.—*Don Emilia de Silva.*—Was arrested at Nuevitas, accused of being in communication with the enemy when found in the outskirts of that town, and was forced to remove his residence to this capital.

No. 26.—*Don Rafael Estrada.*—There is no evidence that any person of this name has been arrested, and there only appears to be one Don Esteban Estrada, a ringleader, who was pardoned.

No. 27.—*Don Renu Fritot, (sic.)*—There is no evidence that any person of this name has been arrested.

No. 28.—*Don John E. Powers.*—Was arrested at Sancti Spiritus upon indication or having intentionally thrown from the track the train under his charge as engineer, at the very time when a large body of the enemy made an attack on twelve soldiers, on the same line of railway and near the scene of the accident, of whom six were killed and four escaped.

No. 29.—*Don James Tate.*—Arrested at Trinidad for the crime of sedition, (*infidencia.*) Claimed by the consul general of the United States, in this city, as a subject of his nation. Information was asked for from the authorities, and they stated that no such American citizen appears in the registry made by the consul at that place on the 9th of April of last year; that he is a native of the United States, but that he has resided there more than fifty years.

No. 30.—*Don J. A. Schultz, (sic.)*—There is no evidence to show that any person of this name has been arrested.

Havana, July 30, 1870.

The Secretary,
CESAREO FERNÁNDEZ.

A copy.

[Here follows the rubric of the minister or state.]

[Inclosure No. 3.—Translation.]

SUPERIOR POLITICAL GOVERNMENT OF THE ISLAND OF CUBA—SECRETARY'S OFFICE—
CIVIL BUSINESS.

EXCELLENT SIR: On the 29th of September of last year I ordered the embargo of the property of Don Ramon Rivas y Lamar, a native of Matanzas, who, according to information from the consul of Spain at New York, was connected with the Cuban Club, conspiring against the integrity of the nation. Mr. H. C. Hall, consul of the United States in this place, on the 10th of February, presented a memorandum, calling attention to the embargo in question, and stating that he was instructed by the Department of State to advocate this person's claims, not merely as an American subject, but also because the Department had reason to believe that Rivas was in no way connected with the insurrection. This declaration would have been sufficient to cause the adoption of a favorable decision, especially as the good relations which unite our government with that of the United States led me to give much weight to the recommendations presented in favor of the subjects of that country, as I have demonstrated on repeated occasions; but the same consideration toward a friendly nation made it necessary to establish the justification of the order of embargo pronounced against Rivas.

There is no evidence here that this individual is an American subject; he quitted the Havana with a Spanish passport; he left his property in charge of Don Augusto Claret, and the latter, in a preliminary judicial proceeding instituted by him in Matanzas, sustained the rights of Rivas as a native, making no mention of his having taken out naturalization papers in any other country; so that the said Rivas y Lamar is one of those who, to suit their private convenience, provide themselves with two distinct

nationalities; and as experience has shown that many natives of the island of Cuba consider their legal or illegal naturalization in the United States as a shield for conspiring against this government or for open rebellion, this circumstance alone would render Rivas suspected, he being a member of the Cuban Club of New York, in which he has shown himself to be an *enthusiastic patriot*, and ready to adopt a third nationality.

The embargo in this case is perfectly regular. A Spanish subject, whose estates are registered as Spanish property, who has not renounced his rights of nationality nor given notice to any authority of his intention to change it, should be considered as a Spaniard, and suffer the consequences of the dualism in the same way as he gained its advantages by concealing it; therefore, from the moment it became known that he formed part of an association organized to disturb the peace of the island, sustaining and furthering the rebellion of a portion of its inhabitants, he became necessarily comprised in the decree of the 20th of April, 1869.

Nevertheless, in deference to the Government of the United States, answer was made to the memorandum of Mr. Hall, informing him of the facts stated above, and adding that if the person interested, whose political views are pretty well known here, should establish that he is not an enemy of Spain, and that he has taken no part in the revolution, whereby the inaccuracy of the information given by the Spanish consul should appear, the case would be taken into consideration.

The Government of the United States ought to be satisfied that it is my desire to receive this justification, since I can show, and your excellency will sustain me, that many persons residing abroad who have reclaimed directly against the provisions of the embargo, presenting justification for their conduct, have been immediately heard and put in possession of all their property, as the embargoes are preventive; and this being the case, there was the more reason for believing that my authority would favorably receive a petition supported and recommended by a friendly government.

Under these circumstances, your excellency will judge of my surprise on receiving intelligence that the consul of the United States, Mr. Biddle, had addressed himself not to my authority, but to the general superintendent of the treasury; and on examination of the documents submitted, which were drawn up by a notary public of New York, instead of being prepared in the Spanish consulate, there was found a certificate from Don Miguel Aldama, as president of the Central Republican Junta of Cuba and Porto Rico, that Rivas y Lamar had not taken part in the revolution.

I do not believe that there is any example of a similar occurrence in the interchange of dispatches between friendly governments, nor can I conceive how an act so opposed to all conventional rules could have taken place.

I would like to know, although the case is very different, since in the struggle in the United States a state of war was declared, how one of the authorities of the Federal Government would have acted on receiving from a foreign consul certificates from J. Davis exculpating some person who was being tried as a rebel. I suppose the least that would have been done would have been the return of the papers, treating them as though not received, although not considering their presentation offensive. I overlook these documents, which, not having reached me through any authorized channel, can only serve as a curious and perhaps unique example of the forgetfulness of established customs, but shall make the occurrence known to the government.

Apart from this incident, as the investigations made here show that Don Ramon Rivas y Lamar left the Havana on the 11th of April, 1860, duly authorized as a Spanish subject; that, on the testimony of persons of honor and veracity, he stood high in public estimation, and has filled several offices to the general satisfaction, without being thought disaffected to the Spanish government; and that, on the other hand, Spanish residents in New York give him credit for good conduct, I have determined to raise the embargo on his property.

I state this to your excellency for your information and such action as you may deem proper. May God guard your excellency many years.

HAVANA, 28th of July, 1870.

ANTONIO CABALLERO.

His Excellency the MINISTER OF THE COLONIES.

[Inclosure 4.No.—Translation.]

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

MOST EXCELLENT SIR: In a communication of this date I inform your excellency of the singular presentation, to the general superintendent of the treasury, of certain documents relative to the embargo of the property of Don Ramon Rivas y Lamar. At the same time, and in the proper manner, others were submitted on the part of Don Fausto Mora by the consul general of the United States, Mr. Biddle, to establish that he had taken no part in the Cuban insurrection.

The considerations which I advance to your excellency with respect to the former are also applicable to Mora.

Far from there being any official proof that this individual is an American subject, there is on record in his case a statement presented in his name by Don Juan J. Jerome, in which he asks to be supplied with a certified copy of the will of Don Maximo José, his father, without the certificate of marriage, as he would be obliged to make use of it abroad. The application was signed on the 18th of January, 1870; and if Mora at that time considered himself a foreigner in the United States, he contradicts his assertion that he was naturalized there, or rather proves that he is one of the many Cubans who, for their personal ends, provide themselves with two nationalities, and make indiscriminate use of the one most convenient. His asking for a document in which his marriage is not shown, also gauges the amount of respect it merits under the laws of either country. I would have wished that the preventive embargo upon his property, imposed by me on the 18th of February, should be approved and justified, as levied on a Spaniard residing abroad; but, in view of your excellency's information, which modifies that furnished by the consul at New York, I have decided to remit the said embargo, and inform you of it, that the proper action may be taken.

May God guard your excellency many years.

HAVANA, 28th of July, 1870.

ANTONIO CABALLERO.

His Excellency the MINISTER OF SPAIN IN WASHINGTON.

A copy.

The Secretary,
CESAREO FERNANDEZ.

APPENDIX B.

[Translation.]

MINISTRY OF STATE,
Madrid, September 15, 1870.

SIR: I have the honor to make known to you that, according to a communication which I have received from the captain general of Cuba, dated the 12th of August last, the American citizen John Powers, who figured in the memorandum annexed to your note of the 26th of July ultimo as imprisoned in Sancti Spiritus, was set at liberty on the 18th of May of this year, and is at present residing in Trinidad.

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

PRAXEDES Mo. SAGASTA.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

APPENDIX C.

[Translation.]

MINISTRY OF STATE,
Madrid, September 20, 1870.

SIR: In continuation of the statement I had the honor to make to you under date of the 15th instant, I have to-day to add, referring to a dispatch from the captain general of Cuba, of the 24th of August ultimo, that, according to a report from the deputy governor of Trinidad, Mr. J. A. Schultz, who figures in the memorandum which accompanied your note of the 26th of July as a prisoner, is not nor has ever been under arrest, the American vice-consul in that city stating officially that he has no information in the matter, and knows nothing about that person.

As for Mr. James Tate, who also figures in your memorandum, he was arrested on the 30th of April last, for being implicated in a case of disloyalty, (*infidencia*), and ordered to undergo precautionary detention in his own house on the 5th of the following month, where he remained till the termination of the trial. It is to be noticed that he did not allege his American citizenship, doubtless because he had been a resident of Trinidad for more than forty years, and that his name does not appear in the list previously furnished by the American vice-consul to the government authorities.

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

PRAXEDES Mo. SAGASTA.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

APPENDIX D.

Private.]

SAN ILDEFONSO, September 25, 1870.

MY DEAR SIR: A careful perusal of your note of the 12th instant, in reply to mine of the 26th of July last, leaves me in doubt as to the meaning of the last paragraph. Inasmuch as I attach great importance to the correct appreciation of the phraseology in question, I will thank you to inform me whether I am right in understanding you to say that arbitrators may be now appointed to fix the indemnity for damages alleged in my note to have been sustained by American citizens.

Trusting that I have correctly interpreted your meaning, and that thereby the questions presented may be speedily put in the way of adjustment, I shall await your reply with solicitude.

If you will kindly send your answer to the legation in Madrid it will be promptly forwarded to me here.

Sincerely yours,

D. E. SICKLES.

His Excellency Sr. DON PRAXEDES MO. SAGASTA,
ſc., *ſc.*, *ſc.*, Madrid.

APPENDIX E.

[Translation.]

Private.]

MINISTRY OF STATE.

MY ESTEEMED GENERAL: With much pleasure I hasten to reply to your favor of the 25th, concerning the meaning which should be given to the last paragraph of my note of the 12th instant, in answer to that which I had the honor to receive from your legation dated the 26th of July.

In that paragraph the Spanish government stated that, desiring to proceed in the matter of the reclamations in a spirit of perfect equity, it will accept the designation of arbitrators when the claimants shall have complied with the previous formalities to which the preceding paragraphs refer, and any American subjects may appear to be actually injured. The formalities which Spain desires to see complied with beforehand by the American citizens who present the reclamation are explained in my note referred to; they are to establish their status as North American citizens before the Spanish authorities; they are to make their demands in due form in each particular case; and those who now allege that they are aggrieved are to establish that the necessary reclamations have been presented by them personally before some tribunal, or that the counsel has done so in their name, without the same having been considered by the Spanish government. This procedure having been conformed to, if it appears that they have been unjustly injured in their interests or in their rights, then the arbitrators, named *ad hoc*, will proceed to estimate the damages sustained and fix the indemnity which is to be paid. With this explanation, I think, will be dispelled the doubt you express to me concerning the meaning of the paragraph cited; but if you should desire any explanation respecting that or any other of my note, I will take the greatest pleasure in making it.

I am, &c.,

PRAXEDES MO. SAGASTA.

Sr. DON D. E. SICKLES.

SEPTEMBER 27, 1870.

APPENDIX F.

LEGATION OF THE UNITED STATES,
 Madrid, October 14, 1870.

SIR: The reply to my note of the 26th of July last, which your excellency has done me the honor to address to me, under date of the 12th ultimo, was received, with its inclosures, at this legation on the 13th. I have also had the honor to receive the several supplemental communications on the same subject addressed to me by your excellency on the 15th and 20th of the past month. After giving the most attentive consideration to the arguments and conclusions presented therein, I regret to find that they do not appear to answer the reasonable and just representations I had the honor to submit to your excellency in obedience to the instructions of my Government. It will, perhaps, be useful to recapitulate the principal subjects to which the attention of your excellency was invited in my note of the 26th of July last. These embraced—

First. A reference to certain proclamations and decrees emanating from the superior civil and military authorities in Cuba, which, in the judgment of my Government, put in jeopardy the persons and property of peaceful and law-abiding citizens of the United States within the limits of that territory.

Second. The remonstrance made by direction of the President against the execution of those orders and decrees in a manner prejudicial to the rights belonging to American citizens within Spanish jurisdiction.

Third. A statement of the grievances of certain citizens of the United States, who, in the execution of the decree of embargo, had been wrongfully deprived of real and personal property of great value, in violation of international law, and of the provisions of Article VII of the treaty of 1795 between the United States and Spain.

Fourth. A request for the restoration to the aggrieved parties of their embargoed estates.

Fifth. A further statement of injuries suffered by certain other American citizens arrested and imprisoned without sufficient or probable cause, some of whom had been unreasonably detained for a long time without trial, and others subjected to extreme penalties without due process of law, contrary to the stipulations of the aforesaid treaty.

Sixth. A further request that the citizens of the United States so held in custody be released, or immediately tried by a court of justice in the manner provided for by the said convention between the two nations.

Seventh. Reclamations for indemnity to citizens of the United States whose property has been arbitrarily seized and appropriated by the Spanish authorities, and likewise to those who have suffered personal injuries by reason of unjustifiable detention and punishment.

Eighth. A suggestion that the respective governments appoint agents to sit in Washington, to ascertain and fix the sum which the claimants should severally receive in compensation for the damages they have sustained; and—

Ninth. The earnest desire of the President, in the interest of the continued good understanding the United States Government wishes to maintain with Spain, that His Highness the Regent would delegate to the representative of Spain in Washington, or to some one of its public agents in the United States or Cuba, the needful power to arrange with the Government of the United States the class of questions so constantly arising in Cuba between the two countries, of which numerous examples are found in the recent correspondence between this legation and the ministry over which your excellency so worthily presides. The President has observed with regret that no response is made to this last-mentioned appeal to the friendly sentiments of the government of His Highness the Regent. Until quite a recent date certain extraordinary powers have been vested in the Spanish minister at Washington, authorizing him in conjunction with the superior political authority in Cuba to adjust questions incident to the intercourse between that island and the United States. And although these means have not always proved effectual for the prevention or settlement of controversies growing out of the peculiar condition of affairs in Cuba, the expedient has not unfrequently been found useful in facilitating the more prompt and satisfactory arrangement of questions that might otherwise have attained larger proportions. It is true that Mr. Roberts, in his note under date of the 24th of June last, informing the Secretary of State that the government of His Highness the Regent had withdrawn from the Spanish legation in Washington the special powers it had before exercised with reference to this particular class of subjects, gave as the reason for this modification of his instructions that, in the judgment of the Spanish government, the improved situation of affairs in Cuba rendered the continuance of these faculties no longer necessary. This announcement would have been more satisfactory to my government if it had been accompanied by some assurance that the extraordinary measures adopted by the authorities in Cuba, purporting to have for their object the pacification of the island, had likewise been countermanded or revoked. It is notorious that the struggle for independence is still maintained by the insurgents, and if their strength be measured by the force employed and understood to be in preparation to be employed against them, it is reasonable to assume that some time must elapse before the contest can be terminated. The President had, therefore, indulged the hope that while the Spanish authorities in Cuba were clothed with apparently unlimited power over persons and property in that colony, a corresponding discretion, with appropriate instructions, would be given to those authorities, enabling them to remove just causes of complaint on the part of the Government of the United States when their citizens are wrongfully or inadvertently injured in the execution of orders and decrees called forth by the civil commotion unhappily afflicting a Spanish possession so contiguous to the United States, and with which our intercourse is so constant and extensive.

Nor can the Government of the United States be otherwise than painfully impressed by the action of the Spanish government in the matter of the arrest and unreasonable detention in close custody of citizens of the United States without trial; and likewise, concerning the restoration of property seized and taken from American citizens without sufficient cause shown, and in violation as well of international law and of the ordinary practice of nations, as of Article VII of the treaty of 1795 between the United States and Spain. I do not now address myself to the question of indemnity in these cases, nor to the inquiry whether acts of spoliation upon the property of American citizens are contrary to the provisions of the treaty of 1795; these propositions will be

considered presently in their proper order. I refer rather to the request made in the name of my Government that the property of certain citizens of the United States, heretofore designated with all needful particularity, arbitrarily taken from them without authority of law or judicial inquiry, should be restored to the possession of its rightful owners; and also to the further request that citizens of the United States, whose nationality is affirmed by my Government, arrested and held in close confinement in Cuba without trial, be either at once released or allowed a fair hearing before a judicial tribunal, in order that their innocence or guilt may appear.

My Government has not overlooked the consideration that involuntary injuries may sometimes happen to individuals in critical times, when the exigencies of a political convulsion, rather than the requirements of justice or the maxims of law, control the action of the public authorities. Ample allowance has been made likewise for the indiscretion of subordinate military and municipal officers, whose ill-directed zeal cannot always be regulated. Nevertheless, the President could not doubt that when the attention of the government of His Highness the Regent should be called to such of those occurrences as had involved serious injuries to American citizens, sufficient reparation would be promptly accorded.

Instances have no doubt occurred of Spanish subjects, exiled for political reasons from Cuba, who have forgotten, in the ardor of a desire to promote the independence of their native land, their obligation to obey the neutrality laws of the country whose hospitality they enjoyed. And although it must be confessed that history abounds in examples of similar indiscretion on the part of exiles who have afterward been welcomed home again as the benefactors of their country, yet the Government of the United States, so far from yielding to sympathies which might have excused a more lenient course, has rigorously exacted from these unfortunate offenders the strict penalty of their illegal enterprises.

The removal of the embargo in certain cases referred to by your excellency, where it appeared that the owners were foreigners, carried with it the admission of a right to indemnity. The release of property wrongfully taken and detained does not atone for the injury done. As to the reclamations in all such cases at least, it is manifest that the preliminaries named by your excellency are already complied with, the nationality of the parties having been satisfactorily shown to the Spanish authorities, and the application to them for redress having had no other result than the mere release of the estates without compensation for the damage sustained. These observations are likewise applicable to the instances in which prosecutions inconsiderately begun have been afterward abandoned and the parties discharged from custody upon representations made by American consuls. The reparation is incomplete without indemnity, and the innocence and nationality of the accused seem to have been acknowledged.

I am not unmindful of the suggestion offered by your excellency that, the embargo being a penalty for an offense, the vindication of the accused cannot begin with the remission of the sentence. To this it may be replied, that a party should not be punished for an alleged crime before he is arraigned. Your excellency admits that these embargoes in Cuba are not based on any law which sanctions the sequestration of property; that the courts of justice have thus far been strangers to these proceedings, and that they have been enforced only by the executive authority. And if it is found difficult to reconcile the restoration of property to its owner with a justification of the act of seizure, the task will not be easier when it is undertaken to show that an offense has been committed when no law has been transgressed, or that the punishment which should only follow the judgment of a legal tribunal can be justly inflicted without a trial or even an information presented to any court having cognizance of misdemeanors. With reference to the request of the President, that American citizens imprisoned in Cuba upon mere suspicion of an intent to offend the laws should be either released or brought to trial under the guarantees and with the rights secured by the treaty of 1795 to persons charged with crime, your excellency observes that it is patent on the list of names of those heretofore arrested, appended to my note of July 26, that they are not natives of the United States, but naturalized Cubans. The Government of the United States cannot discriminate between native-born and adopted citizens of the republic in demanding equal and due respect for all alike, whether at home or abroad. When an adopted citizen of the United States returns temporarily to his birth-place, whether called there by ties of affection for parents and kindred, or to give needful attention to business affairs, or by reason of infirmities or bereavement, or for any legitimate purpose, he retains his acquired nationality unimpaired, and with it the right to the protection of his adopted country, unless he voluntarily resumes his former allegiance. This principle has been consistently asserted by the Government of the United States from the beginning of its history. In the early part of the present century the American rule on this subject was maintained by the United States, even at the cost of war with one of the most formidable of the European powers. England and Prussia have signified their adhesion to the same doctrine, and so general is the acquiescence of other powers in this just view of the right of expatriation, that it may now be regarded as definitely engrafted upon the code of international law. It is true that when either native or adopted citizens of one country enter the jurisdiction of another

they are bound to obey the laws and respect the sovereignty of the nation whose hospitality they enjoy; and that for any offense they may commit they are amenable to the same penalties that might be lawfully imposed upon them if they were citizens or subjects thereof.

On the other hand, this duty of obedience to the laws, and respect for the authorities of a foreign commonwealth in which a stranger may find himself, is associated with another corresponding obligation, no less imperative on all governments, which is, that their authority shall be exerted, when necessary, for his protection, and that, in the event of his being accused of misdemeanor, he shall not be unreasonably detained, nor denied a fair and impartial trial before the established tribunals of justice. With regard to the citizens and subjects respectively of the United States and Spain, their rights and duties within the territory of each other are amply defined in this identical sense by Articles VI, VII, VIII, IX, X, XI, and XX of the treaty of 1795, to which I have the honor to invite the attention of your excellency.

Your excellency seems to have assumed not only that naturalized citizens of the United States of Spanish birth, who have again placed themselves within the territory of Spain, have no right to the protection of their adopted country; but also that all persons within Spanish jurisdiction, bearing Spanish names, are Spaniards. These assumptions have frequently betrayed the authorities of Cuba into mistakes prejudicial to the interests of individuals and embarrassing to both governments. There are many thousands of native-born Americans whose names are of Spanish origin. Most of them belong to families originally residing in the States of Louisiana, Florida, Texas, California, Nevada, and Colorado, and in the Territory of New Mexico, all of which, as their names suggest, were formerly Spanish settlements. Indeed it may be said that nearly all of the surnames known in the United States, although appertaining to families who have from generation to generation been citizens of the republic, are of European origin, and were borne by ancestors who had migrated from one or another of the European states. So that your excellency will at once see how fallacious is the inference that persons coming from the United States who have European names are not Americans. Nor can it be taken for granted, without great risk of error, that naturalized citizens of the United States who bear Spanish names have been Spanish subjects, and much less that they are natives of Cuba. A very considerable number of persons of Mexican, Peruvian, Chilean, Brazilian, and Colombian birth, not to mention the inhabitants of other North American states, have become citizens of the United States. Your excellency will therefore acknowledge, I am sure, that there is no presumption to be raised against the American nationality of the list of aggrieved persons I have transmitted because many of their names are Spanish; nor, I trust, will that circumstance be deemed any longer sufficient to justify the demand of other evidence of their nationality than the official affirmation of the Government of the United States that they are American citizens.

My Government receives with satisfaction the testimony kindly borne by your excellency to the good conduct of the American-born residents in Cuba; and I am sure the President would be glad to convince himself of the accuracy of your excellency's impression of the indulgence represented to have been uniformly extended to them by the authorities of the island.

I regret to have occasion to observe, however, that in numerous instances Americans have been arrested without cause, and when, after months of painful imprisonment, some of them have been released, no proof of their misconduct having appeared, they have been expelled from Cuba with serious pecuniary loss; and for such arrest, confinement, and expulsion, they have an indisputable claim to indemnity. Among these cases may be mentioned, for example, those of James M. Edwards, Dr. A. T. Simmons, John E. Powers, F. A. Schultz, and James Tate.

For the sake of illustration I may cite the particulars of one or two of this class of cases, taking for this purpose those especially referred to in your excellency's supplemental note of the 20th ultimo, and whose claims to indemnity do not appear to be recognized. Mr. F. A. Schultz, an American contractor, engaged in furnishing cross-ties to the Havana Railway Company, was arrested at Madruga, August 25, 1869, charged with having said, in a conversation about the insurrection, that he "would bet \$200 it would not terminate, because it was gaining ground;" and that in speaking of a patriotic ball to be given he remarked that "for that purpose he would give nothing, but that he would do so for the poor." Certain marks tattooed on his arm were also regarded as suspicious. Mr. Schultz was at the time ill and under treatment for a bronchial affection; he was nevertheless hurried away, refused permission to take with him a change of clothing, or even necessary medicines, and was placed in close confinement in a damp cell. The United States consul at Matanzas, in reporting the case to his Government, remarks: "It seems incredible that any one should be subjected to such harsh treatment on charges so trivial, or that what he is alleged to have said could be tortured or construed into subversive language." The United States consul general at the Havana submits the following suggestions to the Secretary of State with reference to the arrest of Schultz: "I wish," says Mr. Plumb, "to call your special attention to this case as illustrating the insecurity that now exists for foreigners

throughout the interior of this island, away from the immediate protection of the chief authority, and the danger they are in of arrest upon unfounded charges, instigated by the prejudices or malevolence of ignorant and vicious persons. The case is one that appears to demand that redress should be made." In the supplemental note, dated the 20th ultimo, which I had the honor to receive from your excellency, it is stated upon the authority of a dispatch from the captain general of Cuba, of the 24th of August ultimo, that, "According to a report from the deputy governor of Trinidad, Mr. F. A. Schultz, who figures as a prisoner in the memorandum which accompanied my note of the 26th of July, is not, nor has ever been, in arrest, the American vice-consul in that city stating officially that he has no information about the matter and knows nothing of that person." If these inquiries had been made at Madruga, where the arrest was made, or of Mr. Hall, the United States consul at Matanzas, who reported it, or of the consul general at the Havana, who brought the case officially to the notice of the captain general in September of last year, the investigation would, perhaps, have been more successful than could have been expected in Trinidad.

The case of Mr. James Tate is not less instructive. The United States consul at Trinidad de Cuba, in a dispatch dated May 1, 1870, states that Mr. Tate is an American-born citizen, about seventy years of age, who has been in ill health for many years past; that he bears an excellent reputation in Trinidad de Cuba, where he has resided more than fifty years; that he was arrested on April 30th last, at night, thrown into prison, where he was held *incomunicado*; no reasons were given for the arrest, which made a profound impression in the city, where his high character and very reserved disposition were well known. The consul interceded repeatedly with the governor and the fiscal in the hope of obtaining at least some limit to the close incarceration of this venerable and infirm person, as it was apprehended that the confinement and disgrace would prove fatal to him in his feeble condition. The consul reports that the fiscal does not hesitate to state "that he is convinced of the innocence of Mr. Tate of the charge against him, but that all the usual formalities of *incomunicacion*, trial, &c., must be gone through with before he can be released." In which your excellency may see another instance of that amplitude of powers for acts of severity and the lack of authority to alleviate them, which unfortunately distinguishes the administration of affairs in Cuba. It further appears, by a subsequent report from Mr. Fox, the consul, dated May 27th ultimo, that Mr. Tate having become quite ill he was removed, upon the advice of the physician, after nearly a month of cruel imprisonment, to his own house; and according to the latest official information in the possession of this legation, dated June 8, the trial had not then taken place. I do not fail to take note of the statement communicated in your excellency's note of the 20th ultimo, that Mr. Tate was "implicated in a case of disloyalty and ordered to undergo precautionary detention in his own house on the 5th of May, where he remained until the termination of the trial." I should have been under additional obligation if your excellency had been so good as to inform me when the trial took place, and the result of it, so far as Mr. Tate is concerned. It was not my purpose in the note I had the honor to address to your excellency on July 26th, when referring to the proclamation of General Valmaseda, to make any representations concerning it, as it was known to have been revoked by superior authority; the reference was merely introductory to the subjects which it was the object of that communication to bring to the notice of the Spanish government, and to show, in connection with other decrees and orders, the general character of the measures taken by the authorities in Cuba, which seemed liable to be enforced in a manner prejudicial to the persons and property of citizens of the United States. While I shall, therefore, excuse myself from replying to the observations of your excellency in regard to Count Valmaseda's order, I must at least express my dissent from the observation that precedents for it are found in the conduct of hostilities by the Government of the United States in suppressing the late rebellion. No life was sacrificed by the Union forces in that struggle save in open and fair combat. Prisoners of war were paroled or exchanged, or, if held, were treated according to the usages of war. There was no appropriation or destruction of property not immediately and necessarily incident to the movement of armies in the field. While care was taken to respect the persons and effects of foreigners domiciled within the theater of military operations, if these were inadvertently injured their right to reparation was promptly acknowledged. The citations given by your excellency from the "Instructions for the Armies in the Field," issued by Mr. Stanton, Secretary of War during the conflict, do not in any manner justify the style of war embodied in Count Valmaseda's order. The fifteenth article, which is quoted, is a concise statement of the rights of armies in the field in time of war, which each party to the contest may lawfully exercise, subject to the reclamations of other nations when the persons of neutrals suffer injury or their property is appropriated or destroyed. The eighty-fifth article, likewise cited by your excellency, applies to the inhabitants of conquered territory, occupied by an invading army, who rise in arms against it or against the authorities it has established. If the American compilation is entitled to the honor your excellency accords to it of being the first codification of the laws of war, Count Valmaseda's order must have found its inspiration in

another epoch, when public opinion had not imposed upon belligerents the amenities of civilization.

The allusion made in my former note to the decree of April 1, 1869, declaring null and void all sales and conveyances of property in the island of Cuba made without the intervention of certain officials, was likewise confined to a mere enumeration of that and other decrees of the same character, which appeared to disregard considerations of interest and convenience to foreign traders having large transactions in the island that should not have been overlooked by the authorities of an important commercial dependency. The views of the Government of the United States in regard to the decree of April 1, 1869, have already been conveyed to the government of His Highness the Regent.

It is, perhaps, unnecessary to pursue the discussion of the true construction and meaning of the seventh article of the treaty of 1795, since it appears to be conceded by your excellency that the property of foreigners is not properly subject to embargo in Cuba; and that the Government of the United States, in asking that the estates and effects of American citizens which have been seized and detained by the authorities in that island may be restored, with just compensation for the losses sustained, only claims "the legitimate privileges which are accorded by international law and treaties to all foreigners."

Moreover, if the classification your excellency has made of these reclamations, based upon the data and official documents in the possession of the Spanish government, shall be found to agree with the testimony on the part of the claimants ready to be produced by my government, and much of which has already been submitted through the consul general at the Havana to the authorities in Cuba, there should be no difficulty in disposing of these claims at once by the prompt and friendly action of the two governments. It is only necessary that the evidence upon which your excellency relies be transmitted to the representative of Spain in Washington, and upon a comparison of the papers and proofs in the hands of the two governments the merits of the several claims for the restoration of the property of American citizens alleged to have been embargoed may be easily and satisfactorily determined.

It would be manifestly useless to engage in further argument upon cases properly belonging to the second and third classifications presented in the reply I have had the honor to receive from your excellency. These are said to comprise the cases of American citizens "whose property has never been embargoed," and of others "to whom, in consideration of their being foreigners, their embargoed estates have been restored to them on the least evidence." With respect to the latter, their American nationality having been already admitted by the Spanish authorities, it only remains that the indemnity to which they are entitled for the loss of the use and income of their property, and for the damage it may have suffered while out of their control, should be ascertained and paid. In regard to the first classification, that is to say, those "claimants who have never acquired a foreign nationality," the Government of the United States will not be found disposed to extend its protection to persons who have not the right to invoke it. It is to be presumed, until the presumption is overcome by proof, that aliens who have deliberately renounced, after an uninterrupted residence of five or more years within the territory of the Union, all allegiance to any other government, and have thereupon become citizens of the United States, are sincere in their solemnly avowed purpose. If it shall be made to appear that any one of the claimants in whose behalf the government of the United States intervenes is not a citizen thereof, or, having been naturalized in conformity with its laws, has by any act of his own forfeited his acquired nationality, or that he has voluntarily relinquished it, your excellency may rest assured that the case of such claimant will be dismissed from the further consideration of the American Government. The Government of the United States, having satisfied itself that the parties in whose behalf reclamations have been addressed to the government of His Highness the Regent are entitled to claim the protection due to American citizens, awaits the production of such proofs as may be exhibited on the part of the Spanish government to show that such protection is not rightfully solicited and granted.

Although, as I have already remarked, the admission of your excellency that it is unnecessary to rely upon the special stipulations of a treaty to exempt a foreigner from the operation of the decree of embargo renders it superfluous to proceed with the discussion of the seventh article of the treaty of 1795 in its relation to that proceeding, I must not refrain from expressing my dissent from the construction given by your excellency to that article. The first clause is the one which relates directly to the questions now under consideration; it is as follows: "And it is agreed that the citizens or subjects of each of the contracting parties, their vessels or effects, shall not be liable to any embargo or detention on the part of the other for any military expedition, or other public or private purpose whatever." Your excellency contends that the estates embargoed have not been taken for any of the objects expressed in the clause cited, and that therefore it has not been violated. If it is meant that the property embargoed has not been taken or detained for "any military expedition," and that consequently this provision of the treaty has not been contravened, I must remind your excellency that the prohibition extends to every possible "public or private purpose" to which an

embargo may be applied. The embargo enforced in Cuba is described by your excellency as "an extraordinary means of defense," adopted by the authorities "to deprive the insurrection of powerful resources." It is, then, a military measure, intended to strengthen one party to a conflict and weaken the other. It would therefore seem to be fairly embraced in the particular prohibition relating to military operations, as it is certainly comprehended in the general interdiction of embargoes for any "other public or private purpose whatever." Your excellency is pleased sometimes to regard the embargo in Cuba as a punishment for a crime—that is to say, a judicial act; at others your excellency describes the proceeding as only a preventive measure of a purely political character; and, again, it is called an extraordinary means of defense, having for its object to deprive the insurrection of resources. But a further and more practical demonstration of the character of the embargo in Cuba is found in the decree of His Highness the Regent, dated on the 12th instant and published in the *Gaceta* of yesterday. It is therein provided that the proceeds of the sales of embargoed property in Cuba are to be applied toward the support of the government of the colony for the current year. Examined in any aspect, whether military, political, or legal, no justification has been found for the manner in which the executive authorities in Cuba have sequestered the property of American citizens. If the object is to punish offenders against the laws, be it so; then the accused are entitled to a judicial hearing before judgment is pronounced against them. Yet it is confessed that the courts of justice have not been consulted, and that no law authorizes these acts of confiscation. And if by a measure of defense or prevention, whether political or military, it is meant that, in order to diminish the means of the insurgents and to augment the resources of the Spanish treasury, the property of citizens of a friendly nation, not residing within Spanish jurisdiction, may be seized and sequestered, I must insist that the mere statement of the case discloses a palpable violation of the immunity belonging to the property of aliens, from which a right of release and indemnity follows as a matter of course.

The second clause of Article VII declares that "in all cases of seizure, detention, or arrest for debts contracted, or offenses committed by any citizen or subject of the one party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases." And your excellency proceeds to ask if it can be maintained that American citizens, planning and committing acts of hostility to Spain, should be allowed the privileges and exceptions contained in the seventh article. To that inquiry it may be replied that if American citizens, found within Spanish jurisdiction, violate the laws of Spain, they are amenable to the penalties prescribed therein when their guilt shall be established, after a fair and impartial trial in a court of justice. And if American citizens or others within the jurisdiction of the United States plan and set on foot any military or naval expedition against Spain, they commit an offense, not against the laws of Spain, to which they do not owe obedience, but against the laws of the United States, for which they may be prosecuted and punished, on due complaint being made by the Spanish government or on its behalf; and of the vigilance and good faith of the United States in the enforcement of their laws prohibiting such acts of hostility against a friendly power the government of His Highness the Regent has had ample proofs.

An arbitrary seizure of the property of an American citizen by the public authorities of Spain, either civil or military, whether taken for political or warlike purposes, is precisely the act prohibited by the seventh article of the treaty of 1795. That article is best understood in its letter and spirit when the several clauses are appreciated as a whole. Its obvious purpose is to guarantee to the citizens and subjects of the one party within the territory of the other complete immunity for their persons and property from arbitrary levies, seizures or detentions on any pretence whatever; and likewise to secure to the citizens or subjects of both nations within the territory of each other all the protection and safeguards that belong to the administration of justice under a government regulated by law. Your excellency, in the course of some general observations on the subject of embargoes, appears to find an analogy between the decree promulgated by the captain general of Cuba and the act of Congress approved July 17, 1862, for the confiscation of the property of persons in rebellion against the United States. To analyze these two measures and point out the very numerous and essential particulars in which they differ as well in substance as in procedure, would extend this note to an inconvenient length, and it is believed that a brief reference to two or three of the many features which distinguish them will be sufficient. The act of Congress is a law, and is based on the precedents found in the legislation of constitutional governments; the decree of the superior political governor is the arbitrary act of an executive officer whose authority seems to be undefined. The act of Congress is executed only by the courts of justice, in conformity with the maxim of a humane code which declares that no person can be deprived of life, liberty, or property without the judgment of a judicial tribunal; the decree is enforced at pleasure, *ex parte*, by the governor and even by subordinate executive officers of districts, without the intervention of a court. The act of Congress applies only to the property of persons who commit within

the territory of the United States the offenses denounced by the act; the decree is executed indiscriminately, as well for acts done beyond as within Spanish jurisdiction. And, finally, not to make the enumeration tedious, the act of Congress applies only to offenses committed after the enactment of the law, while the Spanish decree declares on its face that its penalties shall be visited retrospectively for acts done before its promulgation. Nor am I able to see the coincidence your excellency discovers between the decree of embargo and the order of the American Secretary of War dated June 22, 1862, directing the commanders of armies to appropriate within the theater of operations whatever they found necessary for military purposes. This necessity of war is recognized by the usage of nations, and when the property of aliens is taken under such circumstances, the right of indemnity is never denied. At the beginning of the American war the parties to the contest were formally recognized by Spain as belligerents, and in the order your excellency cites the United States Government only exercised a right belonging to a belligerent. When the conflict in Cuba, which began two years ago, shall acquire the same character, the parties to it may appeal to the laws and precedents of war to justify their acts. If I do not enter upon an examination in detail of the memorandum of particular cases inclosed with your excellency's note of the 12th ultimo, it is because that duty may be more satisfactorily performed after it shall be determined where the papers and proofs in the several cases may be most conveniently compared and revised. I should not, however, fail to remind your excellency that the case of Mr. Joseph Hernandez, a naturalized citizen of the United States, residing in the State of New Jersey, set forth in my note of the 26th of July, whose property was embargoed February 24, 1870, is not noticed in your excellency's reply, nor in the memorandum that accompanied it.

I have now to consider the conclusions reached by your excellency in relation to the mode of procedure that should be followed in presenting to the Spanish government the several reclamations made by the Government of the United States. Your excellency desires: First, that each claimant shall state his grievance in due form and detail; second, that his American nationality shall be proved before the Spanish tribunals; third, that it shall appear that the claimant has applied for redress to some Spanish tribunal, or that a consul of the United States has intervened in his behalf, without obtaining satisfaction from the Spanish authorities.

And your excellency is pleased to declare that when those preliminaries shall have been complied with, if it shall then appear that an American citizen has been aggrieved, the Spanish government will make due reparation; and that, for the purpose of assessing the amount of indemnity to be paid, it will thereupon unite with the Government of the United States in choosing arbitrators to be named for that purpose.

In the observations I have to make upon the question of procedure, it will be convenient to distinguish between the several classes of reclamations under examination. The demands presented may be embraced under the four following classifications:

I. That the real and personal property of American citizens embargoed shall be restored to them or to their authorized agents;

II. That American citizens held in custody without trial shall be released, or tried by the judicial tribunals with the rights and privileges accorded by Article VII of the treaty of 1795;

III. That reasonable and just indemnity be paid to such American citizens as have been wrongfully deprived of their property, or of the use of it, or of the income from it, by the acts of the Spanish authorities; and,

IV. That American citizens arrested, imprisoned, or expelled from the island without sufficient cause appearing shall likewise be indemnified.

It does not appear reasonable to insist that the same formalities should be observed without discrimination in all the cases belonging to these separate heads. Take for instance the demand for the restoration of embargoed property. If, as your excellency observes, property may be embargoed in Cuba at the pleasure of the superior political governor, if the proceeding is not regulated by any law, if it is a military expedient adopted to diminish the resources of a seditious combination, it is not easy to see upon what ground or with what hope a resident of New York could apply to a court in Cuba to compel the captain general to restore property he had seized by virtue of the dictatorial powers he wields over the island, and the proceeds of which may have already gone into the colonial treasury as a part of the income for the current year, in conformity with the royal decree of the 12th instant. Nevertheless, your excellency maintains that although the courts of justice have had nothing to do with the execution of the measure, yet that to them should be addressed the reclamations of those citizens of the United States who complain that their property has been wrongfully taken. The more reasonable proposition would seem to be that redress should be sought from the same authority that committed the injury. That authority being the representative of the Spanish crown in the island of Cuba, with whom the Government of the United States holds no direct communication, it becomes a proper subject for the action of the two governments, the one extending due protection to its injured citizens, and the other responding, as in duty bound, for the acts of its official agent.

For the sake of illustration, let it be supposed that one of the claimants whose pro-

perty has been embargoed proceeds to seek his remedy in the courts of Cuba; he files a petition setting forth the facts and circumstances of his case; besides the proof of his grievance he establishes his American citizenship to the satisfaction of the tribunals; having made good his complaint in the court of primary jurisdiction, and having been equally successful in the several appellate courts through which it may be supposed to have passed, and having at last obtained the favorable judgment of the supreme tribunal of justice in Spain, the claimant must still seek his compensation through his own government, for it is then that your excellency proposes that the government of His Highness shall unite with that of the United States in the appointment of arbitrators to appraise the amount of damages the claimant has sustained, and the award is to be thereupon paid by the Spanish government. That is to say—and this is the only deduction to be drawn from the course of procedure proposed by your excellency—the question of liability on the part of Spain must be decided by a Spanish court, while the incident of damages will be adjusted between the two governments.

Apart from the delay this mode of procedure would involve—and that consideration alone amounts almost to a denial of justice—the expense to which the parties would be put, the loss of their time and necessary absence from their ordinary avocations, the risk the claimants would run by reason of the insecurity of their persons in Cuba, not to speak further of the manifest hardship of compelling them to submit their demands to a tribunal powerless to afford them redress, render it sufficiently manifest that the course of procedure proposed by the Spanish government is dilatory, onerous, and impracticable. It is moreover inadmissible in principle. The President cannot acquiesce in the proposition that American citizens, recognized as such by their own Government, shall be remanded to foreign tribunals to establish their nationality as a preliminary to a hearing of their claims for indemnity formally presented by his authority for the consideration of the Government responsible for the injuries they have suffered.

I have already had the honor to inform your excellency that all the cases now brought to the notice of the government of His Highness the Regent, have been the subject of instructions to the consul general of the United States at the Havana, in order that they should be laid before the authorities in Cuba and redress demanded. These instructions have been fulfilled, and it is only in those cases in which this remedy has been found altogether unavailing, or where the redress afforded has been insufficient, that it has become necessary to ask for them the attention of your excellency.

The Government of the United States has always preferred to have these questions settled in Cuba by means of the intervention of the consul general with the local authorities, and has repeatedly expressed the wish that the captain general be authorized to dispose of them in that way. In some instances that officer has appeared to possess the necessary powers, while in other cases he has failed to act. In order that it may be quite apparent to your excellency that no effort has been spared to obtain justice for the claimants by the exhibition of the particulars and proofs of their grievances to the authorities in Cuba, I will cite, as an example, one of many such applications:

On the 15th of April, 1869, certain real estate and personal securities in Cuba, the property of the well-known firm of Moses Taylor & Co., of New York, was embargoed and taken from their agents. In September, 1869, a memorial in their behalf was presented by the late Attorney General, the Hon. William M. Evarts, praying that they may be restored to their rights through the intervention of the Government of the United States. The papers were forwarded, with appropriate instructions, to the consul general at the Havana. That officer reports that he presented the case to the superior political governor and gave him a copy of the papers, and that he received a reply on the 10th of November, from the secretary, that as soon as an examination could be made the decision would be given to him. On March 31, 1870, the consul general was further instructed to represent the case and ask for the removal of the embargo. On the 6th of April last, the consul reports the reply of the acting governor that the embargo cannot be raised until certain examinations, then in progress in New York, should be concluded, and that the Spanish government had grave suspicions in the case. From which it appears that a year having elapsed since the seizure, the Cuban authorities still retained the property arbitrarily taken by order of the captain general, without notice or opportunity given to the owners or their agents to be heard in their own behalf; and that the repeated representations of the United States consul general, based upon ample particulars and proofs, remained without result, excepting the disclosure that the Spanish government, after twelve months of investigation, claimed that the seizure and detention of the property of Messrs. Taylor & Co. rested upon "grave suspicions." Surely it will not be expected that in cases of this description, of which there are not a few, the Government of the United States can await the further pleasure of the Cuban authorities; or that the claimants should be turned over to the Spanish tribunals after the fruitless efforts of the consul general to obtain redress from the superior political authority of the island.

Passing from the embargo claimants to those unfortunate Americans imprisoned in Cuba without trial, it is difficult to discover how they are to establish their nationality

before the Spanish tribunals if this be insisted upon also in their cases as a condition of any intervention in their behalf by their Government. An opportunity to appeal to a court of justice is precisely what is asked for them, and what they have not themselves been able to obtain. To say to a foreigner in a Cuban dungeon who has been denied not only a trial, but who has been refused any means of communication with counsel or kindred or friends, that he may be tried when he shall have proved, to the satisfaction of the Spanish authorities, that he is an American citizen, would not seem to be a very substantial measure of relief. Neither does it seem consistent in the case of those other claimants who have been expelled from Spanish territory without judicial process, to reproach them with the failure to affirm their nationality before the courts of the country to which they are forbidden to return.

Your excellency is pleased to refer to the instructions addressed by the Secretary of State, under date of May 3, 1869, to the United States vice-consul general at the Havana, enjoining circumspection in ascertaining the real citizenship of persons making application for the recognition and aid of American consulates. In that communication your excellency may observe a fresh proof of the desire of my Government to confine its offices to those who have in good faith retained the right to ask for them. It may be presumed that no practical difficulties can arise in verifying the nationality of the claimants. The Government of the United States exercises habitual vigilance over applications made for its intervention, and uniformly requires satisfactory evidence of citizenship in such cases. It is to be supposed that a government will not err in determining whether the provisions of its own naturalization laws have been complied with by those who seek its protection, and that the comity of nations will accord full faith and credit to the customary proof of acts of the public authorities performed in the execution of municipal laws.

In view of the foregoing considerations, and in the interest of the continued friendship of the two countries, I trust it may be agreeable to the government of His Highness the Regent to accede to the earnest desire of the President for a more convenient and expeditious mode of settling the claims in question than the one suggested by your excellency. I am instructed to state that the proposed conditions of arbitration are distinctly objectionable, and cannot be admitted by my Government. The Government of the United States, in presenting the reclamations of American citizens for injuries suffered within Spanish jurisdiction, can address no other authority than that of His Highness the Regent.

The procedure indicated by your excellency would require the President to inform the claimants that they cannot be heard through their own Government—a conclusion that might be regarded as a rejection of the amicable means upon which the President has confidently relied for the arrangement of these differences. I have, therefore, the honor to submit for the further consideration of your excellency the proposition, that the representative of Spain in Washington be authorized to agree with the Secretary of State of the United States upon the several cases, together with the papers and proofs relating to them, that shall be submitted to the arbitrators; that the said arbitrators, one to be chosen on the part of the United States by the Secretary of State, and the other, on the part of Spain, by the Spanish minister in Washington, shall first select an umpire, to decide questions upon which they may differ, and thereupon proceed to determine the amount of indemnity to be paid to each claimant; and that, to facilitate the disposition of the business, the arbitrators be named on the part of the two governments without delay.

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

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

No. 327.

Mr. Sickles to Mr. Fish.

No. 186.]

LEGATION OF THE UNITED STATES,

Madrid, November 12, 1870. (Received December 3.)

SIR: Yesterday being the usual day for the minister of state to receive the members of the diplomatic body, I availed myself of the occasion to ask Mr. Sagasta when I might have the satisfaction of communicating to you his answer to my note of October 14, on the subject of the reclamations I had presented in July last. I remarked to him that Congress would soon meet, and that it would be gratifying to the President to be enabled at least to communicate to the two Houses the fact that these questions were in a fair way of adjustment; and I also observed to his excellency that I

thought we might reasonably look for the prompt and friendly action of the government of the Regent upon the several matters I had brought to its notice in the communication mentioned, as they were urged in the interest of the continued good understanding between the two countries, which the President, in his proclamation of October 12, had given a fresh proof of his earnest desire to maintain. The minister replied that, on the receipt of my last note, he had asked the colonial secretary for some additional information, necessary to the further consideration of the subject, which had not yet been received; that he would immediately renew his request, and, as soon as the required data could be obtained, he would acquaint me with the views of the government upon the proposition I had submitted. I proceeded to state that the questions had already been pending several months; that they were of a nature likely to touch the susceptibilities of the American people; that, if the President, in his annual message, should find himself constrained to inform Congress that his repeated overtures to Spain had failed to obtain for the grievances of our citizens the consideration they were entitled to receive at the hands of a friendly power, a painful impression would be made upon public sentiment which I was most anxious should be avoided by the timely and just action of this government. With these observations I left the topic to his excellency, who rather abruptly gave the conversation another direction. I could not fail to notice the reserve with which Mr. Sagasta confined himself to a mere intimation of his intention to reply at an early day to my note of October 14, without indicating any probability of an agreement upon the matters under discussion.

I am, &c.,

D. E. SICKLES.

No. 328.

Mr. Fish to General Sickles.

No. 106.]

DEPARTMENT OF STATE,
Washington, November 18, 1870.

SIR: Your dispatch No. 172 is received. On the 17th instant I telegraphed, in reply to Mr. Motley—to be forwarded by him to you by mail and telegraph—that your course was approved, and that you would continue to press, firmly and vigorously, the plan of settlement of the pending claims desired by this Government, as indicated in your note to Mr. Sagasta of the 14th October. A copy of this dispatch is inclosed.

The President is not disposed to accept the offer of the Spanish government or to modify the demands of the United States. He thinks that no proposition, more just or more temperate, could be made than has been made. There may be a misapprehension in Mr. Sagasta's mind as to one point in our offer, which you may correct in conversation. The President contemplates that every claimant will be required to make good before the commission his injury and his right to indemnity. Naturalized citizens of the United States will, if insisted on by Spain, be required to show when and where they were naturalized, and it will be open to Spain to traverse this fact, or to show that from any of the causes named in my circular of October 14, 1869, the applicant has forfeited his acquired rights; and it will be for the commission to decide whether each applicant has established his claim.

The President desires to know the decision of the cabinet of Madrid at an early day, in order that, should the just wishes of the United States not be complied with, Congress may be advised of that fact. It is useless to prolong discussion where the right is so clearly on the side of this Government.

I have no time, in the haste of preparation for this mail, to express more fully my sense of the excellence of your note of the 14th of October to Mr. Sagasta.

I am, &c.,

HAMILTON FISH.

No. 329.

General Sickles to Mr. Fish.

[Extract.]

No. 195.]

LEGATION OF THE UNITED STATES,
Madrid, November 19, 1870. (Received December 12.)

SIR: On Wednesday, the 16th instant, the Cortes elected the Duke of Aosta King of Spain. Three hundred and eleven members were present and voted. The whole number of deputies is 344, so that 33 constituencies were not represented. The election was by ballot, each member inscribing thereon his own name and that of the person for whom he voted. The choice was made on the first balloting, the official candidate receiving 191 votes, being a majority of 18 in a full house, and a majority of 71 of the members present. Of the minority, besides the 33 who did not vote, 19—of whom 12 were Carlists—voted blank, 63 voted for a republic, 27 for the Duke of Montpensier, and the rest scattering. It may be remarked that Article 33 of the constitution, establishing a monarchy as the form of government, was approved last year by 214 votes. The regency of Marshal Serrano, duke de la Torre, obtained 194 votes, but it should be observed that only one monarchist deputy opposed the election of the regent. It appears, therefore, that of the 229 votes cast for the several candidates for the throne, the Italian prince received 84 per cent., and of the 214 votes given in favor of the monarchical form of government he received 89 per cent. Of the 191 members voting for General Prim's nominee, 65 hold places under his administration; and rumor says that lucrative public employment will soon be given to others of the majority. The majority embraces "progressists," "democratic monarchists," and a portion of the "union liberals;" that is to say, it represents the monarchical elements of the several parties that combined to effect the revolution of September, 1868. Although great efforts were made to increase the conservative vote in favor of the government candidate, the most influential of that class of deputies either abstained altogether or voted with the opposition. From the foregoing analysis of the ballot it appears that an emphatic majority of the constituent assembly—clothed with powers somewhat greater than those usually given in our system to a constitutional convention, inasmuch as this body not only framed the Spanish constitution but put it into operation—has ratified the choice made by General Prim to fill the Spanish throne. The incidents of the session are not regarded as promising a tranquil reign, nor even a peaceful accession to the throne.

I am, &c.,

D. E. SICKLES.

No. 330.

Mr. Fish to Mr. Motley.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 17, 1870.MOTLEY, *Minister, London* :

Send Sickles by mail and telegraph this. Your number 172 received. Course fully approved. Insist firmly and vigorously on our plan for adjusting and settling claims as shown in your note to Sagasta.

FISH, *Secretary.*

No. 331.

General Sickles to Mr. Fish.

No. 197.]

LEGATION OF THE UNITED STATES,
Madrid, November 24, 1870.

SIR: The following is a transcript of a telegraphic dispatch forwarded from this legation at 7 o'clock this evening :

HAMILTON FISH, *Secretary of State, Washington* :

Your instructions through Motley are received. Interview with minister to-day by appointment. He anticipated the object of my visit, and stated that the action of this government on our reclamations had been unavoidably delayed because he had not yet received necessary information from Cuba, which had been diligently sought by telegraph. I again and earnestly urged prompt action, in conformity with your views. Minister said that he would not wait longer for colonial reports, but would at once answer my note of October 14. The minister's silence about the tenor of this reply seems significant.

SICKLES

MADRID, *November 24.*

A copy of this dispatch goes by mail to Mr. Motley, for transmission by telegraph from London.

I am, &c.,

D. E. SICKLES.

No. 332.

General Sickles to Mr. Fish.

No. 199.]

LEGATION OF THE UNITED STATES,
Madrid, November 25, 1870. (Received December 12.)

SIR: I have the honor to report that on the receipt of your instruction, through Mr. Motley, on the 20th instant, I addressed a note to the minister of state, asking him to name the earliest time convenient to himself for an interview, which was promptly appointed for Thursday, (yesterday,) at 3 in the afternoon. Mr. Sagasta, foreseeing the purpose of my visit, did not wait for me to state it, but immediately on receiving me introduced the subject of our reclamations, and proceeded to narrate the proofs of his diligent efforts to obtain the information he desired from the colonial office to enable him to answer my note of October 14. He said that the secretary of the colonies having some time ago told him that the reports required could only be prepared in Cuba, orders were immediately sent by telegraph to forward them without delay. On the receipt of my request for an interview he had again asked Mr. Moret for the data called for, and was told that no answer had been received from Cuba; and that

now, not wishing to defer his reply any longer, he must do the best he could with such material as the Colonial Office had in its possession; he added that he hoped to receive from that department a communication on the subject within a day or two, and would at once write to me. I replied that his excellency had made no mistake in assuming that I had come to represent to him the desire of the President to know the views of the Spanish government with respect to the numerous reclamations I had brought to its notice, and to which my notes of July 26 and October 14 were particularly directed; that all our correspondence on the subject had been submitted to the President, and that I was instructed by a telegram just now received to ask for the immediate action of the government of His Highness the Regent upon the propositions I had submitted; that Congress would assemble early in December, and that it would become the duty of the President to inform that body of the stage the negotiation had reached; that the President had given so many proofs of his sincere desire to remove any cause of difference with Spain that his excellency would comprehend the disappointment and regret that would be felt at Washington if any further delay should occur in coming to a satisfactory understanding with the Spanish government in relation to the injuries our citizens had already suffered, as well as upon the measures suggested to prevent the recurrence of similar causes of complaint, and that I could not too earnestly commend to his excellency the importance of these considerations in the interest of the friendly relations of the two countries. Mr. Sagasta repeated his statement that he would at once give attention to the matter, and that I should hear from him very soon. I could not fail to be painfully impressed by the reflection that the minister disclosed no intimation of a disposition to accede to our reasonable demands heretofore presented, and that my allusion to the considerate and generous course of the President in all the questions which had grown out of the struggle in Cuba was received without the expression of any just appreciation of his action.

I am, &c.,

D. E. SICKLES.

No. 333.

Mr. Fish to General Sickles.

No. 111.]

DEPARTMENT OF STATE,

Washington, November 25, 1870.

SIR: I inclose a copy of a decree said to have been made by a military tribunal in Cuba, and published in the *Diario de la Marina* on the 9th of November, current.

This decree purports to condemn to death sundry persons named in it as the central republican junta of Cuba and Porto Rico, established in New York, and to confiscate their property. It appears affirmatively in the decree that none of the condemned had appeared before the court.

This revolutionary body, known as the Cuban junta, voluntarily disbanded itself about one month before this decree was made, and announced its intention to discontinue any hostile purpose it might have entertained against Spanish rule in Cuba. During its previous history its acts, so far as conflicting with the laws of the United States and the international duties of this Government, were repressed by the President. This Department has also been officially informed by Mr.

Roberts that the state of affairs in Cuba is regarded as a favorable one by the Spanish government, and that in consequence of that the extraordinary powers previously vested in him had been withdrawn. This Government has, therefore, seen with surprise and regret the announcement of a policy in Cuba which is apparently uncalled for by any present emergencies, which is not in harmony with the ideas now entertained by the most enlightened nations as to the treatment of political offenses, and which, as it appears to us, will tend to continue the unhappy disturbances which exist in Cuba. We recognize, however, that, so far as this is a purely domestic question between the government of Spain and the persons or properties of those who are subject to that government, the United States have no other right to interpose than that growing out of the friendly relations which have always existed between them and Spain, and the good faith with which they have observed their duties and obligations in this contest. It appears, however, that on this list are to be found the names of some persons who claim to be citizens of the United States. As to each such person, you will inform the minister for foreign affairs that, if it shall appear that his claim to be a citizen of the United States is valid, and that he has done no act to forfeit his rights as such, it will be claimed and insisted that he is entitled to the trial by civil tribunal and in the ordinary forms of law which are guaranteed to citizens of the United States by the article of the treaty of 1795 which has already been made the subject of correspondence between you and the Spanish government.

I am, &c.,

HAMILTON FISH.

[From the Diario de la Marina, Havana, November 9, 1870.]

SENTENCE OF THE COURT-MARTIAL IN THE CASE OF THE CUBAN CONSPIRATORS.

[Translation.]

At the Cuartel de la Fuerza was judged and decided yesterday, in court-martial, (consejo de guerra ordinario,) the voluminous process established against those who, it has appeared, belong, or have belonged, to the central republican junta of Cuba and Porto Rico that was established in New York for sustaining, with all kinds of resources, the insurrection against Spain that broke out at Yara the 10th of October, 1868. The decision of the fiscal having been read by Colonel Montaos, in which an extensive review of the course of the rebellion, from the first moments of its existence, is made with many interesting details, and a detailed explanation of the proofs found in the process against each one of the accused, the court dictated the following

SENTENCE.

In view of the process instituted by the colonel of cavalry, Don Francisco Montaos y Bovillard, by virtue of the decree of his excellency the captain general, of 2d of September, 1869, against the individuals that appear to have composed or do compose the so-called republican government of Cuba, and the central republican junta of Cuba and Porto Rico, established in New York for sustaining with every kind of resources the rebellion against Spain that broke out on the eastern department on the 10th of October, 1868, and having communicated all to the court, presided by Don Julian Pueyo, assisted by the advocate of the captain general, Don Elias de Zúñiga as assessor, and at which the defendants did not appear, being absent; and being duly examined, as also the decision of the fiscal, the court, by unanimity of votes, in accordance with the prescriptions of the law 1st and 2d, title 2d of Partida 7th, and in the law 2d, title 7th, book 12th, of the Novisima Recopilacion, and as a doctrine, the 139th and 177th of the Penal Code, has condemned, and does condemn, as guilty of treason and rebellion, and to the punishment of death by the vile garrote, Carlos Manuel Céspedes, Francisco Vicente Aguilera, Cristóbal Mendora, Elijio Izaguirre, Eduardo Agramonte, Pedro Maria Agüero y Gonzales, Salvador Cisneros y Betancour, Pio Rosado, Fernando Fornaris, Miguel Betancour Guerra, Jesus Rodriguez, José Izaguirre, Miguel Gerónimo Gutiérrez, Aroadio Garcia, Tranquilino Valdés, Antonio Lora, Eduardo Machado, Antonio Zambrana, Ignacio Agramonte, Rafael Morales, Lucas del Castillo, Diego Machado, Ramon Perez Trujillo,

Manuel Quesada, Thomas Jordan, Francisco Ruiz, José Valiente, José María Mora, Antonio Fernandez Bramosio, José María Bassora, Francisco Izquierdo, Plutarco Gonzalez, Ramon Fernandez Criado, Francisco Javier Cisneros, Joaquin Delgado, Ramon Aguirre, Francisco Fésler, Ignacio Alfaro, Miguel Aldama, Carlos del Castillo, José Manuel Mestre, Hilario Cisneros, Leonardo del Monte, José María Céspedes, Francisco Valdés Mendoza, Nestor Ponce de Leon, Federico Galvez, Francisco Javier Balmaseda, Manuel Casanova, Antonio Mora, Luis Felipe Mantilla, Manuel Márquez, José Peñ, and Joaquin Anido, without prejudice to their being heard if they should present themselves or should be found; their property, of whatever class, to be appropriated by the State for indemnification if the damages and expenses of the insurrection apprising the public exchequer to that end; also such property as belonged to José Morales Lemus, Honorato del Castillo, Luis Ayesteran, and Pedro Figueredo, with respect to whom the process ceases by reason of their deaths; absolving Mariano Alvarez and José Trujillo, for want of sufficient proof, and directing a cessation of the process with respect to Antonio Alcalá, who has been pardoned during the course of this process for having given in his submission to the government.

Havana, 7th November, 1870.

JULIAN PUEYO.
EDUARDO TASIER.
FELIPE SAEZ DE TEJADA.
JUAN NIETO MUJICA.
VALENTIN GOMEZ SEPULVEDA.
FAUSTINO CISTUÉ.
FERNANDO DOMINICIS.

No. 334.

General Sickles to Mr. Fish.

No. 205.]

LEGATION OF THE UNITED STATES,
Madrid, December 3, 1870. (Received January 4, 1871.)

SIR: Yesterday, as I have already informed you by my telegram of the 2d instant, I called on the minister of state, it being his customary day for the reception of the diplomatic body. I remarked to Mr. Sagasta that I had not yet had the pleasure to receive his reply to the proposition made in my note of October 14; to which the minister replied that I would very soon hear from him, as he had obtained from the colonial office the information he desired in regard to our reclamations. He gave no intimation of the probable tenor of his answer. I mentioned, on the authority of our minister to Brazil, who is passing a few days in Madrid, en route to Rome, that several troublesome questions, growing out of claims upon that government for injuries to American citizens, had recently been adjusted by means of a similar arrangement, and which had much to commend it when friendly powers desired to settle such controversies. This allusion drew no direct response, but Mr. Sagasta observed that he had heard the day before, from Mr. Roberts, that the arbitrators named to pass upon the "Lloyd Aspinwall" case had awarded a large sum to the owners. I expressed my hope that the decision would be satisfactory to all parties, and that the amount would be promptly paid, to which his excellency replied that payment would be ordered without delay.

I am, &c.,

D. E. SICKLES.

No. 335.

General Sickles to Mr. Fish.

No. 208.]

LEGATION OF THE UNITED STATES,
Madrid, December 8, 1870. (Received January 4, 1871.)

SIR: Your instruction No. 106 was received on the 5th instant. On

the same day I sent a note to the minister of state asking for an interview. On the 7th, no answer having been received, I repeated the request in another communication to Mr. Sagasta, to which a reply was promptly returned, saying that he would receive me to-day at half past 2 in the afternoon, and stating that the note previously addressed to him had not reached his hands. Meanwhile the Madrid journals had published a telegram giving the purport of the allusion to our reclamation against Spain made by the President in his annual message. As soon as I presented myself this afternoon Mr. Sagasta expressed his regret that my note of the 5th had been inadvertently confounded with two others received from this legation at the same time, acknowledging invitations to accompany the minister on a visit to the palace of the Escorial. Mr. Sagasta at once proceeded to state that he had conferred with his colleagues, and was happy to assure me that we were quite in accord as to the proposal made in my note of October 14, for the adjustment of the claims of American citizens upon the Spanish government; that the minister of the colonies, Mr. Moret, had suggested some advantages to be found in two commissions, one to pass upon the legal questions, and the other to assess the damages in cases where the Spanish authorities should be adjudged in fault; and that he must also insist upon no case going before the commission that had not been first presented to a Spanish tribunal without obtaining due reparation. Expressing myself gratified by the prospect of an agreement between the two governments, I observed, with reference to the proposal for two commissions, that the same persons could as well, and perhaps more satisfactorily, decide all the questions involved in the respective cases; that this was the usual practice, and that whatever testimony the Spanish government might desire to offer on the subject of damages could easily be obtained through the authorities in Cuba or the consuls in the United States, and presented to the arbitrators; that two commissions would add unnecessarily to the expense of conducting the proceedings, besides inconveniently prolonging them; that to distinguish in the manner suggested between the functions of the one and the other might raise questions of jurisdiction that would prove troublesome; that while a commission chosen expressly to appraise damages might not be composed of persons best qualified to pass upon legal propositions, it would not be difficult to select commissioners entirely competent to settle the incidental as well as the principal differences to be considered, and that it was only necessary for both governments, in choosing their respective arbitrators, to bear in mind the duties to be performed, and all occasion for a separation of their functions would be avoided. Mr. Sagasta replied that he was inclined to the opinion that one commission was enough; he had acquiesced in Mr. Moret's suggestion when it was made, but it would not, perhaps, be regarded as essential. With respect to the proposition that all cases must first be prosecuted before a Spanish tribunal, I said that I did not believe it would be accepted by my Government; it was not reasonable to ask that American citizens, most of whom resided in the United States, and who had suffered injuries at the hands of the Spanish authorities, should be remitted to Spanish courts for redress, to say nothing of the expense, the delay, and the personal risk the parties would incur in going to Cuba for such a purpose; it was not fair that such cases should be heard and decided by persons appointed exclusively by the government against which the reclamations were made; that if by tribunals the minister meant authorities, I presumed there would be no objection to a stipulation requiring claims to be first presented through the United States consul general at Havana to the superior political authority of

the colony, or to the supreme government at Madrid, through this legation, but that I could not assent to the doctrine that the jurisdiction of the commission should depend upon a previous adjudication by a Spanish court. His excellency appeared to yield to the latter construction of the word "tribunal;" he said the Spanish government must first have cognizance of the cases; that it would not be prudent to permit parties to go before the commission with claims which the government had not investigated. I replied that all the cases had been brought to the notice of the captain general of Cuba, or of this government, and ample opportunities for reparation had been afforded; that the Spanish authorities were in possession of all the material facts of each case; that the main difficulty was to reconcile the conflicting views which so often separate the immediate parties to a controversy, and hence it was desirable to resort to the expedient of an independent, intelligent, and disinterested tribunal, so organized as to be able to dispose of the cases promptly and equitably. I added that it would, perhaps, facilitate a comparison of views if his excellency would prepare a memorandum of any stipulations he might desire, after further reflection, to make in relation to the organization and jurisdiction of the arbitrators; that I would hold myself in readiness to call upon him at any time he would indicate, and offer such amendments as might appear to me to be necessary upon a perusal of his propositions; and that I felt confident we could arrange the details of the matter in one or two conferences, more satisfactorily, not to say more expeditiously, than by the interchange of notes. His excellency intimated his concurrence in this suggestion and promised to act upon it at an early day. I did not allude to the remaining points mentioned in your No. 106, as they were not involved in the discussion opened by Mr. Sagasta. I may have occasion to do so in our next interview.

I am, &c.,

D. E. SICKLES.

No. 336.

General Sickles to Mr. Fish.

No. 210.]

LEGATION OF THE UNITED STATES,

Madrid, December 10, 1870. (Received January 4, 1871.)

SIR: I have the honor to forward herewith several printed extracts, taken from Madrid journals, ministerial, republican, and conservative, commenting upon a telegram published here on the 7th instant, purporting to give a synopsis of the remarks of the President in his annual message in relation to our reclamations against Spain, for injuries done by the authorities in Cuba to the persons and property of American citizens.

I am, &c.,

D. E. SICKLES.

[From *La Epoca*, Madrid, December 7, 1870.]

The Washington telegram, which we publish elsewhere, has been the subject of animated discussions. Some thought it to be of immense importance, believing that the claims in question were those of Messrs. Morales Lemus, and Aldama, who are naturalized as North American citizens. Others, remembering the circumspect attitude which has constantly been maintained toward Spain by President Grant, thought that this portion of the message was only designed to cajole certain parties for the moment.

However, as the reasoning of the United States may have been similar to that which

called forth the famous note of Russia, we expect that prompt and serious attention will be given to this matter by the government. The telegraph brings us most important intelligence to-day; but as it is in open contradiction to all that President Grant has done thus far in respect to Spain, we must await fuller reports of the contents of the message.

LONDON, 6th; WASHINGTON, 6th.

The message of the President of the Republic says that a proposition has been made to Spain for the organization of a common tribunal to decide upon the petition of several American citizens for the losses suffered by them in Cuba. "If Spain," adds the message, "rejects the proposition, the President of the Republic will be obliged to communicate this fact to Congress, recommending prompt action." We presume that the government has received telegrams from the representative of Spain, and that the public will not long be kept in suspense concerning any grave event, as would be the one referred to in the above dispatch, should it really have occurred as stated.

[From La Igualdad, Madrid, December 8, 1870.]

We call the attention of our readers to the dispatch from Washington (sent to us by Fabra's agency) which we publish elsewhere. The dispatch could not be one of greater importance. The Republic of the United States, which has showed such consideration toward Spain while the government was conducted in the spirit of liberty, begins to show its displeasure as soon as we inaugurate the despotism of the monarchy of Amadeo. It will be fortunate if the caprice of General Prim does not cause severe disaster to Spain. The hostility of the North American Republic may be most fatal to us. Is this the first of the calamities which threaten us with the coming of the monarch of the never lucky Don Juan the general?

[From El Imparcial, Madrid, December 8, 1870.]

CUBA AND THE WASHINGTON GOVERNMENT.—The Washington dispatch which we publish elsewhere has caused us real surprise. The President of the United States refers, in a message to the Chambers, to the affairs of Spain, and speaks of a proposition made to our government to organize a mixed tribunal to take cognizance of the claims of American citizens who have suffered losses in Cuba. It is not easy, nor even prudent, to hazard an opinion in so delicate a matter, when we have before us nothing but the extract communicated by telegraph, in which the main statement is wanting, i. e., the class of American citizens to which the President refers in his message. We know that American citizens have taken part in the insurrection, either as soldiers in the filibustering expeditions which have gone to Cuba, or as conspirators with and auxiliaries of the insurgent forces of the island, and that there are others who, without taking any part, either as conspirators or soldiers, have seen their interests injured by the contingencies of war; and the words of General Grant cannot refer to the former. We have more than one, and more than two solemn declarations of neutrality made by the Government of the United States, and we cannot suppose that there has been a change of policy without any justifying cause. And what but an intervention would it be to demand indemnities for American citizens who, on account of having been taken with arms in their hands, or of having been judicially condemned as conspirators, have suffered injury in their persons or property? Nor do we believe that the words of General Grant refer to those Cubans who, like Aldama, Morales Lemus, and others, have become American subjects in order to bring claims on account of the measures adopted against them by the authorities of Cuba. The necessary qualifications for obtaining citizenship in the United States being known, we do not think that these gentlemen could have possessed them when they became guilty of the crimes for which they have been condemned. Does, then, the President of the North American Republic refer to those peaceable citizens whose interests have suffered injury in consequence of the operations of war? It is difficult to determine this, but if such is the fact, the attitude of the Washington Government will not be so grave as regards our cause. What is most probable is, that this part of the message of General Grant is one of the numerous political tricks which are employed by those governments in order to keep a certain portion of public opinion on their side. And such a step was never more necessary than at the opening of a Congress in which the radical party, the great support of filibusterism, is largely in the majority. In this way, even though the Government may intend to postpone the question indefinitely, it manages to quiet the excitement of the radicals long enough to give time to the Spanish Government to put down the insurrection. However, the above is nothing but mere conjecture, and we must await the arrival of the message in order to be able to express a reliable opinion with regard to the question.

[From La Epoca, Madrid, December 9, 1870.]

Advises subsequent to the Washington telegram which we published in our paper of Wednesday increase instead of diminishing the gravity of the indications made in the message of the President of the United States. We are told, and our advices are from a source which we must consider authentic, that the demands do not relate to Aldama or Morales Lemus, but to acts of confiscation, which are supposed to have been committed by the authorities of Cuba against North American citizens residing in the United States and in Cuba, without any form of trial before a legal tribunal. The demands also relate to arrests of North American citizens who had taken no part in the insurrection, to personal offenses done to citizens of the Republic, and to captures and detention of American vessels, styled illegal by that Government, whose cases are precisely similar to the recently-settled one of the Lloyd Aspinwall. We are likewise told that the manner of settlement proposed by the United States is similar to the one proposed by the United States and accepted by Spain in the case of the aforesaid vessel. The demands are not of to-day, as it appears; they have repeatedly been addressed to the minister of state by the Government of the Union, and Mr. Sagasta has been told, more than once, that if these matters were not put in the way of settlement before Congress met, they would necessarily become the subject of a communication from the President of that body. The case has presented itself, and we must lament the indifference which has been shown toward a thing which could easily be converted into a matter of serious controversy with a power with which it is of great importance for us to maintain the friendly relations which we have maintained hitherto. El Imparcial thinks that this part of the message of General Grant is one of the numerous political tricks which are used by those governments in order to keep a certain portion of public opinion on their side. And such a step, it says, was never more necessary than at the opening of a Congress in which the radical party, the great support of filibusterism, is largely in the majority; but prudence counsels us, in the case of powerful nations, to give no reason for what the Imparcial calls political tricks, since they may easily be converted into another great complication to be added to those which already weigh upon the island of Cuba. If the message means exactly what it says, although it may have nothing to do with political tricks, or with the intestine struggle which Spain is sustaining with Cuba, it is still grave as regards the relations between the two countries, and on account of the turn which the new North American Congress may give to the question. We have constantly maintained, although in opposition to the opinion of many of our friends in Cuba, that the most important thing for the government was to maintain relations of the utmost cordiality with the United States. We cannot, therefore, understand, the demands to which the message refers still being unsettled, why the subject did not receive the attention it deserved, as the errors into which the Washington Cabinet has been led by interested parties would thus have been dispelled, and this matter would never have assumed the proportions which it unfortunately has assumed.

[From La Discusion, Madrid, December 10, 1870.]

We announced to our readers more than a month since, that very friendly relations did not exist between our government and that of the United States with regard to the Cuban question. No great importance was then attached to the news. The message addressed by President Grant to the Chambers, of which the telegraph has given us a slight idea, now confirms our fears. And that no one may think that we are exaggerating, we transfer to our columns what the Epoca said yesterday in relation to the matter, this journal being certainly by no means favorable to the policy of that republic, whose Government is greatly interested in having the state of war and disturbance which has prevailed in Cuba for more than two years brought to an end, which our government is quite unable to accomplish.

[From El Universal, December 10, 1870.]

We do not yet know what are the demands of the Government of the United States with regard to property belonging to American citizens which has been embargoed or confiscated in Cuba; we do not, therefore, pay any attention to the matter, although the indications are not very satisfactory. At all events, we expect nothing good, in view of the policy of absurdities and acts of violence which prevails in the unfortunate island of Cuba.

No. 337.

Mr. Fish to General Sickles.

No. 122.]

DEPARTMENT OF STATE,
Washington, December 12, 1870.

SIR: I inclose herewith plenary powers to conclude a convention with the government of Spain for a mixed commission for the settlement of the claims of citizens of the United States against the government of Spain for wrongs and injuries committed to themselves, their persons, or their properties, or to the persons or properties of deceased citizens of the United States in or about the island of Cuba.

The objects to be accomplished by this commission are so fully set forth in my note to Mr. Lopez Roberts of the 9th of June last,* in my instructions to you of the 24th of June last, inclosing a copy of that note to Mr. Roberts in your note of the 14th October last to Mr. Sagasta, and in the other correspondence connected therewith, that it is only necessary to refer to those several notes. I inclose, as a general guide in framing a convention, copies of claims conventions between the United States and Venezuela, Peru, and Mexico, respectively. You will, however, be governed by the provisions of these instruments only so far as they may be found to be applicable to the present case.

In transmitting this power I have, therefore, only to call your attention to the importance of the following points:

1st. That the proposed commission shall be organized at the earliest possible day. To secure this it is necessary to have the convention here in time for the action of the Senate, before its adjournment, say not later than the 1st of February next. It will also be desirable to have the exchange of ratifications at Washington.

2d. That the commissioners shall sit at Washington; that they shall have full power to make their own rules as to the mode and time of the presentation of claims and of the proof thereof; and that they shall, before making rules, agree upon an umpire to whom all questions shall be referred on which they cannot agree, including the said rules.

3d. That they shall not have jurisdiction over claims growing out of contracts.

4th. That a reasonable time shall be given for the presentation of proofs.

5th. That claims and their proof shall be presented only through the Government of the United States, and that each government may employ one person as agent or counsel to represent it before the commission.

6th. As these claims are all against Spain, that government ought to be responsible for the expenses occasioned by their settlement by a commission; but if persistent objections are made to this course, you will propose that the expenses be defrayed by a percentage to be deducted from the amount awarded.

I am, &c.,

HAMILTON FISH.

* For copy of inclosures, see pages 697, 698.

No. 338.

Mr. Fish to General Sickles.

No. 123.]

DEPARTMENT OF STATE,

Washington, December 13, 1870.

SIR: On the 9th instant a telegram in cipher was sent to Mr. Moran, chargé d'affaires at London, which reads as follows:

MORAN, *Chargé, London:*

Telegraph and send by mail to Sickles as follows: "Separate commissions unnecessary, expensive, and dilatory, but not an insuperable objection. Requiring that claim should have been considered and rejected prior to submission, must be qualified if agreed to at all. You may agree, if necessary, that no claim be submitted until sixty or ninety days after it shall have been presented either to the authorities in Cuba, or to those in Madrid."

I am, &c.,

HAMILTON FISH.

 No. 339.
General Sickles to Mr. Fish.

No. 217.]

LEGATION OF THE UNITED STATES,

Madrid, December 16, 1870. (Received January 4, 1871.)

SIR: I called at the Foreign Office this afternoon, confident of finding the minister at his quarters, as this is the day appointed by himself for the reception of the diplomatic body. Mr. Sagasta had, however, left the department at an early hour to attend the sitting of the Cortes. I asked to see the assistant secretary of state, and desired him to remind the minister of his promise made on the 8th instant, to inform me of the conclusions he might reach after our interchange of views on that day. Mr. de Blas told me that an important debate was expected to come on to-day in the house, and that, besides, a cabinet council was to be held before the Cortes met; that for these reasons the minister had been unable to hold his usual reception this afternoon; that he, however, felt authorized to say to me, under reserve, that the council of ministers had yesterday agreed upon the bases of the reply that would be made to-morrow or next day to our proposition in relation to the reclamations of the United States against Spain; that no more than one commission would be insisted upon, and that this should have cognizance of all claims for alleged violations of the treaty of 1795.

I asked Mr. de Blas whether I might inform you by telegraph of the purport of his communication, and he replied in the affirmative.

I am, &c.,

D. E. SICKLES.

 No. 340.
Mr. Fish to General Sickles.

No. 126.]

DEPARTMENT OF STATE,

Washington, December 16, 1870.

SIR: Your dispatch of the 25th ultimo, No. 199, giving an account of your interview and conversation with Mr. Sagasta on the previous day

respecting the claims of citizens of the United States against Spain, growing out of transactions in Cuba, was received on the 12th instant. Subsequent information received through the telegraphic cable leads to the hope that an arrangement may soon be decided upon.

I am, &c.,

HAMILTON FISH.

No. 341.

Mr. Fish to General Sickles.

No. 127.]

DEPARTMENT OF STATE,
Washington, December 16, 1870.

SIR: Referring to your No. 195, concerning the election of the Duke of Aosta as King of Spain, I have to say that on the 19th of November Mr. Roberts called to officially inform me of that fact. I received the information without an intimation of the course that will be pursued by his Government. It has been the policy of the United States to recognize the governments *de facto* of the countries with which we hold diplomatic relations. Such was our course when the republic was established in France in 1848, and again in 1870, and in each case accepted by the French people. Such was our course in Mexico when the republic was maintained by the people of that country in spite of foreign efforts to establish a monarchy by military force. We have always accepted the general acquiescence of the people in a political change of government as a conclusive evidence of the will of the nation. When, however, there has not been such acquiescence, and armed resistance has been shown to changes made or attempted to be made under the form of law, the United States have applied to other nations the rule that the organization which has possession of the national archives and of the traditions of government, and which has been inducted to power under the forms of law, must be presumed to be the exponent of the desires of the people, until a rival political organization shall have established the contrary. Your course in the present case will be governed by this rule.

Should there be circumstances which lead you to doubt the propriety of recognizing the Duke of Aosta as king of Spain, it will be easy to communicate with the Department by telegraph and ask instructions. Should there be no such circumstances, the general policy of the United States, as well as their interests in the present relations with Spain, call for an early and cheerful recognition of the change which the nation has made.

I am, &c.,

HAMILTON FISH.

No. 342.

General Sickles to Mr. Fish.

[Telegram.]

MADRID, December 19.

Reply received to-night. Bases include numerous provisions. I send synopsis of those inconsistent with your instructions.

Both governments shall submit pending reclamations to arbitration in conformity to following propositions:

First. No indemnity for injuries resulting from judgment of civil or military court or other judicial proceeding agreeably to Spanish law and procedure.

Second. It must appear that the Spanish authorities inflicting the injury were informed of the nationality of the claimant.

Third. No right to indemnity if claim to American citizenship has been disallowed by judgment of any Spanish civil or military tribunal.

SICKLES.

No. 343.

Mr. Fish to General Sickles.

No. 129.]

DEPARTMENT OF STATE,

Washington, December 20, 1870.

SIR: The following telegram was forwarded to you on the 19th instant, through the United States legation at London.

I am, &c.,

HAMILTON FISH.

MORAN, London:

Send following to Sickles, minister, Madrid:

Telegram received. Full powers forwarded the 12th. Act as if you had them.

FISH.

No. 344.

General Sickles to Mr. Fish.

No. 223.]

LEGATION OF THE UNITED STATES,

Madrid, December 20, 1870. (Received January 13, 1871.)

SIR: I have the honor to transmit herewith a translation of a note dated yesterday and received last evening, from the minister of state, in reply to mine of the 14th of October last, in relation to our reclamations for injuries done to American citizens by the Spanish authorities in Cuba. You will observe that Mr. Sagasta has abandoned the principal positions taken in his communication of September 12, and in their place occupies ground not less untenable. Hitherto this government has maintained that no case could be submitted to arbitration until the claimant had prosecuted his demand before a Spanish tribunal and shown that he had failed to obtain redress in that manner. Now Mr. Sagasta insists that the arbitrators shall not have jurisdiction of any

matter that has been passed upon by a Spanish tribunal, whether civil or military. And I am sure you will share my surprise on receiving from the minister a proposition so at variance with his recent declarations, as well to myself as in the Cortes, in reply to the interpellation of Mr. Bugallal. Last night I sent you by cable a synopsis of Mr. Sagasta's note, and shall, of course, defer my rejoinder until I receive your instructions, the tenor of which, however, I might easily anticipate. I am reluctant to believe that this cabinet will insist upon conditions of arbitration so plainly inadmissible. Yesterday, as I left the diplomatic tribune of the Cortes, I met the Italian minister, who inquired about the state of the negotiation. I told him that no further communication from Mr. Sagasta had yet reached me, although on Friday last I had been distinctly assured at the Foreign Office that a satisfactory reply would be sent to me, at the very latest, on the Sunday following. Mr. Blanc seemed at a loss to understand the continued delay after the public statement of the minister in his place in the Cortes.

I am, &c.,

D. E. SICKLES.

Mr. Sagasta to General Sickles.

[Translation.]

MINISTRY OF STATE,

Madrid, December 19, 1870.

SIR: The government of His Highness might make a full rejoinder to the observations contained in the note of the 14th of last October, in which you were pleased to reply to my answer of the 12th of the same month (*sic*) concerning the reclamations of several American citizens for injuries suffered by them in consequence of the insurrection in Cuba; but after the ample and extended discussion to which this matter has already given rise, I deem it more expedient for the interests of both countries to arrive at once at a practical solution, conformably to the principles of equity and justice which animate the respective governments. The undersigned does not consider it necessary to make new protests, in the name of the Spanish government, of its earnest desire that the continued amity and good understanding existing between the cabinets of Madrid and Washington may not be interrupted, still less to reiterate the unchangeable intention of observing, for its part, the stipulations of the treaty of the 27th of October, 1795, with the same respect that it has for the international conventions celebrated with other powers. These sentiments, which have not ceased to inspire the government of his highness in the various questions that have arisen during the extraordinary circumstances through which the island of Cuba is passing, have especially guided it in considering this most important matter. Of this I have no doubt the Government of the United States will be persuaded on learning the bases which I have the honor to propose to it, and which, in the judgment of the government of His Highness, are best calculated to conciliate all interests, protect all rights, and give just satisfaction to those who may have been prejudiced by administrative measures growing out of circumstances inevitably produced by a state of war, and which, in their application to individuals, should not injuriously affect the citizens of a friendly power. But the same homage which the Spanish government is, now as ever, ready to render spontaneously to the good faith of treaties and to the principles of justice in general, impose upon it the duty of claiming, in its turn, the same tribute for the judgments pronounced by legally established Spanish tribunals, whose decisions have been considered, in Spain as in all civilized countries, entitled to the most profound respect. This proposition, set forth in the first stipulation, is in no way opposed to the provisions of the treaty of 1795; on the contrary, it is to be deduced from the contents of its seventh article, which has been cited several times by the Government of the United States in its communications to this ministry concerning the claims of American citizens. With regard to the further stipulations proposed, the undersigned believes that they cannot but satisfy the Government of Washington, inasmuch as they are for the most part founded on principles recognized and accepted by it in the course of the present negotiation, and which you have appealed to in your notes as being most conformable to the spirit of the treaty in question. In compliance with the orders of His Highness the Regent, I have the honor to propose, through you, to the Government of the United States, the following bases for the settlement of the question pending between Spain and the republic of the United States, respecting the losses and injuries inflicted by

the Cuban authorities upon certain American citizens, in their persons and estates, in violation of the provisions of the seventh article of the treaty of October 27, 1795.

First. No indemnity shall be awarded for loss or injury suffered by North American citizens in their persons or property, in pursuance of the judgments and decisions of civil or military tribunals instituted in Cuba in accordance with Spanish laws, and acting in conformity with the established procedure in force in Spanish territory.

Second. Those North American citizens shall be entitled to indemnification who have been deprived of their property, or injured in their estates or in their persons, and whose reclamations have been already taken up by the Government of the United States and presented to the Spanish government or to its representative in Washington, provided the claimants unite the following qualifications:

I. That they show that they were actually American citizens when the injury was inflicted.

II. That the injury was inflicted by Spanish authorities holding no judicial position, either civil or military.

III. That they made due claim as to their nationality before the Spanish authorities who inflicted the injury.

Third. Notwithstanding the provisions of the preceding article, no claimant shall be entitled to indemnification whose plea alleging foreign citizenship may have been found against him by any Spanish civil or military tribunal in an executive judgment rendered in conformity to the laws.

Fourth. The Spanish government and that of the United States shall submit pending reclamations, to be determined in conformity to the preceding conditions, to arbitrators who shall be named in the following manner: The minister of foreign relations in Washington shall name one arbitrator, and the minister of Spain in that city shall name another. The two thus named shall agree upon a third, who shall decide questions on which they may not be able to agree. The arbitrators shall examine pending claims and the documents on which they are founded, and shall institute such proceedings and investigations as they may deem necessary to an understanding of the facts, but always in obedience to the preceding established bases, and shall declare whether the claimants are or are not entitled to be indemnified by the Spanish government, and, in the affirmative case, the sum to be paid by the latter for such purpose.

Fifth. The Spanish government undertakes to make good the indemnities fixed by the arbitrators, or by the umpire, in conformity with the preceding bases.

I avail myself of this occasion to renew to you, sir, the assurances of my most distinguished consideration.

FRÁXEDES M^o SAGASTA.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

Received December 19, 1870—5.10 p. m.

No. 345.

General Sickles to Mr. Fish.

[Extract.]

No. 227.]

LEGATION OF THE UNITED STATES,

Madrid, December 22, 1870. (Received January 13, 1871.)

SIR: I have the honor to transmit herewith a copy of a note dated 21st instant, and sent to-day to the minister of state, in compliance with your instructions Nos. 107 and 109, in relation to the failure of this government to execute the emancipation act of June last. I have taken this occasion to reiterate some of the views expressed in your No. 65. A proposition is now under consideration in the Cortes to authorize the executive to put in operation, provisionally, most of the important measures pending in that body having reference to the peninsula.

Inclosed herewith I have the honor to forward copies of these several propositions. Of the former, the best defense offered for it is, that the worst of the preceding governments have done the same thing. It will doubtless be adopted, although a plain violation of the constitution. It is not probable, however, that the Cortes constituyentes will bestow any

further attention upon the colonies. I should mention that the confirmation afforded by your No. 114, of the continued suspension of important articles of the law of June, 1870, made it expedient to dispense with any preliminary investigation in regard to the execution of that act. That it has not been executed is notorious here. If I had asked officially for information on the subject the inquiry would have been referred to Cuba, with the usual delay, and it seemed desirable that your views should be made known to Mr. Sagasta before the dissolution of the Cortes.

I am, &c.,

D. E. SICKLES.

General Sickles to Mr. Sagasta.

LEGATION OF THE UNITED STATES,
Madrid, December 21, 1870.

SIR: I have had the honor on several occasions to communicate to the cabinet of Madrid the representations I have from time to time been instructed to make on the subject of the institution of slavery in Cuba and Porto Rico, and especially to express the earnest desire of the President that Spain might see, in the abolition of domestic servitude, a means of promoting the true interests of her American possessions and of satisfying the advancing sentiment of all civilized nations that liberty is rightfully the universal law of labor. These sentiments, which found the motive for their expression in the deep interest felt by the United States in the welfare of an adjacent population with which their relations are intimate and their intercourse constantly increasing, coincide with the conviction more than once frankly declared to the government of His Highness the Regent that the policy of political and administrative reform in Cuba is best calculated to restore peace to that island and promote its prosperity. It is therefore with regret that the President is informed of the delay that appears still to attend the execution of the initiatory measure of emancipation adopted by the constituent Cortes in June of the present year. By a recent proclamation emanating from the superior political governor of Cuba, it seems that several of the most beneficial provisions of that law yet remain inoperative pending the preparation of regulations for their enforcement.

The President, relying confidently upon the fulfillment of the assurances heretofore given to me by his excellency the president of the council, and by the predecessors of your excellency in the ministry of state during my official residence in this capital, of the desire and purpose of the government of His Highness the Regent speedily to abolish slavery in the Antilles, directs me to represent to your excellency the solicitude felt by the Government of the United States that the benefits of the preliminary act of the last session of the Cortes may be no longer withheld from the limited class of persons contemplated in its benevolent design. That act, at best, fell far short of the reasonable anticipations of the President, since his advances on the subject had been uniformly met by the government of His Highness the Regent in a temper and spirit that indicated a disposition to co-operate cordially with the United States in expunging this blot from the civilization of America.

The progress understood to have been made in the pacification of Cuba may be lost if the opportunity now afforded in the remaining sittings of the constituent Cortes be suffered to pass without realizing some, at least, of those liberal measures of colonial reform to which the cabinet of Madrid has distinctly pledged itself in its communications to the United States Government. Among the considerations which have contributed most to restrain and control the manifestations of the sympathy felt in the United States for those who are believed to be struggling in Cuba for self-government, has been the confident expectation, founded upon the declaration of Spain, that before the dissolution of the constituent Cortes, institutions in harmony with the Spanish constitution of 1869 would be extended to the Antilles.

The only portions of the North American continent in which slavery exists, and to which representative government is denied, are found in the Spanish possessions of Cuba and Porto Rico. Continental surroundings and associations, which cannot but exert a powerful influence upon the inhabitants of those islands, have long commended to them the example of free institutions; and now that Spain has established for herself a government based upon universal suffrage, it must be more than ever difficult for her to maintain by force a colonial system which fails to satisfy just aspirations impossible to repress.

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

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

[From La Gaceta de Madrid, December 20, 1870.]

The following proposition was read :

The undersigned deputies, desiring to promote the public good, and believing themselves faithful interpreters of the sentiment of the country, hereby propose to the Cortes a measure which, according to their best judgment, that sentiment imperiously demands.

The duties of the high office conferred upon us by universal suffrage having been performed; the principles proclaimed by the September revolution having been laid down in the fundamental code; the illustrious Prince, chosen by the vote of the representatives of the nation to finish their work, having been elected monarch, and having accepted the crown, the country asks what we are waiting for in order to close the already too long constituent period, and in order resolutely and at once to enter upon our normal life and the proper exercise of our new institutions.

Some supplementary laws, the passage of which was deferred by the assembly and that of the ceremonial for the reception of the oath of the monarch-elect, do not furnish a sufficient reason indefinitely to prolong the life of the Cortes, and therewith the interim condition and the evils which all parties have recognized and condemned.

For these briefly stated reasons the undersigned propose to the assembly to be pleased to decree :

That the Cortes shall receive the oath of Prince Amadeo, King-elect of Spain, on the day of his arrival at Madrid; and to this end the Cortes shall, until the 30th day of the present month, discuss and approve the ceremonial laws for the King's reception and for his taking of the oath, the laws for the division of electoral districts, and those relating to incompatibilities, to the endowment of the monarch, and the negotiation of treasury notes; devoting two sessions daily to this task, said sessions to be held every day, holidays included; no other business to receive attention during the same, save that during the first two hours of each afternoon session propositions not for new laws and other matters may receive attention. And in case that, said day having arrived, any of the aforesaid laws (bills) shall not have been discussed and approved, the government shall cause the same to be respected as laws, although they may be discussed and approved by the next Cortes; it being understood that the reception of the King's oath shall be the last act of the constituent Cortes; which having been performed, they shall be declared dissolved, and their mission at an end.

FRANCISCO ROMERO ROBLEDO.

VALENTIN GIL VIRSEDA.

CRISTOBAL MARTIN DE HERRERA.

LAUREANO FIGUEROLA.

SANTIAGO DIEGO MADRAZO.

GABRIEL RODRIGUEZ.

EDUARDO GASSET Y ARTIME.

PALACE OF THE CORTES, December 19, 1870.

[From El Universal, Madrid, December 21, 1870.]

The following petition has been presented to the Cortes :

The undersigned deputies beg the Cortes to be pleased to decree that, in case the proposed constitution for Porto Rico cannot, for lack of time, be discussed and adopted, in accordance with the provisions of article 108 of the constitution of the state, it may be one of the bills comprised in the proposition which is undergoing discussion, the colonial minister being thus authorized to establish it in Porto Rico at any time during the month of January next.

LUIS PADIAL.

CRISTINO MARTAS.

JACINTO ANGLADA.

JULIAN PELLON Y RODRIGUEZ.

RODRIGUEZ SEVANE.

TOMAS RODRIGUEZ PINILLA.

JOSE MORALES DIAZ.

PALACE OF THE CORTES, December 20, 1870.

No. 346.

Mr. Fish to General Sickles.

No. 131.]

DEPARTMENT OF STATE,
Washington, December 23, 1870.

SIR: The following telegram was sent to Mr. Moran on the 22d, for transmission to you:

MORAN, *Chargé, London*:

Telegraph, and send by mail to Sickles:

"Telegram of 19th received; bases enumerated therein are entirely inadmissible."

I am, &c.,

HAMILTON FISH.

No. 347.

General Sickles to Mr. Fish.

No. 230]

LEGATION OF THE UNITED STATES,
Madrid, December 23, 1870. (Received January 28.)

SIR: This afternoon I called to present my respects to the minister of state, it being his reception day, and finding his excellency alone, I took occasion to refer to his note of the 19th instant in relation to our reclamations. I said that I had immediately sent to you by post the text of his communication, and had, besides, forwarded by cable a synopsis of the several articles proposed by the Spanish government; that I had not yet received specific instructions as to the answer it would become my duty to make, but that with reference to the first and third articles, and the second and third clauses of the second article, I might at once state that they were quite inconsistent with the principles that had been already indicated for my guidance in the negotiation; that I had sought a frank conversation with his excellency on the subject, under the impression that if the bases contained in his note were entirely unalterable, further correspondence would be useless, and if they were open to modification we could more readily come to an understanding in one or two conferences than by the interchange of elaborate arguments at long intervals. Mr. Sagasta said he would be happy to hear my objections to the articles I had mentioned, premising that the Spanish government could not consent to submit the judgments of its courts to the revision of any other tribunal. I remarked that it would not be expected, on the part of the United States, that the Spanish government would submit the adjudications of its courts to be reviewed by foreign tribunals; that the jurisdiction of an international board of commissioners over the claims of American citizens to be presented to it would rest upon principles often recognized in the intercourse of sovereign states, and that the doctrine upon which these conventions were founded was quite distinct from that to which his excellency referred; that is to say, it is the duty and the right of every nation to see that justice is done to its citizens or subjects by foreign states; that if the authorities of a foreign state failed, in the judgment of the state to which the aggrieved party belonged, to do justice in any particular case, it is competent for that state to demand a suitable reparation or indemnity of the government in fault; and if

he two governments fail to agree in the premises it is the better practice of our times, in place of resorting to reprisals, to refer the questions to a mixed commission, with an impartial umpire, for final adjustment.

I then proceeded to state some additional reasons which would forbid the acceptance of the particular stipulations I had enumerated. In the first place I observed that the bases proposed by the Spanish government put the adjudications of civil and military tribunals on the same footing of infallibility, that whatever degree of authority might be claimed abroad for the judgments of the civil magistracy of Cuba, a question I would not then discuss, it could scarcely be expected that the decrees of courts-nartial and military commissions; often proceeding summarily (*sin formalidad de causa*) would be accepted by the United States Government as a compliance with the seventh article of the treaty of 1795, which guarantees to American citizens within Spanish territory, in all cases, a fair trial according to the laws of Spain, before a regularly constituted judicial tribunal. Mr. Sagasta answered that military courts regularly constituted, and proceeding in conformity to law, had always held a recognized place in Spanish jurisprudence, and, when acting within the prescribed legal channel, their jurisdiction should be recognized as valid; that he would not, however, claim for the acts of a military court, proceeding summarily and without regard to judicial forms, the respect he insisted should be accorded to the regular tribunals. I then alluded to another class of adjudication in which the courts of Cuba had pronounced sentences confiscating the property of citizens of the United States not within the jurisdiction of the court, nor present at the trial, and remarked that such proceedings were so far in conflict with our notions of justice that it would be in vain to hope for the acquiescence of the United States Government in any decree of that kind affecting the persons and property of American citizens.

To this suggestion Mr. Sagasta replied that such judgments were not executory according to Spanish law; that, as regarded property, they were in the nature of attachments, and with reference to persons they were to be considered as informations or indictments; that at all events they were not final, and would not be deemed to exclude the matter from the jurisdiction of a mixed commission. Having satisfied myself that the minister was not disposed to insist, without modification, on the bases he had proposed, I yielded to his suggestion to submit in the more precise form of a written communication the amendments I might desire, to which he promised to give immediate attention. I shall, therefore, answer his note of the 19th instant as soon as I receive your instruction in reply to my telegram of that date.

At this moment the cabinet is more than usually preoccupied with domestic questions; the Cortes will adjourn without day on the first of next month; the reign of the new dynasty will be inaugurated at the same time, and with it a new ministry, and almost certainly a new secretary of state will be named. There is now pending in the Cortes a proposition to give the executive certain extraordinary powers until the election of the first congress to be chosen under the constitution of 1869. This measure has provoked a parliamentary conflict that has already occupied several sittings of the chamber. Mr. Sagasta intimated that he expected to take part in the debate this afternoon, and for that reason, among others, I forbore proceeding further with the discussion I had, perhaps, somewhat irregularly prolonged in view of the informal occasion of our interview.

I am, &c.,

D. E. SICKLES.

No. 348.

General Sickles to Mr. Fish.

No. 236.]

LEGATION OF THE UNITED STATES,
Madrid, December 27, 1870. (Received January 28, 1871.)

SIR: The following is the text of a telegram, sent partly in cipher, from this legation yesterday:

HAMILTON FISH,

[*Recommandé.*]*Secretary of State, Washington:*

May I propose, as a modification of Spanish bases, that arbitrators shall hear all claims not before adjudged by a competent tribunal conformably to seventh article of treaty of ninety-five? Duplicate answer by French cable.

SICKLES.

MADRID, *December 26.*

I am, &c.,

D. E. SICKLES.

No. 349.

Mr. Fish to General Sickles.

No. 134.]

DEPARTMENT OF STATE,
Washington, December 27, 1870.

SIR: I have this day transmitted to Mr. Moran, at London, in cipher, a telegram, of which the following is the text:

Telegraph and write to Sickles: "Do not understand how far your proposed modification will affect American claims, nor how it will leave the bases communicated on nineteenth. Will await dispatch."

I am, &c.,

HAMILTON FISH.

No. 350.

General Sickles to Mr. Fish.

No. 237.]

LEGATION OF THE UNITED STATES,
Madrid, December 28, 1870. (Received January 28, 1871.)

SIR: I regret to have to report to you that last evening, while the president of the council, General Prim, accompanied by two of his aides-de-camp, was driving home in his carriage from the palace of the Cortes, he was fired upon and dangerously wounded by a party of armed men who had placed themselves in Turk street, not far from the palace of the minister of war, where General Prim resides. One of the aides-de-camp was likewise seriously wounded. It appears that neither the police nor the military guard were near enough to the scene of the occurrence to make any arrests, and in the absence of any knowledge on the subject it is supposed that political motives prompted the attack. The approaching consummation of General Prim's scheme to place a member of the royal family of Savoy on the Spanish throne had provoked intense animosity among the partisans of other dynasties—Isa-

bellina, Orleanist, and Carlist. Symptoms of irritation and impatience had likewise been shown by a few republicans, although for the most part the supporters of this advanced system of government evince a wise adhesion to the temperate counsels of their leaders, who advise a reliance on peaceful and legal means to obtain power, so long as the rights secured in the constitution of 1869 are respected by the government and enjoyed by the people. I heard of the sad occurrence while at the opera, and immediately repaired to the war department to inform myself of the condition of the minister and to assure him of the solicitude with which I should look forward to his recovery from the injuries he had received. I learned that already several balls had been extracted from his left shoulder and chest, and that one or two of the fingers of his left hand had been badly shattered, rendering amputation necessary. I was, however, told by some of his colleagues and by several officers of rank that the surgeons did not regard the injuries as mortal. This favorable view of the case is confirmed this morning by the official gazette, in its bulletin; nevertheless I am not without apprehension, considering the number of shots said to have taken effect and the somewhat impaired health of General Prim, that the deplorable event may have a fatal result. The most profound agitation pervades the capital, and strong measures are taken to prevent the revolutionary outbreak which is apprehended. Deeming the occasion a proper one for some official expression of regret, I have to-day addressed a note to the minister of state, referring to the incident in terms which I trust you may not find inappropriate.

I have the honor to inclose a copy of my communication, and to remain, sir, &c.,

D. E. SICKLES.

General Sickles to Mr. Sagasta.

LEGATION OF THE UNITED STATES,
Madrid, December 28, 1870.

SIR: If I hasten to assure your excellency how deeply I deplore the assault made last night on the person of his excellency the president of the council of ministers, it is because I know that I only anticipate the commands of the President in characterizing the crime as one of those offenses against civilization that associate all nations in their denunciation of its enormity, and in their sympathy for the illustrious sufferer. At the same time I beg to offer your excellency my congratulations upon the confident hope entertained of the speedy recovery of the president of the council from the serious bodily injuries his excellency received on the lamentable occasion I have mentioned.

I avail myself, &c.,

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

No. 351.

General Sickles to Mr. Fish.

No. 240.]

LEGATION OF THE UNITED STATES,
Madrid, December 31, 1870. (Received January 28, 1871.)

SIR: The official gazette of to-day announces that the president of the council of ministers, General Prim, died last night at forty-five minutes past 8 o'clock. I heard of his death at the palace of the minister of war, soon after it happened, as I had gone thither to inquire about him, in consequence of the rumors of his decease which had spread through the city at an early hour in the evening. It is now acknowledged that, from the first, no hope of his recovery was expressed

by the attending physicians, and that grave reasons of state made it expedient to publish official statements of his convalescence. The members of the diplomatic body are requested to join the funeral procession to-morrow at the war department, and proceed thence to the church of Atocha, where the offices will be celebrated. I have the honor to forward herewith a copy of a note I have to-day addressed to the minister of state on the occasion of this sad event. The Countess of Rens, the widow of the late minister, has been created Duchess of Prim in her own right, and a further decree provides that she shall enjoy all the honors pertaining to a captain general of the army. General Prim's only son, the Vizconde del Bruch, a lad some ten or twelve years old, is created Duke of Los Castillejos, so named from a battle in the late war in Africa in which General Prim bore a distinguished part, and for which he was made a marquis by Queen Isabella. He conferred upon himself the grade of captain general after the revolution.

So far, no serious disturbance of the public tranquillity has followed the tragic occurrence to which the prime minister has fallen a victim. This fact repels the suggestion that the assault was the act of a political conspiracy, having for its object to seize possession of the government. It rather tends to confirm the more probable supposition that motives of personal revenge, perhaps originating in one of the many executions which have taken place during the past year in Cuba and on the peninsula, led to this signal crime. Although several arrests have been made, nothing is yet known of the offenders, nor is it probable, considering the inefficiency of the police in Spain and the impunity with which like offenses have been committed during the past year, that the guilty parties will ever be brought to justice.

I am, &c.,

D. E. SICKLES.

General Sickles to Admiral Topeta.

LEGATION OF THE UNITED STATES,
Madrid, December 31, 1870.

SIR: I cannot refrain from tendering to your excellency the expression of my sympathy with the government and people of Spain in the severe and untimely loss they have suffered by the sudden decease of his excellency the Conde de Rens, president of the council of ministers. If any circumstance could deepen the impression made by this sad event, it would be found in the untoward means employed to put an end to the career of a distinguished general and statesman, whose services had often been signalized by tokens of public approbation and gratitude. The people of the United States, who have themselves suffered a like bereavement, will share with the chivalrous Spanish nation its regard for the memory of a great minister and its abhorrence of the unseen and unhallowed hands that struck him down at his post of duty.

I avail myself, &c.,

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

No. 352.

Mr. Sickles to Mr. Fish.

No. 243.]

LEGATION OF THE UNITED STATES,
Madrid, January 5, 1871. (Received February 3, 1871.)

SIR: On the 2d instant the Duke of Aosta reached Madrid and took the prescribed oaths of office, in presence of the Regent, the Cortes, and the diplomatic body. The ceremony was brief, and not unlike, although

ess impressive than, the inauguration of the President. I have high authority for the statement that His Majesty intended to read an inaugural address, which had been prepared, but that the precipitation with which the proceeding was conducted by the presiding officer of the Cortes afforded no opportunity for the royal speech. I suspect there may have been a purpose in this haste, as the King does not yet express himself with facility in Spanish. From the Cortes His Majesty was escorted by a strong column of troops of all arms to the palace. From thence he soon afterwards proceeded in a coach, unattended, to visit the widow of General Prim and the Duke de la Torre.

Although the people in the streets were anything but enthusiastic, no disturbance occurred, and the King's reception, if cold, was respectful. His person was found prepossessing, and I fancy the multitude were touched by the air of confidence in their hospitality to a stranger, if not in their loyalty, with which he rode through the streets, where the funeral procession of the minister to whom he owed his crown had passed only the day before.

To-day the official gazette announces the acceptance of the resignation of the provisional minister of Admiral Topete, and the formation of a new cabinet, in which General Serrano is president of the council and secretary of war; Señor Don Cristino Martos, minister of state; Señor Don Augusto Weloa, minister of grace and justice; Señor Don Segismundo Moret, secretary of the treasury; Señor Don José Maria de Beranger, secretary of the navy; Señor Don Práxedes Mateo Sagasta, minister of the home department, (*gubernacion*;) Señor Don Manuel Ruiz Zorilla, minister of public works, (*fomento*;) and Señor Don Adelardo Lopez de Ayala, secretary of the colonial department, (*ultramar*.)

This cabinet represents the three principal monarchical parties identified with the revolution of 1868, and who united in the election of the Duke of Aosta to the throne. These parties, "*progresistas*," "union liberals," and "democratic monarchists," although differing in many particulars of political doctrine and administrative policy, and often antagonistic in their action, were not unfrequently associated under the prudent management of General Prim when their coalition was necessary to the success of his plans. It remains to be seen whether his successor in the direction of affairs will be able, for any length of time, to conduct an administration in which the elements are supposed to be quite incapable of cohesion except for an occasional exigency. In illustration of the composite structure of the new ministry, I may mention the rumor, apparently well authenticated, that to several of the more important departments assistant secretaries will be assigned, whose political affinities are quite distinct from those of their chiefs, although in harmony with the views of other members of the cabinet.

My own impression is that the new cabinet is the result of a truce between the representatives of rival factions, neither of which has enough of popular strength to sustain a ministry, and all of whom have a common interest in maintaining the dynasty they have contributed to inaugurate. In the late regent the King found a popular and brilliant soldier, enjoying the confidence of the army and thoroughly competent to deal with any seditious movement that might be attempted. Less pronounced in his partisanship than the civilian leaders of his own or of the other parties, his presence at the head of affairs seemed most likely to allay any suspicion of a purpose to turn the patronage and power of the prime minister to account in the approaching elections for provisional assemblies and the general congress. All parties look forward with solicitude to these elections—the first that will have taken

place under the new constitution—as affording the best evidence of the popular judgment upon the results attained by the revolution of 1868. For the King, the votes will resolve the doubts expressed of the disposition of the people to accept a foreign prince for a ruler. The rival factions of the revolutionary party that sought a change of dynasty and a modification of the monarchy in a direction more or less subject to the restraints of a written constitution guaranteeing personal liberty and establishing co-ordinate powers in the state, will of course endeavor to obtain an ascendancy in the first congress to be chosen, so that a practical direction, in harmony with the opinions of one or the other, may be given to the new form of government. * * *

The dissolution of the Cortes constituyentes without action upon the subject of colonial reform postpones, I fear, for a long period, if not indefinitely, any essential change in the unhappy condition of Cuba and Porto Rico. This cabinet, if disposed to undertake the task, would not be likely to agree upon a matter which most Spanish statesmen approach with reluctance, and that involves considerations quite certain to produce discord in a ministry comprising several phases of political opinion. I shall, nevertheless, be disappointed if I do not find in Mr. Martos, the new minister of state, a disposition to adjust some, at least, of the questions which, if left unsettled much longer, must seriously affect the hitherto friendly relations of the two countries.

I am, &c.,

D. E. SICKLES.

No. 353.

Mr. Sickles to Mr. Fish.

No. 247.]

LEGATION OF THE UNITED STATES,
Madrid, January 10, 1871. (Received February 3.)

SIR: I have the honor to forward herewith a copy of my reply to Mr. Sagasta's note of the 19th ultimo, in relation to our reclamations for injuries suffered by American citizens in Cuba.

Mr. Sagasta was transferred from the ministry of foreign affairs to the home department immediately after my last interview with him on the subject of his note, reported in my No. 230. The appointment of his successor, Admiral Topete, which was made on the 27th ultimo, was understood to be merely provisional. The decease of General Prim on the 30th, and the advent of the new King, rendered a reorganization of the cabinet necessary. I therefore determined to wait for that event before framing my reply, since its tenor would depend, in some degree, upon the minister to whom it might be addressed. It will be observed that I have confined myself to a brief and very imperfect statement of the most obvious objections to the Spanish propositions. If Mr. Sagasta had continued in office, a more thorough discussion would, perhaps, have been expedient. I cannot believe that Mr. Martos, who is regarded as a learned jurist, will adhere to the positions taken by his predecessor.

Yesterday I mentioned to the assistant secretary of state that my reply would go in to-day, and requested him to put the correspondence before the minister, in order that he might be prepared to give the matter prompt attention. Mr. de Blas told me that he had already conferred with Mr. Martos on the subject, and he was quite sure that this question would be among the first considered.

I am, &c.,

D. E. SICKLES.

LEGATION OF THE UNITED STATES,
Madrid, January 8, 1871.

SIR: I had the honor to receive, on the 19th ultimo, the note of that date, addressed to me by the predecessor of your excellency, in reply to mine of the 14th, in relation to sundry reclamations presented by the Government of the United States for indemnity for injuries suffered by American citizens at the hands of the Spanish authorities in Cuba. Your excellency will appreciate the reasons that have induced me to defer my present communication until the definitive organization of the ministry, in which I am happy to see that your excellency returns to the department of state.

My Government receives with satisfaction the assurance that after the ample and extended discussion of the questions hitherto at issue in the correspondence that has taken place on this subject, the Spanish government believes it most conducive to the interests of both countries to come at once to a practical solution of the matter, in accordance with the principles of equity and justice that animate the respective cabinets.

It is to be regretted that several of the articles submitted on the part of the Spanish government, as regulations for the procedure of the mixed commission proposed by the United States, are not such as would facilitate an agreement between the parties. And it is confidently believed that upon a fair and frank view of these articles, your excellency will be satisfied that the objections to them are insuperable.

It is stipulated by the Spanish government in the first of the proposed articles, in the second and third clauses of the second article, and in the third article:

First. That no indemnity shall be awarded to any party for damages sustained in person or property in consequence of any proceeding or order of any civil or military tribunal, or of any authority having judicial functions, in Cuba.

Second. That in any case in which it shall appear that the civil or military tribunals of Cuba have overruled the claim of a party to be an American citizen, no indemnity shall be awarded; and it is further said that it must appear, in every case, that the party, without delay, asserted his American nationality before the authority inflicting the injury.

It would seem, therefore, that the Spanish government, while admitting its liability, in principle, for the acts of its civil and military authorities in Cuba, declines to recognize its responsibility for acts done pursuant to the orders of persons exercising its judicial power.

In the communication on this subject that I had the honor to receive from the minister of state, under date of 12th September ultimo, it was insisted that none of these claims for indemnity could be entertained by the Spanish government unless they had been first submitted to the adjudication of the tribunal in Cuba. Against that proposition I urged, in my note of October 14, the arguments which appeared to my Government to require its rejection. It is now abandoned, and in its place a ground is taken that appears to the President wholly inconsistent with the doctrine previously held by the cabinet of Madrid, and not less repugnant to precedent and justice.

The principles of international law do not permit a nation to insist either that a sovereign state shall require its citizens to submit their alleged grievances against the authorities of another power to the municipal tribunals of that power; nor that a government is exempt from liability for the acts of its tribunals exercising jurisdiction in its name and within its territory, and subordinate to its authority. On the contrary, it may be unhesitatingly affirmed that the recognized publicists in this branch of jurisprudence distinctly admit the responsibility of governments for injuries suffered through the misdirection, negligence, or fault of their authorities, and no distinction is made in respect to such liability between the acts of judicial officers and the acts of other public agents.

In matters of contract, or in any of the ordinary transactions of commerce between the citizens or subjects of different countries, it is not expected that governments will give their sanction to reclamations based upon complaints of the action of the judicial tribunals of other states, unless it is manifest that such gross misconduct has been committed as amounts to a denial of justice. The reclamations presented by the United States against Spain rest upon an entirely different ground. It is represented to the Government of the United States, upon evidence satisfactory to the President, that sundry citizens of the United States have been wrongfully injured in their persons and property by the authorities of Cuba, in a series of measures growing out of the state of hostilities of which that island has been the theater for more than two years. It is charged that American citizens have been arbitrarily deprived of their estates and merchandise by the mere order of the captain general and those exercising authority under that officer. In some cases it is alleged that American citizens have been arrested and imprisoned without sufficient or probable cause. In other instances it appears that they have been denied the rights and immunities guaranteed to citizens of the United States by the treaty with Spain of October 27, 1795. These reclamations having been presented to the government of Spain, and it appearing that the two governments could not agree upon the facts and circumstances of the several cases, nor

upon the redress to which the parties were entitled, it is proposed by the United States to submit all the claims to a mixed commission of three members, one to be named by each party and the umpire to be chosen by the other two commissioners, with power to hear and adjudge these several complaints upon just and equitable grounds.

In answer to this reasonable and friendly proposal the Spanish government now requires that the jurisdiction of the commission shall not extend to any claims in which the civil or military tribunals of Cuba have rendered judgment upon the merits of the case; and furthermore that the Government of the United States shall not be permitted to prosecute before the commission the claim of any citizen whose right to its protection has been considered and denied by a civil or military tribunal in Cuba.

In a conference with one of your excellency's predecessors on the 23d ultimo, I presented the principal grounds upon which these proposed limitations to the jurisdiction of the commission are deemed by the Government of the United States unreasonable and untenable. If I now recapitulate some of them, it is because they have not been brought to the notice of your excellency since your entrance upon the duties of the ministry of state. The proposition that the adjudications of Spanish tribunals are conclusive in all cases, whether affecting the person and property of Spanish subjects or of citizens of the United States, is in conflict with many approved precedents found in the leading authorities on international law, and is inconsistent with the practice of the Spanish government.

Grotius maintains that a judicial sentence plainly against right, to the prejudice of a foreigner, entitles his nation to obtain reparation by reprisals; "for the authority of the judge," he says, "is not of the same force against strangers as against subjects."

Bynkershoek also puts an unjust judgment upon the same footing with naked violence in authorizing reprisals on the part of the state whose subjects have been thus injured by the tribunals of another state.

And Vattel, in enumerating the different modes in which redress may be refused so as to authorize reprisals, mentions a judgment manifestly unjust and partial; and although he affirms, what is undeniable, that the judgments of the ordinary tribunals ought not to be called in question upon frivolous or doubtful grounds, yet he is evidently far from attributing to them that sanctity which would absolutely preclude a foreign government from seeking reparation in cases where, by reason of their action, its citizens have suffered wrongs.

Wheaton affirms that these principles are sanctioned by the authority of numerous treaties between the different powers of Europe regulating the subject of reprisals, and declaring that they shall not be admitted unless in cases of the denial of justice. "An unjust sentence," he adds, "must certainly be considered a denial of justice, unless the mere privilege of being heard before condemnation is all that is included in the idea of justice."

It may be remarked that it is by no means an uncommon occurrence for judgments affecting life and property to be pronounced by the tribunals in Cuba in the absence of the accused and without hearing any one authorized to appear in his behalf. Citizens of the United States can only be expected to acquiesce in the judgments of Spanish courts so far as their decrees are agreeable to the law of nations and to the treaties in force between the two countries. The Spanish government is bound to see that justice is done within Spanish territory to the citizens or subjects of other countries. And if justice is denied them, the aggrieved citizens of other states may rightfully seek through their respective governments an adequate indemnity.

Under the treaty of 1794 between the United States and Great Britain, a mixed commission was appointed to determine the claims of American citizens. In the course of the proceedings objections were made on the part of England against hearing any case where the British judicial tribunals had decided the reclamation adversely to the claimant, inasmuch as it was to be presumed that justice had been done. But this objection was overruled and the claims were allowed in many cases where equity seemed to require indemnity.

The United States made a like demand upon Denmark for indemnity in consequence of the denial of justice to American citizens by Danish courts. It was admitted, after a very elaborate and able discussion, that the most fit and proper measure by which a nation could satisfy itself of the injustice of sentences pronounced by its courts, was an impartial tribunal organized under the sanction of the two countries, for the purpose of determining between government and government whether any wrong had been done by the judicial authorities of the one power against the citizens of the other, and for determining what redress ought to be granted to the latter. In conformity to these principles a treaty was concluded by which a satisfactory indemnity was provided for the American claimants. In the treaty of 1835 between Spain and Great Britain, article 7, it is provided that mixed tribunals shall decide questions arising within Spanish jurisdiction affecting Africans.

In the treaties between Spain and Turkey, Morocco, Tunis, and Tripoli, it is provided that Spanish subjects shall not be subject to the jurisdiction of the courts of those countries.

From 1667 down to 1869, more than two centuries, Spain admitted in her treaties with European states the right of foreigners to an exceptional and special jurisdiction within Spanish territory. This *fuero de extranjero*, at first conceded in the treaty with England, was afterward extended under the "most favored nation" clause to other powers. The tribunals organized for the exercise of this jurisdiction were under the immediate direction and control of the Crown, and all their judgments and proceedings were subject to the royal revision and sanction, so that their acts were, in fact as in theory, the acts of the government, and for which it was responsible to the powers interested in the protection of their citizens and subjects.

It appears, therefore, from the foregoing review of the public law and of the precedents found in the public transactions of states, that the limitations proposed by Spain to the jurisdiction of the mixed commission are inconsistent with her own practice and that of other nations in analogous cases, and contrary to the principles defined by the recognized authorities in questions of international right. I am instructed to state that the President regards the conditions I have specified as inadmissible, and he trusts that upon further consideration the government of Spain will find it agreeable to its views of equity to concede to the impartial tribunal proposed to be created ample jurisdiction to redress whatever injuries American citizens may have wrongfully suffered at the hands of Spanish authorities in Cuba.

The President contemplates that every claimant will be required to make good before the commission his injury and his right to indemnity. It is not desired that the commission shall take cognizance of claims growing out of contracts. Naturalized citizens of the United States will, if insisted upon by Spain, be required to show when and where they were naturalized; and it will be open to Spain to traverse this fact, or to show that from any of the causes named in the circular of the Department of State of the United States, of October 14, 1869, the applicant has forfeited his acquired rights. I am quite sure that your excellency will find in such a provision abundant safeguards against any alleged abuse of the claim of American citizenship.

I must decline any discussion of the third proposition presented in the note from the ministry of state of December 19, which seems to maintain that the adjudications of Cuban civil and military tribunals upon the naturalization laws of the United States should be accepted by my Government as determining the nationality of those it may deem entitled to its protection. That proposition cannot be entertained.

It is besides contemplated by the President that the respective claims and the proof appertaining to them shall be presented only through the Government of the United States; that each government may employ a person as agent or counsel to represent it before the commission; that the commissioners shall have full power to make their own rules as to the mode and time of the presentation of claims and of the proof thereof; and that before making such regulations, they shall agree upon an umpire to whom shall be referred all questions on which they cannot agree, including the rules aforesaid. And it will be for the commission, so constituted, after hearing the allegations and proofs on the part of the two governments, to decide upon all the facts and circumstances of each case, whether or not the claim is just, and the amount of indemnity, if any, to be awarded.

It is desirable that the proposed commission be organized at an early day. To this end it would be convenient if the convention were transmitted to Washington during the present month, in time for the action of the Senate before the day fixed for its adjournment, and that the exchange of ratifications take place at Washington.

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

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

No. 354.

Mr. Sickles to Mr. Fish.

No. 251.]

LEGATION OF THE UNITED STATES,
Madrid, January 13, 1871. (Received February 17.)

SIR: I have the honor to transmit herewith a copy of a note from the minister of state, dated 7th instant, in reply to mine of the 28th and 31st ultimo, referring to the assault on the president of the council of ministers, and his death subsequently from the injuries then received.

I am, &c.,

D. E. SICKLES.

[Translation.]

MINISTRY OF STATE,
Madrid, January 7, 1871.

SIR: This ministry duly received your considerate note dated the 31st ultimo, making known the profound regret with which you had learned of the unqualifiable ~~stact~~ committed on the person of the president of the council of ministers, on the night of the 27th of December, and of the sad event which was its consequence.

In taking upon myself the charge of responding to this as well as to the note addressed to my predecessor in relation to the same deplorable occurrence, I fulfill the grateful duty of making known to you the expression of the sincere thankfulness with which the Spanish government has received your feeling communications, and it only remains for me to add that, as far as I am personally concerned, they serve to demonstrate to me once more the cordiality and good faith with which the Government of the United States responds to the friendly sentiments of that of His Majesty the King of Spain.

I avail myself of this opportunity to reiterate to you the assurances of my most distinguished considerations.

CHRISTINO MARTOS.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

No. 355.

Mr. Fish to Mr. Moran.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 18, 1871.

Telegraph and send by mail to Sickles the following:

Is there probability of settling claims convention? President wishes to know, as only six weeks of the session of Congress remain.

FISH.

No. 356.

Mr. Moran to Mr. Fish.

No. 190.]

LEGATION OF THE UNITED STATES,
London, January 19, 1871. (Received February 3.)

SIR: Early this morning I had the honor to receive your telegram of yesterday for General Sickles, the text of which is as follows:

From Fish, Washington, 18th January, 1871, to Moran, Chargé, American Legation, London.

Telegraph and send by mail to Sickles the following:

"Is there probability of settling claims convention? President wishes to know, as only six weeks of the session of Congress remain."

At 12 noon to-day, I telegraphed your message to General Sickles, at Madrid, and this afternoon sent it to him by mail, in fulfillment of the instructions received from you.

I have, &c.;

BENJAMIN MORAN.

No. 357.

Mr. Fish to General Sickles.

No. 141.]

DEPARTMENT OF STATE,
Washington, January 17, 1871.

SIR: I have received your No. 223, dated the 20th ultimo, inclosing a copy of Mr. Sagasta's note of the 19th ultimo, relative to the reclamations

for injuries done to American citizens in Cuba by the Spanish authorities. I also received your telegram of the 27th ultimo, suggesting a proposal of certain modifications of the Spanish bases set forth in Mr. Sagasta's note, the effect of which not being entirely comprehended by the President, I telegraphed you to that effect, and added that I would await the arrival of the text of the note; and, in my No. 234, of the 27th ultimo, I transmitted to you a copy of that telegram. Since then I have further received your telegram of the 13th instant, informing me that you had replied to Mr. Sagasta's note of the 19th ultimo. I shall await the receipt of that reply before making further comments. You correctly characterize the Spanish conditions as "plainly inadmissible." It is sincerely to be hoped, in the best interests of both countries, that these negotiations may at an early day reach a satisfactory conclusion.

I am, &c.,

HAMILTON FISH.

No. 358.

Mr. Sickles to Mr. Fish.

No. 256.]

LEGATION OF THE UNITED STATES,
Madrid, January 19, 1871. (Received February 17.)

SIR: I have the honor to transmit herewith a translation of a note dated the 17th instant from the minister of state, in reply to mine of the 21st ultimo, relating to the delay in the execution of the law of 23d June, 1870, emancipating certain classes of slaves in the Antilles.

I inclose also, for your information on the subject of colonial reform, a fuller report, taken from *El Correo de España*, of the debate in the Cortes, of which I sent you what now appears to have been a resumé in my No. 233.

Mr. Martos, one of the signers of the proposal made to the Cortes on the 20th ultimo, to authorize the government to put the proposed constitution for Porto Rico into immediate operation, is now minister of state for foreign affairs. Mr. Moret, then minister of the colonies, is the secretary of the treasury in the present cabinet.

I am, &c.,

D. E. SICKLES.

[Translation.]

MINISTRY OF STATE,
The Palace, January 17, 1871.

SIR: The minister of the colonies, to whom a copy of your note dated the 21st of last December, respecting the question of slavery and political reforms in Cuba and Porto Rico, was duly furnished, in a communication of the 12th instant, makes the following statements, which I have the honor to set before you.

"The law of slavery, passed by the constituent Cortes on the 23d of June last, has been fulfilled and obeyed in all its parts in Cuba from the date of its publication, although the absence of regulations for its execution makes it necessary that what would have otherwise been a matter of mere form should be made the basis for regularly instituted proceedings for the clear determination of each case. In order that the execution of the said law may suffer no obstruction, this ministry has prepared ample and detailed bases to serve as a starting-point for the regulations referred to, which have been already framed at some length by the superior civil governor of that Antilla; and have been transmitted to the council of state, subject to the provisions of the law organizing that

high body, in order that the definitive regulations for carrying out the law in question may be drawn up without delay. Meanwhile it has been ordered that the bases referred to shall be provisionally obeyed in all cases where their enforcement may not be absolutely impossible. In Porto Rico the law of the 23d of June has also been promulgated, and the preparation of its regulations is under consideration. The slaveholders of that island have anticipated abolition in the name of the Cortes and the government, and the fact of the law not having been before promulgated in that Antilla is mainly owing to the desire on the part of the authorities to give time to the proprietors to accomplish emancipation spontaneously, as, in fact, the greater number have already done, for it is better that the slaves should owe much to their masters in the question of freedom, and that they should not depend alone on the action of the government. Besides the precepts of the law passed by the Cortes, in which the public opinion of all countries has seen the demonstration of the intention of the Spanish government to bring about the disappearance of slavery from its American domain, this ministry is in active correspondence with the superior authorities of the Antilles with the aim of accomplishing the complete abolition of slavery, and for this purpose the government has authorized meetings of the slaveholders, that they may consider and prepare a plan for the immediate realization of this object. The representative of the United States at this court can bear witness to the earnestness with which the government of Spain is acting in the question of slavery, and knowing, as he does, as well by the official documents made public by this ministry as by the communications made to him personally, all the steps that have been taken in so important a matter, he must appreciate the good results thus far obtained and those confidently to be looked for in the future. None of the nations in whose dominions slavery existed were able to realize its abolition, nor even to modify the system preparatory to its subsequent extinction, without serious perturbation of public order and detriment to agricultural and industrial interests. Spain, although occupied with internal questions of policy and forced to sustain a formidable conflict in the most important of her possessions, has initiated and made great progress in the solution of this transcendent problem without complications or disturbances arising, and has seen with satisfaction that the slaveholders themselves, animated by feelings of pure patriotism, are aiding her in her humanitarian work, and are even considering and preparing for complete abolition. As for the political reforms proposed for the Antilles by the government in the early days of the revolution, your excellency is perfectly aware how sincere this ministry has been in its intentions and what perseverance it has shown in the fulfillment of those promises. A provincial law and a municipal law in complete harmony with the Peninsular government are now in force, and are obeyed without opposition in Porto Rico, and that island has been represented in the constituent Cortes.

"The war in Cuba has impeded the extension of analogous reforms to that colony, but its end being near, the government will soon have facilities for realizing with all proper prudence the designs above indicated."

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

CHRISTINO MARTOS.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

No. 359.

Mr. Sickles to Mr. Fish.

No. 262.]

LEGATION OF THE UNITED STATES,
Madrid, January 23, 1871. (Received February 17.)

SIR: On the receipt of your instruction of the 18th instant, through the legation at London, I communicated the purport of it unofficially to a member of the cabinet, suggesting its significance, and at the same time I addressed a note to the minister of state, asking an interview. Mr. Martos promptly replied, desiring me to come to the palace to-day at 3 in the afternoon. I then recapitulated to the minister the successive steps in the negotiation for a claims convention begun in June last, touching incidentally upon the frequent modifications of the attitude of his predecessor, Mr. Sagasta, in the course of the correspondence, as well as in our personal conferences. After calling the attention of Mr.

Martos to the patience with which the President had permitted me to follow the discussion so tardily conducted by the Spanish government, and his forbearance in asking for a decisive answer to our propositions while the cabinet of Madrid found itself preoccupied by important home questions, I stated that, in view of the completed organization of this government, and of the approaching termination of the last session of the present Congress, I was instructed to report at once to the President whether there was any probability of an early and favorable issue to the negotiation, and I added that, while I ought not to conceal from his excellency the impression that would be made by a negative answer, I must frankly state that I could not, without a further communication from him, send any other than a most discouraging reply to the inquiry addressed to me by my Government.

The minister immediately sent for the assistant secretary, Mr. de Blas, and asked him for a statement of the points at issue, remarking that, although he had given some attention to the subject, he had not yet gone through the voluminous correspondence and papers relating to it. Mr. de Blas proceeded to give a resumé of the discussion, which I had occasion to complete by directing Mr. Martos's attention to Mr. Sagasta's proposed limitations of the jurisdiction of the commission, as stated in his note of December 19, these being, as I remarked, the principal obstacles in the way of an agreement.

The minister then stated that he would take up the subject to-morrow, and after a conference with his colleagues, would be prepared on the following day, when he expected to meet me at dinner at my house, to acquaint me, at least informally, of the reply I might rely upon receiving this week to my note of the 8th instant.

Upon the suggestion of Mr. de Blas, the minister desired me to inform you by telegraph of the assurance he had given me. The conversation then drifted toward a discussion of the doctrine propounded by Mr. Sagasta, that no case which had been decided by a Spanish tribunal could be submitted to international arbitration—a proposition that neither Mr. Martos nor Mr. de Blas appeared disposed to maintain.

I am, &c.,

D. E. SICKLES.

No. 360.

Mr. Sickles to Mr. Fish.

No. 263.]

LEGATION OF THE UNITED STATES,
Madrid, January 26, 1871. (Received February 23.)

SIR: I have already sent to you by telegraph to-day the substance of the verbal communication made to me last night, at my house, by the minister of state.

Mr. Martos said that he sincerely desired to come to an understanding with me as to the best manner of disposing of the reclamations I had presented; that he believed an expeditious and satisfactory arrangement would be found in following the precedent of the "Lloyd Aspinwall" case, inasmuch as a formal convention or treaty must be laid before the Spanish as well as the American Senate; that the former body had not yet been chosen, and no day having been appointed when it should meet, considerable delay would attend the exchange of ratifications of a treaty.

With reference to the question of the jurisdiction of the arbitrators, he was disposed to yield the principal points of difference that had arisen in the course of the negotiation; he would agree to the arbitration of all claims of American citizens for violation of the treaty of 1795; he deemed it right, however, to insist that whenever a case had been adjudicated by the Spanish tribunals, in conformity with the guarantees and forms stipulated in the treaty of 1795, the judgment should be allowed to stand; and, also, that in any case in which an American citizen had failed to disclose his nationality to the tribunal before which he appeared, he should be debarred from claiming indemnity for the same subject-matter from the arbitrators; but in regard to the adjudications of Spanish tribunals upon the nationality of persons claiming to be American citizens, he agreed that such judgments should in no case preclude the parties from having their claims heard and decided by the arbitrators.

Mr. Martos, in making this verbal communication, stated that during the present week I would receive a formal reply to my note of January 8th. I observed that I would acquaint you with what he had said, and reserve any observations I had to make until the receipt of his note.

Referring to articles 70 and 74 of the Spanish constitution, it will be seen that, although the King may declare war and make peace, he cannot, unless authorized by law, cede any part of Spanish territory, admit foreign troops on Spanish soil, ratify a treaty of alliance offensive, or a commercial convention, or a stipulation to pay a subsidy to a foreign power, or any compact that may personally bind his subjects. It does not distinctly appear that a claims convention is embraced within these provisions; but upon a question involving the powers belonging respectively to the several departments of this government, I hesitated to dissent from the opinion expressed by so distinguished a jurist as the minister of state.

I am, &c.,

D. E. SICKLES.

No. 361.

Mr. Sickles to Mr. Fish.

No. 264.]

LEGATION OF THE UNITED STATES,
Madrid, January 27, 1871. (Received February 23.)

SIR: Before sending you a telegraphic abstract of the views of this government on the subject of our reclamations and the bases upon which their settlement should be effected, as communicated to me by the minister of state on the night of the 25th instant, at my house, I deemed it advisable to submit to Mr. Martos the draught of my dispatch to you, in order that his excellency might make any needful corrections and assure its accuracy.

The dispatch, as sent to his excellency, read as follows:

HAMILTON FISH, *Secretary of State, Washington:*

Minister says that this government will arbitrate all claims for violation of treaty of ninety-five. Arbitrators may award damages in cases decided by Spanish tribunals, if it appear that treaty has been violated. Adjudications of Spanish tribunals on the question of citizenship not to bar jurisdiction of commission. No adjudicated claim to be considered, if presented by a party who appeared before a Spanish tribunal and failed to assert his nationality. Spanish government prefers that this arrangement be made by an interchange of notes, as the Aspinwall case was settled, without formalities of convention or treaty.

SICKLES.

MADRID, *January 26.*

A communication was promptly received from his excellency through the chief clerk of the ministry of state, of which the following is a translation :

Private.]

MINISTRY OF STATE,
Assistant Secretary's Office.

General SICKLES :

ESTREMED SIR: Mr. Martos, to whom I have just read the draught of the telegram you were pleased to send him by your secretary, Mr. Adeo, instructs me to state to you that it is correct without any alteration save the re-writing, for greater clearness, of the paragraph commencing " Arbitrators may award damages," &c., in the following form :

The arbitrators may award damages in cases already adjudicated by the Spanish tribunals, if it appear that in *their judgments the guarantees and forms consigned in the treaty of 1795 have been violated.*

In complying with Mr. Marto's order, I improve this opportunity to offer myself to you as your obedient servant,

FRANCISCO MILLAN Y CARO.

A corresponding change was made, in accordance with Mr. Martos's wishes, and the dispatch was transmitted to you, by way of the United States legation in London, at 7 o'clock last evening, in the following words :

BENJAMIN MORAN, *United States Chargé, London :*

Telegraph the following to Fish when intelligibly received :

Minister says this government will arbitrate all claims for violation of treaty of ninety-five. Arbitrators may award damages in cases decided by Spanish tribunals if it appear that their judgments have violated the guarantees and forms of the treaty of ninety-five. Adjudications of Spanish tribunals on the question of citizenship not to interfere with jurisdiction of commission. No adjudicated claim to be considered if presented by a party who appeared before a Spanish tribunal, and failed to assert his nationality.

Spanish government prefers that this arrangement be made by an interchange of notes, without formalities of a convention or treaty, as the *Aspinwall case* was settled.

SICKLES.

MADRID, *January 26.*

I am, &c.,

D. E. SICKLES.

No. 362.

Mr. Sickles to Mr. Fish.

No. 272.]

LEGATION OF THE UNITED STATES,
Madrid, January 31, 1871. (Received February 23.)

SIR: In compliance with the request of the minister of state, I called upon him yesterday afternoon at 2 o'clock, when he informed me that the preparation of his reply to my note of the 8th instant had been unavoidably delayed; but that, in deference to the wish I had so often expressed for prompt action in the matter of our reclamations, he was then prepared to submit to me the concluding portion of his answer, embracing the bases proposed by the Spanish government for a settlement of the question.

I remarked that I would send you a translation of his propositions, and await the receipt of your instructions in reply to my telegram of the 26th instant, informing you of his previous verbal statement of the same propositions. Mr. Martos then kindly offered to forward my telegraphic dispatch through the Spanish legation in London, giving it precedence on the Spanish wires over all other matter. This courteous offer I

accepted, and at 6 o'clock last evening the following dispatch, addressed to our chargé d'affaires in London, was left at the ministry of state for transmission to that city :

BENJAMIN MORAN, *United States Chargé d'Affaires, London :*

Send following by cable to Washington :

Minister of foreign affairs communicates following bases for settlement of our reclamations :

First. The arbitrators shall adjudge reclamations preferred by American citizens against acts of the Spanish authorities in Cuba, and also against judgments of tribunals or military commissions in Cuba, for the sole object of investigating and deciding whether the forms of law have been observed in those adjudications, and especially whether the guarantees in the treaty of 1795 have been complied with.

Second. The arbitrators shall also have cognizance of the reclamations of those Spaniards naturalized as American citizens who, having asserted their acquired nationality before the tribunals or military commissions, have had their allegation disallowed. In these cases the arbitrators shall have full powers to decide whether the claimants possess the qualifications of American citizens or not. The commission having recognized the quality of American citizenship, the claimants will possess the rights to which the first paragraph refers.

Third. Those naturalized Spaniards who failed to allege their quality as foreigners before the tribunals or Spanish authorities, shall have no right to a hearing before the commission.

The failure to assert their nationality shall be accepted as a submission to the tribunals and authorities of Spain in Cuba.

Article *fifth*. The bases being accepted, the corresponding document shall be drawn up and exchanged by means of notes between the two governments of Madrid and Washington.

Articles *four* and *six* relate to matters of detail, and substantially agree with our views.

SICKLES.

MADRID, *January 30.*

No. 363.

Mr. Fish to General Sickles.

No. 155.]

DEPARTMENT OF STATE,

Washington, January 31, 1871.

SIR: A telegram was sent to you on the 28th instant, through the United States legation at London, the text of which is as follows :

"MORAN, *Chargé, London :*

Send the following to Sickles by a special messenger, by the earliest opportunity :

"Telegram of 26th received. We prefer a convention, but will not refuse submission, as proposed, of all claims, such as were indicated in the power sent you, dated 13th December last, whether in violation of international law or of treaty rights. Your notes of July 26th and October 14th cover this ground. Understanding the proposition thus, it is not objectionable. The arbitrators should have the powers given by article 21 of the treaty of ninety-five. The time for the presentation of claims may be limited. The convention or submission must allow the presentation of claims not heretofore presented, as was contemplated in your notes."

I am, &c.,

HAMILTON FISH.

No. 364.

Mr. Fish to General Sickles.

[Telegram.]

FEBRUARY 1, 1871.

First point in telegram of 30th inadmissible, if construed as forbidding us to question judgments in violation of international law or

of treaty, or if made in the absence of parties. The second and third points seem to exclude naturalized citizens who have not asserted their nationality before Spanish tribunals. My telegram of 28th explains our views. Are these changes, which are inconsistent with telegram of 26th, made for the purpose of delay? Answer, in order that instructions may be given in such case. If Spanish government desire to settle in same manner as in Aspinwall case, why not give Roberts full powers as in that case?

FISH.

 No. 365.

Mr. Sickles to Mr. Fish.

No. 273.]

LEGATION OF THE UNITED STATES,
Madrid, February 3, 1871. (Received February 23.)

SIR: I have the honor to forward herewith a translation of Mr. Martos's reply to my note of the 8th ultimo, in relation to the proposed claims convention. It is dated January 30, and was received on the 31st, although the concluding summary of propositions was read to me at the ministry on the 30th ultimo, and a copy furnished, from which I compiled my telegram of the same date.

I have not yet received your telegram of the 28th ultimo. Mr. Moran informs me that he will send it by special messenger; and I shall defer my reply to Mr. Martos until I receive those instructions, as I suppose they relate to my telegram of the 26th, in which I informed you of Mr. Martos's verbal communication of the previous day.

You will notice in these several papers the usual variation that occurs from time to time in the statement of the views of the government upon the points at issue. I hope, however, to be able very soon to present to the minister of state a memorandum of an arrangement upon which we can agree, and that it will meet the requirements of your instructions.

I am, &c.,

D. E. SICKLES.

 [Translation.]

MINISTRY OF STATE,
Madrid, January 30, 1871.

SIR: I have received your note of the 8th instant, in which you are pleased to answer the communication addressed to you under date of the 19th December last, by my worthy predecessor in this ministry, respecting the principles and rules which the Spanish government believed necessary to be followed in the fulfillment of its task by the commission of arbitrators to be named for the purpose of considering the reclamations of American citizens for losses and injuries growing out of the Cuban insurrection.

The undersigned sees with satisfaction that the President of the United States is convinced of the sincere desire of the Spanish government to arrive, as soon as possible at a practical solution which, without infringing the principles of equity and justice that animate the two nations, will result in a happy termination of this question.

For this purpose, and in order to confirm this just confidence, it is indispensable to add a few explanations to the note of December 19, which, by reason of a misapprehension of its meaning or insufficient clearness in expressing the propositions therein contained, has given rise to the observations made by you. I propose to answer these, in the hope that, certain doubts being cleared away, and certain principles duly fixed, the proposal of the government of His Majesty will, in the end, be found to deserve complete acceptance on the part of the United States.

In the different notes addressed to you upon this important question by this ministry of state, the Spanish government has uniformly expressed its unaltered purpose to scrupulously observe the stipulations of the treaty celebrated in 1795, between Spain and the United States, since in this it but obeys its good faith and its loyalty to the cordial relations that since that time have uninterruptedly existed between the two countries.

This starting-point, which we have never lost sight of in the course of this negotiation, is the one that will most certainly lead to a satisfactory termination, narrowing the matter thenceforth to perfectly defined limits, and rendering unnecessary any discussion whatever in the field of the general principle of the law of persons or in that of international private law.

This consideration, moreover, relieves me from the not difficult task of disproving the relevancy of several citations from writers of high authority, brought forward in your note to prove the cases in which reparation is made on the part of one state to the subjects of another power, since your excellency cannot fail to recall how many inexhaustible sources allure the student of this branch of the law, who may seek therein reasons and arguments to support or impugn in turn all that, not being derived from the province of theory, as yet holds no fixed place in written law.

Neither is there any need to pause to demonstrate the lack of foundation of certain examples adduced by you in your note, endeavoring to prove how the subjects or citizens of one power may not be held subject to the jurisdiction of the tribunals of a foreign nation, within whose territory the laws have been violated. The example of the treaties celebrated between Spain and the countries of the east, cited by you, is not, in truth, upon even slight consideration, one which can carry conviction to the mind of any one in this connection. In those treaties, framed in an identical spirit by Spain and by other European nations, stipulations are made for a special legislation, called for by the high interests of civilization, and also by other considerations of a special character, which do not exist in other states, and which cannot be even indirectly attributed to them without injuring their standing among nations.

There is, lastly, another error in the note to which I have the honor to reply, which cannot pass without comment, inasmuch as it affects our constitutional rights and the independence of the powers of the State in the exercise of their elevated functions. You seem to regard it as an accepted fact that the "alien right" (*fuero de extrangeria*) conceded in Spain to the subjects of other powers, and by which their protection was confided to the jurisdiction of military tribunals, was under the immediate direction and supervision of the crown, all the judgments pronounced by such tribunals being subject to the revision and sanction of the monarch. In all this there is an evident misconception. Before the decree of the 6th of December, 1868, which established the unification of jurisdictions, the captain-generals of districts were, in effect, the protectors of foreigners, and before them the latter enjoyed the privilege of foreign citizenship; but the consideration, trial, and decision of the cases brought to the notice of the said authorities took place with the assistance of a magistrate of the judicial class, called the auditor of war; and he it was who pronounced the sentence. From these judgments an appeal was heard by the tribunal then called the supreme tribunal of war and of the navy, which definitively confirmed or revoked them, but without any kind of intervention on the part of the executive power.

Coming now to the principal object contemplated by the government of His Majesty in this reply, which is, as before said, to set in their true light and give the proper signification to the propositions presented on the 19th of December, I shall commence by stating to you that, in claiming for the judgments of the tribunals of justice the profound respect accorded in all countries to judicial decisions considered as a result of the independence of each state, the Spanish government could not have confused the simplest principles of public law or of the law of persons, nor have attempted to overstep the limits set to the jurisdiction of its legitimate sovereignty. Its purpose was solely to save the independence of the judicial power in all matters referring to the essential features of its judgments, and the ordinary formalities of legal proceedings; but if it appears that the latter have not been complied with, and especially that the guarantees and stipulations in favor of the two contracting parties in the treaty of 1795 have been infringed, the decisions of the tribunals are undoubtedly subject to arbitration, and will have to be adjudged by the commission. So that if, by chance, any American citizen should present a reclamation against the sentence or decision pronounced by a tribunal or military commission of the island of Cuba arising from the insurrection, and if it shall appear that in his case any of the ordinary proceedings were not observed in the judgment, or that the guarantees enumerated in the seventh article or in any other of the treaty were infringed, the arbitrators shall have power to invalidate such decision, and to award, in consequence, the indemnity that may be equitably due.

This explanation of the first of the propositions of the note of December 19 will not only make known to you the purpose of the government of His Majesty to respect the before-cited convention, but will also show the slight foundation there is for your supposition, in the note to which I have the honor to reply, that the Spanish govern-

ment does not assume in the same manner and in equal proportion the responsibility of the acts of its authorities in Cuba, whether military, civil, or judicial.

Neither has the government of His Majesty asserted, as you are inclined to think, that the judgments of the civil and military tribunals of Cuba concerning the naturalization of Spanish subjects as citizens of the United States, should be accepted and recognized by the North American Government. It is sufficient to enunciate this proposition in these terms, to perceive that it has been mistakenly interpreted. What the government of His Majesty requires, with perfect justice and consistency, is that those American citizens against whom proceedings may have been instituted or decisions pronounced by the Spanish authorities, should have alleged at the time of making reclamation against their enforcement their quality as foreigners, without which they have no right to the guarantees of the treaty. Those who, after the lapse of the necessary opportunity, may have omitted to comply with this requirement, may be naturally separated into two classes—either they who have not been able to prove their supposed nationality, or, in the exercise of a legitimate right, they have submitted with good grace to the jurisdiction of the Spanish authorities; and it is clear that in neither case do they possess the right to have their claims investigated by the commission.

It might, however, happen that some, having alleged their nationality at the proper time, may have seen their assertion disallowed by the tribunals, or by the Spanish authorities in Cuba. Those who are found in this class will sustain no prejudice if they submit anew to the commission of arbitration the definitive decision of their personality, and this being decided will correspondingly affect the claims presented.

The Spanish government having, therefore, fixed with all possible clearness and precision on its part the basis which, in its judgment, will reconcile the interests of the two countries in the adjustment of the reclamations of American citizens by means of the proposed commission, it only remains to call your attention to the concluding portion of your note, in which you are involuntarily led into a contradiction.

You are pleased to recommend all possible activity in the settlement of this matter, in order that both cabinets being in accord, it may be practicable to submit the result to the examination and approval of the Congress at Washington, now near the termination of its session. This course is indicated for the first time in your note of the 8th instant, not having been mentioned in any of your previous communications relative to this question, in which, on the contrary, all your efforts were directed to heightening the necessity of authorizing the representative of Spain in Washington, without loss of time, to proceed to name one of the arbitrators and to inaugurate the labors of the commission. The government of His Majesty, being no less desirous on its part of terminating this matter, does not merely consider the intervention of the legislative body of either country unnecessary, but also fears that the American Congress, being overburdened with the numerous affairs which usually accumulate in the last days of its session, may not, even with the best exertions, avoid the postponement of the approbation of the present basis, the consequent delay being to the prejudice of all parties. The government of His Majesty, therefore, deems it preferable that the proposed settlement should be effected by a simple exchange of notes, thus economizing the time that would necessarily have to be devoted to the approval of the convention, and the interchange of the ratification of the same; if the arrangement were made in the form of a convention, which, on the other hand, does not appear to be entirely regular, especially as the celebration of a new compact is not contemplated nor even the modification of the existing treaty, but rather the application of its provisions in a special case.

Desiring, lastly, to sum up what I have already set forth in the present note, and to reduce to definite form the propositions the Spanish government deems suitable to be presented for the consideration of that of the United States, I have the honor to propose the following bases:

First. The commission of arbitrators shall take cognizance of and adjudge reclamations preferred by American citizens against acts of the Spanish authorities in Cuba, and also reclamations made by American citizens against the judgments of the tribunals or military commissions of Cuba, for the sole purpose of investigating and deciding whether the forms of law have been observed in those adjudications, and especially whether the guarantees consigned in the treaty of 1795 have been complied with.

Second. The commission of arbitration shall also take cognizance of the reclamations of those Spaniards naturalized as American citizens who, having asserted their acquired nationality before the tribunals or military commissions, have had their allegations disallowed. In these cases the commission of arbitration shall have full powers to decide whether the claimants possess the qualifications of American citizens or not. The commission having recognized the quality of American citizenship in the claimants, they will possess all the rights to which the first paragraph refers.

Third. Those naturalized Spaniards who failed to allege their character as foreigners before the tribunals or Spanish authorities, shall have no right to a hearing before the commission. The failure to assert their nationality shall be accepted as a submission to the tribunals and authorities of Spain in Cuba.

Fourth. The Spanish government and that of the United States shall each respect-

ively name one person to represent it before the commission of arbitrators, and these shall have power to examine and verify the authenticity of the documents presented by the claimants, and to speak in defense of the interests of their respective governments.

Fifth. The present bases having been approved and accepted, the corresponding document shall be drawn up and exchanged by means of notes between the two governments of Madrid and Washington.

Sixth. The Spanish government and that of the United States shall reciprocally bind themselves to give full respect to and to comply in every particular with the decisions of the commission of arbitration.

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

CHRISTINO MARTOS.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

No. 366.

Mr. Sickles to Mr. Fish.

No. 277.]

LEGATION OF THE UNITED STATES,
Madrid, February 4, 1871. (Received March 1.)

SIR: The following is the text of a telegraphic dispatch sent this afternoon to the Department of State at Washington, through the Spanish ministry of state, in the same manner as my telegram of the 30th ultimo:

HAMILTON FISH, *Secretary of State, Washington:*

Your telegram of 1st instant read to minister of state. He agrees to this reply:

Proof of the desire of this cabinet to settle reclamations promptly is seen in their proposal to avoid delay and formalities of a convention. Roberts will receive full powers, as in Aspinwall case, when bases are settled here. Judgments of Spanish tribunals pronounced in the absence of defendants, or in violation of international law or of treaty, may be reconsidered by the arbitrators. It is also proposed that, when naturalized Spaniards have appeared before Spanish tribunals in Cuba without asserting American nationality, they shall be presumed to have waived or renounced their new allegiance.

My telegram of January 26 was shown to minister before transmission. He now re-affirms its contents.

Your instructions of January 28 not yet received.

SICKLES.

MADRID, *February 4—5 p. m.*

I am, &c.,

D. E. SICKLES.

No. 367.

Mr. Sickles to Mr. Fish.

No. 280.]

LEGATION OF THE UNITED STATES,
Madrid, February 9, 1871. (Received March 3.)

SIR: General Badeau reached Madrid on Wednesday, the 8th instant, and delivered to me the text of your telegram of the 28th ultimo, forwarded through the legation at Loudon. I immediately draughted, and on the following day handed to the minister of state, in a personal interview, the note of which the inclosed is a copy, containing the bases of

arbitration proposed on our part. I remarked to Mr. Martos that if he agreed to the conditions named, he was at liberty to regard the communication as official, and if he found occasion to suggest any modification, he might treat it as a draught submitted for revision, and return it to me with such amendments as he desired made. I stated that the same messenger who had brought me your final instructions was directed to wait and take with him my report of the conclusion of the negotiation, in order that it might reach Washington before the adjournment of the present Congress, on the 4th proximo.

His excellency promised to give early attention to the subject, and before I took leave of him he sent for Mr. Millan y Caro, the official in charge of the papers, and requested him to translate my note at once, and to have all the documents relating to the matter in readiness for examination on the following day.

I am, &c.,

D. E. SICKLES.

LEGATION OF THE UNITED STATES,
Madrid, February 7, 1871.

SIR: Referring to our several conferences, and to the correspondence which has taken place on the subject, I have the honor to submit for your approval the following memorandum of the proposed arbitration for the settlement of the claims of corporations, companies, or citizens of the United States, against the government of Spain, for wrongs and injuries committed against their persons and property or against the persons and property of citizens of the United States, now deceased, by the authorities of Spain in or about the island of Cuba, since the commencement of the present insurrection.

1. It is agreed that all such claims shall be submitted to arbitrators, one to be appointed by the Secretary of State of the United States, another by the envoy extraordinary and minister plenipotentiary of Spain at Washington, and these two to name an umpire, who shall decide all questions upon which they shall be unable to agree; and in case the place of either arbitrator or of the umpire shall from any cause become vacant, such vacancy shall be filled forthwith in the manner herein provided for the original appointment.

2. The arbitrators and umpire so named shall meet at Washington within one month from the date of their appointment, and shall, before proceeding to business, make and subscribe a solemn declaration that they will impartially bear and determine, to the best of their judgment, and according to public law and the treaties in force between the two countries and these present stipulations, all such claims as shall, in conformity with this agreement, be laid before them on the part of the Government of the United States; and such declaration shall be entered upon the record of their proceedings.

3. Each government may name an advocate to appear before the arbitrators or the umpire, to represent the interests of the parties respectively.

4. The arbitrators shall have full power, subject to these stipulations, and it shall be their duty, before proceeding with the hearing and decision of any case, to make and publish convenient rules prescribing the time and manner of the presentation of claims, and of the proof thereof; and any disagreement with reference to the said rules of proceeding shall be decided by the umpire. It is understood that a reasonable period shall be allowed for the presentation of the proofs; that all claims, and the testimony in favor of them, shall be presented only through the Government of the United States; that the award made in each case shall be in writing, and, if indemnity be given, the sum to be paid shall be expressed in the gold coin of the United States.

5. The arbitrators shall have jurisdiction of all claims presented to them by the Government of the United States for injuries done to citizens of the United States by the authorities of Spain, in Cuba, since the 1st day of October, 1868. Adjudications of the tribunals in Cuba, concerning citizens of the United States, made in the absence of the parties interested, or in violation of international law, or of the guarantees and forms provided for in the treaty of October 27, 1795, between the United States and Spain, may be reviewed by the arbitrators, who shall make such award in any such case as they shall deem just. No judgment of a Spanish tribunal di allowing the affirmation of a party that he is a citizen of the United States shall prevent the arbitrators from hearing a reclamation presented in behalf of said party by the United States Government; nevertheless, in any case heard by the arbitrators, the Spanish government may traverse the allegation of American citizenship, and thereupon competent and sufficient

proof thereof will be required. And it is further agreed that the arbitrators shall not have jurisdiction of any reclamation made in behalf of a native-born Spanish subject naturalized in the United States, if it shall appear that the same subject-matter having been adjudicated by a competent tribunal in Cuba, and the claimant having appeared therein, either in person or by his duly appointed attorney, and being required by the laws of Spain to make a declaration of his nationality, failed to declare that he was a citizen of the United States; in such case, and for the purposes of this arbitration, it shall be deemed and taken that the claimant, by his own default, had renounced his allegiance to the United States; and it is further agreed that the arbitrators shall not have jurisdiction of any demands growing out of contracts.

6. The expenses of the arbitration will be defrayed by a percentage to be added to the amount awarded. The compensation of the arbitrators and umpire shall not exceed \$3,000 each; the same allowance shall be made to each of the two advocates representing respectively the two governments; and the arbitrators may employ a secretary, at a compensation not exceeding the sum of \$5 per day for every day actually and necessarily given to the business of the arbitration.

7. The two governments will accept the awards made in the several cases submitted to the said arbitration as final and conclusive, and will give full effect to the same in good faith and without delay.

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

D. E. SICKLES.

His Excellency the MINISTER OF STATE.

No. 368.

Mr. Sickles to Mr. Fish.

No. 281.]

LEGATION OF THE UNITED STATES,
Madrid, February 10, 1871. (Received March 3.)

SIR: This being the usual reception day at the ministry of state, I availed myself of the opportunity to pay my respects to Mr. Martos, and to ask for a reply to my note dated the 7th instant. After a brief allusion on my part to the topics of the day, the minister stated that he had read my note attentively, and found it entirely satisfactory in all essential particulars; that he noted a few slight amendments, to which he had no doubt I would assent, as they would remove any possible ground for conflicting interpretations of the articles in question. He then sent for Mr. Millau y Caro, the official in charge of the papers, and read to me the modifications he desired. They did not in any manner deviate from your instructions, and I assented to them. Mr. Martos then stated that his amendments would be put in form and sent to me, to be incorporated in an engrossed copy of our agreement, which I promised to submit to him for his approval. I reserve my comment upon these amendments for the dispatch transmitting a translation of them.

I am, &c.,

D. E. SICKLES.

No. 369.

Mr. Fish to General Sickles.

No. 164.]

DEPARTMENT OF STATE,
Washington, February 10, 1871.

SIR: With reference to your dispatch of the 10th ultimo, No. 247, transmitting a copy of your note of the 8th ultimo, in reply to Mr. Sagasta's

communication of the 19th of December last, upon the subject of reclamations for injuries to citizens of the United States in Cuba, I have the pleasure of expressing to you my high appreciation of your note to the minister of state, as a very able statement and argument presenting the views of the Government of the United States.

I am, &c.,

HAMILTON FISH.

No. 370.

Mr. Sickles to Mr. Fish.

No. 287.]

LEGATION OF THE UNITED STATES,
Madrid, February 12, 1871. (Received March 3.)

SIR: I have the honor to transmit herewith inclosed translation of a note from the minister of state, dated yesterday, together with a translation of a paper inclosed therein, containing the several amendments suggested by Mr. Martos to the articles of agreement proposed in my note to him dated the 7th instant. I have already reported to you, in my No. 281, my assent to these modifications of my draught.

The omission of the words "corporations" and "companies" does not exclude the claims of corporate bodies or of associations, since they are, nevertheless, embraced in the more general description of the person whose injuries may be redressed by the arbitrators. Mr. Martos said he preferred to follow the phraseology descriptive of the claimants that we had heretofore employed in our correspondence.

The amendment to the clause designed to admit as claimants the legal representatives of deceased sufferers widens the scope of the original text, because, as amended, alien heirs may have indemnity if the injured parties were citizens of the United States.

The phrase "within the maritime jurisdiction thereof" substituted for "or about the island of Cuba," is more technical than the words in the original text, which were taken from your instruction No. 122. If the Spanish naval forces have committed depredations upon our commerce beyond the maritime jurisdiction of Spain, I presume you would prefer to treat such aggressions separately. On the other hand, it may be supposed that this Government will insist that its authority has only been exercised in waters or on territory within its exclusive jurisdiction, so that no claims arising out of injuries to our commerce that we choose to present to the arbitrators will be excluded by the acceptance of the more definite terms proposed by Mr. Martos.

The amendment proposed to article 5 is a mere amplification of the text.

The substitution of the words "as soon as possible" for the words "without delay," is attributable to the meaning given to the literal translation of the latter into Spanish, which the minister intimated was somewhat too peremptory for a document recognizing the good faith and the high sense of honor of both parties.

These amendments have been incorporated in an engrossed copy of the articles, which I have to-day sent to the ministry of state.

I am, &c.,

D. E. SICKLES.

[Translation.]

MINISTRY OF STATE,
 Madrid, February 11, 1871.

SIR: I have carefully examined the memorandum which you were pleased to send me in reference to the manner of accomplishing the settlement of the reclamations of citizens of the United States, in consequence of the insurrection in the island of Cuba, and finding that it conforms to what has been agreed upon and accepted in the different conferences we have held on the subject, and to the spirit of the communications that have passed between your legation and this ministry of state, I have much satisfaction in stating to you that the government of his majesty accepts the bases agreed upon, as you have prepared them, with the slight modifications that for greater clearness and precision I have the honor to suggest to you, and that when you are so disposed, the drawing up of the necessary document may be proceeded with, in order that there may be no delay in the definitive conclusion of this matter.

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

CRISTINO MARTOS.

The MINISTER PLENIPOTENTIARY OF THE UNITED STATES.

[Translation.]

MINISTRY OF STATE.

Memorandum.—In order to avoid interpretations and doubts which might embarrass the commission of arbitration in the execution of its work, the words "*corporations*" and "*companies*" may be struck out from the first lines of the memorandum presented by General Sickles. For the same reason there should be added, after the words "*citizens of the United States,*" the following, "*or their heirs,*" (*ó sus herederos,*) the paragraph which speaks of American citizens now deceased (*que hayan fallecido*) being suppressed as unnecessary.

In place of the somewhat vague expression "*in or about the island of Cuba,*" greater precision can be given to the phrase by saying "*in the island of Cuba, or within its maritime jurisdiction,*" (*en la isla de Cuba ó en sus aguas jurisdiccionales.*)

The stipulations numbered 1, 2, 3, and 4 conform entirely to what has been agreed upon.

In the fifth, after the declaration that "*the Spanish government may traverse the allegation of American citizenship,*" there should be added the following paragraph taken from the second of the bases proposed with the note of the 30th of last January: "*The commission having recognized the quality of American citizens in the claimants, they will acquire the rights accorded to them by the present stipulations as such citizens,*" (*Una vez reconocida por la comision la calidad de ciudadanos Americanos en los reclamantes, obtendrán estos los derechos que como á tales ciudadanos les reconocen las presentes estipulaciones.*)

In the 7th or last, the expression "*without delay*" may be replaced by the following: "*and as soon as possible,*" (*y á la posible brevedad.*)

MARTOS.

No. 371.

Mr. Sickles to Mr. Fish.

No. 288.]

LEGATION OF THE UNITED STATES,
 Madrid, February 12, 1871. (Received March 3.)

SIR: I have the honor to forward herewith a copy of a communication of yesterday's date addressed by me to the minister of state, embodying the agreement made by me on the part of the Government of the United States with Mr. Martos, representing that of Spain, for the settlement by arbitration of the reclamations of American citizens for injuries done to them by the Spanish authorities in Cuba during the present insurrection in that island. I have the honor to inclose also a translation of the reply of the minister of state of this day's date, assenting to the articles of agreement embodied in the aforesaid communication.

I am, &c.,

D. E. SICKLES.

LEGATION OF THE UNITED STATES,
Madrid, February 11, 1871.

SIR: I have had the honor to receive the note of to-day's date addressed to me by your excellency, proposing certain modifications of the plan of arrangement submitted to you on the 7th instant, for the adjustment of the reclamations made by my Government against that of Spain. I take much pleasure in stating that the changes suggested in the memorandum inclosed in your note have my entire concurrence, and have been duly embodied in the following record of the bases upon which we have agreed.

Memorandum of an arbitration for the settlement of claims of citizens of the United States, or of their heirs, against the government of Spain for wrongs and injuries committed against their persons and property, or against the persons and property of citizens of whom the said heirs are the legal representatives, by the authorities of Spain in the island of Cuba, or within the maritime jurisdiction thereof, since the commencement of the present insurrection:

1. It is agreed that all such claims shall be submitted to arbitrators, one to be appointed by the Secretary of State of the United States, another by the envoy extraordinary and minister plenipotentiary of Spain at Washington, and these two to name an umpire who shall decide all questions upon which they shall be unable to agree, and in case the place of either arbitrator or of the umpire shall from any cause become vacant, such vacancy shall be filled forthwith in the manner herein provided for the original appointment.

2. The arbitrators and umpire so named shall meet at Washington within one month from the date of their appointment, and shall, before proceeding to business, make and subscribe a solemn declaration that they will impartially hear and determine, to the best of their judgment and according to public law and the treaties in force between the two countries and these present stipulations, all such claims as shall, in conformity with this agreement, be laid before them on the part of the Government of the United States, and such declaration shall be entered upon the record of their proceedings.

3. Each government may name an advocate to appear before the arbitrators or the umpire to represent the interests of the parties respectively.

4. The arbitrators shall have full power, subject to these stipulations, and it shall be their duty before proceeding with the hearing and decision of any case, to make and publish convenient rules prescribing the time and manner of the presentation of claims and of the proof thereof; and any disagreement with reference to the said rules of proceeding shall be decided by the umpire. It is understood that a reasonable period shall be allowed for the presentation of the proofs; that all claims and the testimony in favor of them shall be presented only through the Government of the United States; that the award made in each case shall be in writing, and, if indemnity be given, the sum to be paid shall be expressed in the gold coin of the United States.

5. The arbitrators shall have jurisdiction of all claims presented to them by the Government of the United States for injuries done to citizens of the United States by the authorities of Spain in Cuba, since the 1st day of October, 1868.

Adjudications of the tribunals in Cuba concerning citizens of the United States made in the absence of the parties interested, or in violation of international law, or of the guarantees and forms provided for in the treaty of October 27, 1795, between the United States and Spain, may be reviewed by the arbitrators, who shall make such award in any such case as they shall deem just. No judgment of a Spanish tribunal disallowing the affirmation of a party that he is a citizen of the United States shall prevent the arbitrators from hearing a reclamation presented in behalf of said party by the United States Government. Nevertheless, in any case heard by the arbitrators the Spanish government may traverse the allegation of American citizenship, and thereupon competent and sufficient proof thereof will be required. The commission having recognized the quality of American citizens in the claimants, they will require the rights accorded to them by the present stipulation as such citizens. And it is further agreed that the arbitrators shall not have jurisdiction of any reclamation made in behalf of a native-born Spanish subject naturalized in the United States if it shall appear that the same subject-matter having been adjudicated by a competent tribunal in Cuba, and the claimant having appeared therein either in person or by his duly-appointed attorney, and being required by the laws of Spain to make a declaration of his nationality failed to declare that he was a citizen of the United States, in such case and for the purposes of this arbitration it shall be deemed and taken that the claimant, by his own default, had renounced his allegiance to the United States. And it is further agreed that the arbitrators shall not have jurisdiction of any demands growing out of contracts.

6. The expenses of the arbitration will be defrayed by a percentage to be added to the amount awarded. The compensation of the arbitrators and umpire shall not exceed three thousand dollars each. The same allowance shall be made to each of the two advocates representing respectively the two governments, and the arbitrators may employ a secretary at a compensation not exceeding the sum of five dollars a day for every day actually and necessarily given to the business of the arbitration.

7. The two governments will accept the awards made in the several cases submitted to the said arbitration as final and conclusive, and will give full effect to the same in good faith and as soon as possible.

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

His Excellency MINISTER OF STATE.

D. E. SICKLES.

[Translation.]

MINISTRY OF STATE,
Madrid, February 12, 1871.

SIR: I have had the honor to receive the note you were pleased to address me under date of yesterday, communicating to me the definitive record of the memorandum in reference to the manner of arranging the settlement of the reclamations of citizens of the United States consequent upon the insurrection in the island of Cuba, and as, in drawing up this document, you have kindly incorporated the slight modifications I proposed to you, for greater clearness and precision, in my note of yesterday in answer to yours of the 7th, I take pleasure in informing you that I entirely concur in the contents of the said memorandum.

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

CRISTINO MARTOS.

The MINISTER PLENIPOTENTIARY of the United States of America.

No. 372.

Mr. Sickles to Mr. Fish.

No. 289.] MADRID, *February 13, 1871.* (Received March 9.)

SIR: I have the honor to forward herewith a translation of a note from the minister of state, dated 4th instant, and received on the 9th, in reply to mine of July 16, 1870, acquainting me with the favorable action of the Spanish government upon the several representations made in that communication in obedience to your instructions No. 63, with reference to the oppressive regulations enforced against foreign vessels in the ports of the island of Cuba.

The Department may desire to send to the consul general at Havana the text of the minister's communication, and I therefore inclose a copy of the original in Spanish.

I am, &c.,

D. E. SICKLES.

[Translation.]

MINISTRY OF STATE,
Madrid, February 4, 1871.

MY DEAR SIR: I have received the reports of the minister for the colonies respecting the note of your excellency dated 16th July last, in which you requested that certain reforms be introduced in the customs regulations for the island of Cuba, so as to avoid the injuries of which the captains of North American vessels have complained, and in answer thereto I have the honor to inform your excellency that the principal wishes expressed in your above-mentioned note are fulfilled.

Captains of foreign vessels are no longer required to declare the tonnage of their vessels in Spanish measure, it being sufficient on the first voyage for them to make such declaration in conformity with the builder's measurement, or according to the

measurement of the respective nations to which they belong, being, however, obliged thereafter to show certificates of the measurement that shall have been used for the collection of tonnage dues, as laid down in the order of 9th of July last.

Respecting fines inflicted on captains of vessels for informalities in their manifests, or for not having presented them, in addition to the cargo list certified by the Spanish consul at the port from whence they sail, considering that in these omissions there was no intention to defraud, the said fines have been remitted in those cases in which the vessels had entered the ports of the island of Cuba since the 19th of December, 1863, that being the date when the order of the provisional government of the 11th of November then last past commenced to be in force.

The evidence hitherto required to exonerate the masters of foreign merchant vessels having been the occasion of reclamations, the administration has taken the matter into consideration, and instead of demanding certificates of the port captains, as heretofore, it is now ordained that a certificate shall be furnished from the consul at the port of arrival, showing that, according to the log-book, the vessel had not before entered a port of the island, the consuls being at liberty to ask from the captain such other facts as may appear necessary to certify with exactitude upon the matter. The fines were legally inflicted, and in remitting them the government has acted in conformity with sentiments of equity and deference. Your excellency will therefore understand that captains subjected to fines have the means to exempt themselves from payment if they fulfill the conditions indicated.

Touching the request to modify the regulations in force, it will be taken into consideration by the board engaged in the compilation of the new orders and regulations for the customs of the colonies, which will endeavor to conciliate as far as possible the interests of legitimate commerce with those of the public treasury.

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

C. MARTOS.

The MINISTER Plenipotentiary of the United States.

No. 373.

Mr. Fish to General Sickles.

No. 195.]

DEPARTMENT OF STATE,
Washington, May 4, 1871.

SIR: I transmit a copy of the protocol of the second conference between the representative of Spain and those of the allied republics of the Pacific, which was held here on the 11th ultimo. A duplicate of the articles of armistice to which it refers is also herewith transmitted. The latter you will communicate to the minister for foreign affairs of Spain with a suggestion that the ratification of that government should also be executed in duplicate, for exchange here with the representatives of each of the parties respectively, to be sent by separate conveyance. This course seems advisable with a view to guard against delay in the exchange through any possible hazards and casualties incident to communication by sea.

I am, sir, your obedient servant,

HAMILTON FISH.

Protocol of the peace conference held in Washington on the 11th day of April, 1871, the Secretary of State of the United States presiding, between the Plenipotentiaries of Spain, Bolivia, Chili, Ecuador, and Peru.

The plenipotentiaries of Spain, and of the allied republics of South America, having met at the Department of State in Washington on the 11th day of April, 1871, the Secretary of State ordered the reading of the proceedings of the previous session, and this having been approved he inquired whether Bolivia was represented as he understood.

To this the plenipotentiary of Peru replied that he had been appointed plenipotentiary *ad hoc* by the government of Bolivia, but that he could not make use of his powers before receiving the acquiescence of his government; that he would therefore act *ad referendum*, in the name of Bolivia.

This declaration having been accepted, the powers conferred by the government of Bolivia were exhibited, which were found to be in good and due form.

A discussion followed, of the different articles, between the Secretary of State and the plenipotentiaries, after which the conditions of the armistice were definitely laid down in the terms of the convention signed this day.

HAMILTON, FISH

Secretary of State.

MAURICIO LOPEZ ROBERTS,

Plenipotenciario de España.

MAN'L FREYRE,

Ministro del Peru.

MAN'L FREYRE,

En representacion de Bolivia.

JOAQUIN GODOY,

Plenipotenciario de Chili.

ANTO FLORES,

Plenipotenciario del Ecuador.

Articles of armistice between Spain, on the one hand, and the allied republics, Bolivia, Chili, Ecuador and Peru, on the other.

The mediation of the United States having been offered and accepted towards relieving Spain and the allied republics of the Pacific from the technical state of war which has existed since the hostilities of 1866, the President of the United States has, for this purpose, conferred full powers upon Hamilton Fish, Secretary of State.

His Catholic Majesty has conferred like powers on Mauricio Lopez Roberts, Knight Grand Cross of the Royal Order of Isabel the Catholic; Knight General Cross of the Order of Christ, of Portugal, grand officer of those of the conception of Portugal, and of Leopold of Belgium; Knight Commander of the Legion of Honor of France, superior chief of administration, deputy in various legislatures, envoy extraordinary and minister plenipotentiary of His Majesty Amadeo I, King of Spain, to the United States of America:

The President of the republic of Bolivia has conferred like powers on Colonel Manuel Freyre, envoy extraordinary and minister plenipotentiary of Peru to the United States of America.

The President of the republic of Chili has conferred like powers on Joaquin Godoy, envoy extraordinary and minister plenipotentiary of that republic to the United States of America.

The President of the republic of Ecuador has conferred like powers on Antonio Flores, a senator of that republic, and its minister plenipotentiary *ad hoc*.

And the President of the republic of Peru has conferred like powers on Colonel Manuel Freyre, envoy extraordinary and minister plenipotentiary of that republic to the United States of America. And the said plenipotentiaries having exchanged their full powers, which were found in due and proper form, have agreed upon the following articles:

ARTICLE I. The suspension of hostilities existing *de facto* between Spain, on the one hand, and the allied republics of Bolivia, Chili, Ecuador, and Peru, on the other, is converted into a general armistice or truce.

ARTICLE II. This armistice shall continue indefinitely and cannot be broken by any of the belligerents, save in three years after having expressly and explicitly notified the other of its intention to renew hostilities. In this case, such notification must be made through the Government of the United States.

ARTICLE III. Each of the belligerents, during the continuance of this armistice, shall be at liberty to carry on commerce freely with neutral nations in all articles in which trade is considered lawful in a state of peace, all restriction on neutral commerce therefore ceasing.

ARTICLE IV. The present agreement shall be ratified by the respective governments, and the instruments of ratifications shall be exchanged at the Department of State at Washington within four months from date.

ARTICLE V. Those governments which shall not have sent their ratification within the time fixed in the preceding article may make the exchange separately in the two months following.

ARTICLE VI. If any one of the governments, on account of circumstances over which it has no control, shall not be able to effect the exchange of the ratifications within the terms fixed in the foregoing articles, such delay shall be granted it as it may request from the other party without necessity for a new agreement.

ARTICLE VII. The proceedings for the ratification and exchange shall not interfere with the continuation of the conferences designed for the negotiation of a peace.

In testimony of the stipulations made in the foregoing seven articles, the undersigned, Secretary of State of the United States, in the character of mediator, and the plenipotentiaries of Spain, Bolivia, Chili, Ecuador, and Peru, have signed the foregoing agreement at the Department of State at Washington on the eleventh day of April, 1871.

HAMILTON FISH.
 MAURICIO LOPEZ ROBERTS,
Plenipotenciario de España.
 MAN'L. FREYRE,
Plenipotenciario del Peru.
 JOAQUIN GODÓY,
Plenipotenciario de Chili.
 ANTONIO FLORES,
Plenipotenciario del Ecuador.
 MAN'L. FREYRE,
Plenipotenciario de Bolivia.

No. 374.

Mr. Sickles to Mr. Fish.

No. 349.] LEGATION OF THE UNITED STATES,
 Madrid, May 30, 1871. (Received June 20.)

SIR: In a recent conversation with a distinguished Spanish general, whose official employments afford him ample means of accurate information, he told me that more than forty millions of dollars had been expended for military purposes during the past year in Cuba. He did not state whether or not this large sum included any portion of the amount disbursed for the fleet of gun-boats maintained in those waters especially with reference to the insurrection.

My informant added that the aggregate force under arms exceeded one hundred thousand men, more than half of whom were regular troops, and that the losses of the army of Cuba, from the various casualties of the service, exceeded eighteen thousand men. It was his impression that the insurgent force did not number more than six thousand of all arms.

I hear from trustworthy sources, likely to be well informed, that the insurgents have lost no ground of importance; that their troops are better armed and better disciplined than heretofore; and that, in several recent actions, they have gained considerable advantages over the Spanish troops, many of whom are represented as deserting to the insurgents. Reports of the most cruel severities against prisoners of war and against non-combatants, perpetrated by both parties, continue to reach Madrid.

The consul at Cadiz informs me that several detachments of troops, destined for service in Cuba, have embarked from that port within the past two months.

I am, &c.,

D. E. SICKLES.

No. 375.

Mr. Sickles to Mr. Fish.

No. 357.] LEGATION OF THE UNITED STATES,
 Madrid, June 17, 1871. (Received July 3.)

SIR: In compliance with your instruction No. 195, I have communicated to the minister of state the duplicate of the articles of armistice

concluded between the representatives of Spain and the allied South American republics at the conference held at Washington on the 11th of April last, and at which you presided. At the same time, in an interview with his excellency yesterday, I informed him of your suggestion that the ratification of this government should also be executed in duplicate, for exchange at Washington with the representatives of each of the parties, respectively, and that these documents should be forwarded by separate conveyances, as a precaution against delay in the exchange through any possible hazard or casualty incident to communication by sea.

Mr. Martos desired me to convey to you his deep sense of the service rendered to Spain by the mediation of the United States in this proceeding, and that he hoped your good offices would be crowned with equal success in the settlement of a firm and lasting peace between Spain and the allied republics, with whom this country desired to cultivate the most friendly relations. The minister added that your suggestion with reference to the exchange of ratifications would be followed.

I am, &c.,

D. E. SICKLES.

No. 376.

Mr. Fish to Mr. Sickles.

No. 209.]

DEPARTMENT OF STATE,

Washington, June 20, 1871.

SIR: Your dispatch No. 351, of the 1st instant, has been received.

It may be premature for the Department to express an opinion in regard to the proposed new Spanish prize-code in the absence of a copy of the bill which you propose to forward hereafter, or to authorize you to protest against its application to captures off Cuba, until the bill shall become a law. The passage in the report of Mr. Beranger to which you refer seems to justify your remark in regard to the incompatibility of the application of the proposed code to captures connected with hostilities in Cuba to the claim of the Spanish government on foreign nations to regard that contest as a mere seditious movement. If, however, a proper opportunity should occur, it may not be amiss for you to refer to this subject in unofficial conversations with the minister for foreign affairs and other persons in authority.

I am, &c.,

HAMILTON FISH.

No. 377.

CORRESPONDENCE BETWEEN THE DEPARTMENT OF STATE AND THE SPANISH LEGATION AT WASHINGTON.

Mr. Lopez Roberts to Mr. Fish.

[Translation.]

WASHINGTON, December 17, 1870. (Received December 17.)

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor herewith to send to the honorable Secretary of

State a copy of the communication which the consul of Spain at New York, in the fulfillment of his duty, addressed on the 8th instant to the district attorney of the southern district of New York, in relation to the steamer Hornet; and he likewise sends a copy of that which the said consul has received in reply from Mr. Noah Davis.

Since then, or rather on that same day, the steamer Hornet put to sea from the port of New York without the judicial authorities of the Federal Government having taken such measures to prevent her departure as should have been dictated to them by the circumstances and criminal antecedents of the aforesaid vessel. Not only has this happened, but it further clearly appears, from the annexed letter of the district attorney, that this functionary entertains the very singular opinion that, for a crime which is being committed in the territory of the United States, it is not of these (the United States) that the government of Spain ought to ask justice and the maintenance of the laws of the country, but that it ought to address the British authorities.

This intelligent and skillful lawyer, in forming such a resolution, doubtless did not previously consult the Federal Government; had he done so, he would without doubt have been reminded of the exact similarity which exists between this case of the steamer Hornet and those of certain vessels which, in the year 1862, left the ports of Great Britain. It is further evident to the undersigned that the Hon. Noah Davis did not consider the language used by Mr. Hamilton Fish in his dispatch of September 25, 1869, to the minister of the United States at London, when he alluded as follows to the claims which had their origin in the infractions of the law of neutrality tolerated by the English authorities during the Southern rebellion:

“We hold that the international duty of the Queen’s government in this respect was above and independent of the municipal laws of England. It was a sovereign duty attaching to Great Britain as a sovereign power. The municipal law was but a means of repressing or punishing individual wrong-doers; the law of nations was the true and proper rule of duty for the government.”

And further:

“But the Government of the United States has never been able to see the force of this alleged difficulty. The common law of England is the common law of the United States. In both countries, and certainly in England, revenue seizures are made daily, and ships are prevented from going to sea on much less cause of suspicion than attached to the suspected ships of the confederates.”

The terms of this remarkable dispatch of Mr. Hamilton Fish are of immense importance by reason of their significance in a matter like the present, and the undersigned cannot comprehend how this can have remained unnoticed by the district attorney in writing a letter which reproduces a similar case, and of the same kind and nature as one of those which the Government of the United States has pending for settlement with Great Britain, and which may, in the end, lead Spain to think herself fully justified in bringing a claim, in the same sense, against the United States.

It is not the purpose of the undersigned now to enter upon a discussion of the points to which so grave and delicate a question may give rise; his object is only to show in this note some of the most important facts, which should not be lost sight of in the matter in question.

The steamer Hornet is still the property of the same individual, Macias, who purchased it from the Federal Government in 1869. The formalities ordered by law to be made for the transfer of property in

vessels were gone through in the New York custom-house by one George W. Brown, of said city. This George W. Brown has figured, since the year 1869, as the organizer of all the filibustering expeditions undertaken by the steamer *Hornet*. This same Brown is the one who, in 1869, furnished the arms, munitions, and coal necessary for this vessel when she was off the coast of Long Island preparing to commence her acts of piracy against the commerce of a friendly nation.

The undersigned feels bound to call the attention of the honorable Secretary of State to some of the main incidents which form a part of the subsequent history of this vessel, and which are public and notorious.

Mr. Hamilton Fish has certainly not forgotten the detention of the *Hornet* in the port of Wilmington. The officers and men of this pirate were indicted, and a suit which was commenced for so legitimate a cause, in which public justice was interested, was not continued. If the Federal Government had given the necessary orders for it to be continued in the courts of justice, it is not to be doubted that, at the present moment, the steamer *Hornet* would not be about to commence new and criminal adventures.

It is also the duty of the undersigned to remind the honorable Secretary of State of the incident which relates to the return of the *Hornet* on the 7th of June last to her owner Macias. Should not this restitution be considered in itself alone, and in a certain sense, as an incomprehensible act of neglect which has just been made more evident by the recent departure of the *Hornet*?

On the 6th of October, 1870, the steamer *Hornet* is again detained in the port of New York, on petition of the consul of Spain; but nine days afterward the order for her detention is revoked, on account of affidavits made by a certain White, and by Macias and Brown—that is, by the parties interested; the course of justice being thus altered, and the courts of the country being prevented from taking cognizance of and deciding with regard to the guilt of said vessel.

Finally, the *Hornet* gets ready to sail from New York, and the consul of Spain informs the district attorney that, according to the information which he possesses, the said vessel is going to convey an armed expedition to the island of Cuba, and the district attorney pays no regard to these statements nor to the documents presented to him, and pretending to be ignorant of the history of this pirate vessel, forgetting the names of her owner and of the agent who represents him, he replies to the consul of Spain that, from the careful examination which he pretends to have made of the cargo of the vessel, he has found, on the part of the persons dispatching her, no hostile intention. But the undersigned takes the liberty of calling the attention of Mr. Hamilton Fish to the noteworthy fact that the district attorney in no wise seeks to conceal from the consul the knowledge which he has of the future movements of the steamer *Hornet*. He admits that the vessel is, indeed, going to an intermediate port before arriving at that of her final destination. So that the whole argumentation of Mr. Noah Davis consists in throwing the responsibility upon the authorities of this intermediate port; a responsibility which must eventually rest upon the power which has permitted this pirate freely to leave one of its ports.

The undersigned regrets to find himself compelled to call the attention of Mr. Hamilton Fish to the gravity of the facts which he has just set forth, and he avails himself of this occasion to reiterate to him the assurances of his highest consideration.

MAURICIO LOPEZ ROBERTS.

NEW YORK, December 8, 1870.

SIR: The Secretary of State of the United States has informed his excellency the minister of Spain that all complaints or information in respect to violations of the neutrality laws of this Government to the prejudice of the lawful authority of Spain, shall be presented to you as the prosecuting officer of the United States. In obedience to this suggestion it becomes my duty to call your attention to the steamer *Hornet* now just on the eve of departure from this port upon an enterprise in violation of public law and in palpable disregard and disobedience of the proclamation of the President of the United States of October 12, 1870.

The career of this steamer is not unfamiliar to you. She was purchased from the Navy Department of this Government, as is understood, in June, 1869, in behalf of the Cuban insurrectionists. In that transaction one Macias, in whose name the steamer to-day stands in the books of the custom-house of this port, has avowed himself the purchaser. On or about August 1, 1869, the steamer was cleared at Philadelphia for Queenstown, but near Reedy Island, taken back to Philadelphia, subsequently released by orders from Washington, and sailed for Halifax, where she arrived August 18, 1869. In that port she was arrested by the British authorities, but discharged on finding no arms on board. The steamer shortly after left Halifax and at "No Man's Land," near the Massachusetts coast, took on board two sixty-pound Parrott guns and two twenty-four-pound howitzers, with complete outfit of carriages and powder, together with a great quantity of small-arms and sailors. From "No Man's Land" the steamer proceeded to the coast of Long Island Sound and to Fire Island light, where, within the jurisdiction of this Government, she took on board twenty sailors and small-stores, 150 tons of coal, provisions, marines, and naval officers; soon after this was done, the steamer put to sea, and one Higgins took command of her and announced she was a man-of-war of the republic of Cuba, changing her name to *Cuba*. She ran into the port of Wilmington for coal, was there seized, libeled, and claimed as belonging to the republic of Cuba. Subsequently, on June 7, 1870, the steamer was released on application of the said Fernando Macias, upon bonds, given to the satisfaction of this Government; came to the port of New York, and was placed in the hands of George W. Brown, of this city, (as agent for said Macias,) who fitted out the said steamer from this port just after she left "No Man's Land," as aforesaid.

On October 6, 1870, the steamer was again seized and libeled in this port by your direction, on the request of this consulate dated October 5, 1870, but released October 15, 1870, on affidavits of the aforesaid Macias and Brown, and one White, against the earnest protest of this consulate and that of its consul, dated October 13, 1870, to which I respectfully call your attention.

I have now information on which I rely with perfect confidence, that this steamer in the hands of said Macias and his agents is being fitted out in this port to at once sail, to take on board at sea a military expedition from Nassau of some two hundred men and military officers, which will leave there in a vessel, and another military expedition from Key West of some one hundred men under command of one Cabaleiro, after all of which, and taking on board at sea arms provided, one Cisneros (who with General Jordan was joint commander of the Perit expedition from this city) will take charge of and conduct her to the coast of Cuba.

I respectfully submit that the ownership and history of this steamer, together with her outfit on board and her preparations, easily ascertainable by this government if prompt movement be made, are sufficient to call for the exercise of the ample preventive power of this government against her departure. Trusting that, in a proper way I have complied with the disposition of this government that I lay complaints of this character before you, I hereby leave in your hands the responsibility of permitting this formidable instrument to proceed on her illegal expedition to the great injury of my government.

I may be permitted to add that at this moment the steamer has not been cleared at the custom-house.

I have, &c.,

SE DE URIARTE,
Consul General of Spain.

HON. NOAH DAVIS,
Attorney of the United States.

Está conforme.

LOPEZ ROBERTS.

OFFICE OF THE DISTRICT ATTORNEY OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF NEW YORK,
New York, December 8, 1870

SIR: I have this moment your favor of this date.

You accompany your letter with no proof or evidence that would authorize me to seize the *Hornet* for the alleged intended breaches of our neutrality laws, or to take

any steps beyond those I have already taken. I have caused the most rigid scrutiny to be exercised to see that the *Hornet* has taken on board nothing of a nature to indicate the hostile intentions you mention. I am advised that her intention is to clear and to sail in ballast for Nassau. What her intentions may be on reaching that port are things that remain unproven, and in nowise indicated except by the intimations of your favor. I cannot legally act on mere surmise; but if furnished with proper evidences I shall not hesitate to take any steps necessary to prevent violations of our laws. For intended violations of British laws, the remedy, if any, must be sought at the hands of British authorities.

I am, &c.,

NOAH DAVIS.

Está conforme.

LOPEZ ROBERTS.

No. 378.

Mr. Lopez Roberts to Mr. Fish.

WASHINGTON, December 17, 1870. (Received December 17.)

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, regrets to be again compelled to call the attention of the honorable Secretary of State of the United States to the matter of the American steamer *George B. Upton*, and the filibustering military expedition which, in the month of May last, was conveyed by the said vessel from the port of New York to the island of Cuba. On the return of the *Upton* to New York, with its officers, crew, and three of the principal promoters of that enterprise, organized and carried out in violation of the laws of the United States, the undersigned had the honor of placing in the hands of the honorable Secretary of State copies of three affidavits made in New York by persons who formed a part of the expedition, in which was shown the true character of the same, and to request that steps might be taken to inflict due punishment not only upon the delinquent steamer, but also upon any individual guilty of having assisted on that occasion in conveying supplies of arms to the insurgents of Cuba.

In view of the observations made by the undersigned, the honorable Secretary of State ordered the matter to be investigated by the district attorney of New York, and in consequence thereof the undersigned caused to be submitted to the examination of the aforesaid authority the three affidavits aforementioned, together with the steamer's log-book.

The district attorney has not only refused to embargo the vessel, but also to bring any criminal action against its officers or against the promoters of the expedition, who then were and still are within reach of the judicial authorities of his district. He bases his refusal in regard to the vessel on the fact that, since her criminal voyage, she has been sold and is now the property of persons who, as he states, are innocent and honorable men; and in regard to the individuals, on the consideration that, in virtue of the proclamation of the President of the United States of October 12, 1870, all offenses against international or municipal law committed in this country previous to said proclamation, the object of which was to grant pardon or condonation to this class of offenses, are to be considered as pardoned or condoned.

It is important to add that, both in the matter of the steamer and of the individuals, the district attorney did not hesitate to declare his opinion that the testimony presented was sufficient to justify the adoption of the measures requested by the undersigned, and that the trans-

fer of the steamer, if a transfer was really made, to other owners took place with knowledge, on the part of the latter, of its previous guilty career, and of the punishment which, for that reason, threatened it.

The undersigned does not doubt for an instant that the Secretary of State will find in the aforesaid affidavits and in the copy of the log-book of the Upton sufficient proofs that the purchase of the vessel, the selection of its officers and crew, the recruiting and organization of the persons who went on board, the instruction which they afterward received in military drill and their landing as armed troops, the purchase and shipment of arms and munitions of war, and its clearance at the New York custom-house, constituted a military expedition commenced in this country in order to operate against the legitimate authorities in the island of Cuba, and that any person who took part therein should be considered as guilty, the acts of such being punishable by the law of the United States with fine and imprisonment.

In order to show the importance of a decision as to whether all the rigor of the penalty provided by the laws of this Government against crimes so grave as those which characterize the proceeding of the Upton should be applied to the persons principally implicated, such as Dornin, Somers, Brown, Kingsbury, Cisneros, Fernandez, and Muñoz, the undersigned begs the honorable Secretary of State to consider the following circumstances :

1st. Dornin served as second officer, Somers as ensign, and Muñoz as midshipman, on board of the steamer *Hornet*, which commenced in 1869 to make her preparations at Philadelphia, continuing the same at Queenstown, on "No Man's Land," on the coast of Massachusetts on Fire Island, near Montauk Point, and, finally, near the light-ship stationed at the entrance of the port of New York, localities which are all within the jurisdiction of the United States, for the purpose of cruising against the commerce and destroying the property of Spain.

2d. George Brown, at that time belonging to the house of Phillips & Brown, shipping brokers, established at No. 155 South street, in New York, and now residing in said city, was the agent of the Cuban rebels for the procurement of seamen, soldiers, supplies for the vessel, and munitions of war for the aforesaid steamer *Hornet*; subsequently, on the voyage of the latter to Queenstown, and her return via "No Man's Land" to the coast of New York, where, at the distance of three miles from the revolving light at Fire Island Inlet, she received from a vessel proceeding from New York in charge of the said Brown, seamen and provisions, and still later, behind Montauk Point, about half a mile from Long Island, she received from a schooner a quantity of coal sent by the same Brown, and soon afterward, from another vessel proceeding from New York, and under the personal direction of Brown, provisions and men, with three officers named Reid, Somers, and Mason, and, finally, more men and provisions from a steamer also in charge of Brown, on a line with the light-ship at the entrance of the port of New York. Proofs are abundant that the said Brown busied himself for more than a year with the greatest zeal and quite openly in the interests of the Cuban junta of New York, and of other persons of equally evil intentions, in organizing and preparing military expeditions in that and other ports destined to operate against the legitimate authorities of the island of Cuba, and thus far he has suffered no punishment.

3d. E. B. Kingsbury, of whom mention has already been made, served as boatswain (*contramarstre*) of the crew of the *Hornet* and has his office at No. 155 South street, in the city of New York, at which place Brown's office was likewise when the latter furnished the equipments of

the *Hornet* and of various other expeditions against Cuba, which circumstance proves that the said individual established himself, with full knowledge of what he was doing, in the very center of the persons who are conspiring in New York against the neutrality of this country.

4th. Cisneros, who embarked on board of the *Upton* and when on the high seas assumed and exercised military command over the men who were on board, was, together with the so-called General Jordan, chief of the military expedition which left New York in May, 1869, on board of the steamer *Perit*, and landed the men and cargo on the coast of Cuba. This steamer was the property or was under the orders of Messrs. Spofford, Tileston & Co., of New York, who ordered the captain, in writing, to obey, in regard to the place and manner of effecting the landing in Cuba, the instructions which might be given him by the aforesaid Jordan and Cisneros, who were on board.

Very well, although the said individuals have been for some time in the city of New York, the district attorney has not seen fit to institute criminal proceedings for the aforesaid acts, or for any other of their numerous offenses against the laws of the United States. In order more fully to show what opinion ought to be formed as to whether the persons concerned in the expedition of the *Upton* ought to remain unpunished or not, the undersigned takes the liberty to state the following facts, viz: One Nicholas H. Sling was the person who directed the movements of the *Hornet* from the time of her departure from Philadelphia until the moment when she received her last contingent of men and munitions of war at the entrance of the port of New York, when he gave up the command to Commodore Higgins. David A. Telfair, Louis French, Chief Engineer Richard H. Gibson, Ensign Donald G. Monroe, commander of marine infantry, William D. Phillips, midshipman, and John Lynch, of the crew of said vessel, were indicted at Wilmington before Commissioner Rutherford, for offenses committed in connection with the *Hornet*, transferred from that place by order of the judge of the court of the district in which is situated Cape Fear, in North Carolina, to the eastern judicial district of New York, and, on the 8th of November, 1869, obliged to furnish bail in Brooklyn for their appearance for trial in one thousand dollars each, and yet, notwithstanding the notoriety of these acts, no steps have been taken to indict those who committed them before a grand jury, or to cause them to feel in any way the consequences of their criminal deeds. The undersigned is far from wishing to make any suggestion which could be interpreted as an interference in the administration of the laws of this country in that which relates to past offenses against neutrality, yet he cannot avoid the conviction that the Secretary of State will agree that an indulgence like the one shown toward the individuals last named, and which the district attorney proposes to observe toward the culpable participants in the expedition of the *Upton*, tends to preserve and encourage the state of things in New York relative to expeditions against Cuba, which, as the undersigned believes, is deplored by this Government no less than by that of Spain. With regard to the principal delinquents on board of the *Upton*, long known as violators of the law, it certainly seems as if they had been stimulated and encouraged by the indulgence hitherto shown them by a benevolent government. In the judgment of the undersigned, observations like those which have just been made with respect to individuals, are applicable to the determination of the district attorney not to proceed against the *Upton*. The circumstance of there being new owners, who purchased it with full knowledge of the prosecution which threatened it, should certainly

not be sufficient to set aside the culpability of the vessel, which was engaged in conveying a filibustering expedition against a nation friendly to the United States, causing the loss of many lives, and the destruction of many interests and much property. It is evident that the agents of the insurrection in Cuba, who have fixed the base of their operations in New York, need transport-vessels for the conveyance of military expeditions. If these vessels are purchased by the guilty parties and become the property of the conspirators, every consideration of justice requires that they should suffer the loss of their property, and that they should be so far prevented from engaging in future enterprises of this kind. And if there are masters of vessels who, knowing the purpose to which their property is destined, (as happened in the case of the *Perit*,) load them in order to break the laws established for the maintenance of the duties of international neutrality, they should, in the judgment of the undersigned, be made to feel the legal consequences of their conduct in the improper employment of their property. This Government has shown itself indulgent toward the *Perit*, which conveyed Jordan's first expedition; toward the *Catharine Whiting*, the *H. M. Cool*, the *Jonathan Chase*, steamers which aided in the Ryan expedition, and toward the *Hornet*, which was detained, first at Philadelphia, afterward at Wilmington, North Carolina, and for the third time in New York, in October, 1870.

Not one of these vessels has been brought to trial, although all have been detained, with the exception of the *Perit*, the respective district attorneys under whose jurisdiction they came consenting that they should be set at liberty.

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

MAURICIO LOPEZ ROBERTS.

No. 379.

Mr. Fish to Mr. Lopez Roberts.

DEPARTMENT OF STATE,

Washington, December 28, 1870.

The undersigned, Secretary of State of the United States of America, has the honor to acknowledge the receipt of the two notes which Mr. Lopez Roberts, the envoy extraordinary and minister plenipotentiary of Spain, did him the honor to address to him on the 17th instant. One of these notes incloses copies of a correspondence between the Spanish consul at New York and the district attorney of the United States for the southern district of New York, in relation to the steamer *Hornet*.

In transmitting this correspondence Mr. Lopez Roberts avails himself of the opportunity to make certain comments upon the conduct of some of the officers of the United States towards that steamer. If the undersigned correctly apprehends the purpose of that note of Mr. Lopez Roberts, its complaints relate to acts said to have been done, or omitted to be done, at two distinct periods. Those first complained of are charged as happening about the time when the correspondence took place between the Spanish consul and the district attorney. The remaining charges relate to matters that took place prior to that correspondence, and which have no connection with it. With regard to the first complaint, it would appear, from the correspondence transmitted

by Mr. Lopez Roberts, that the Spanish consul at New York, on the 8th instant, informed the district attorney for the southern district of New York that, in compliance with a supposed intimation or suggestion from the Secretary of State, he called his attention to the steamer *Hornet*, that that steamer had been formerly employed in illegal expeditions against Cuba; that she had been libeled for this at Wilmington; that on the 7th day of June last, bonds were given for her discharge, and she was released; that she was then brought to the port of New York; that the Spanish consul again made complaint against her, and she was again seized and libeled on the 6th day of October last; that, application being made for her release, a hearing was had before the court, in which the Spanish consul took part; that, as the result of that judicial hearing, she was again released; that the consul, at the date of his letter, had information, on which he relied with perfect confidence, that the steamer was being fitted out in the port of New York for the purpose of proceeding to sea, and there taking on board military expeditions from Nassau and Key West, and conducting them to the coast of Cuba; that he thought his note to a local prosecuting officer as "sufficient to call for the exercise of the ample preventive power of this Government against the departure;" and that he left in the hands of that officer the responsibility of permitting the vessel to proceed.

The district attorney appears to have replied to this note, on the same day, that there was no proof or evidence in it which would authorize him to seize the *Hornet*, or to take any steps beyond those which he had already taken; that he had caused a rigid scrutiny to be exercised in order to prevent the *Hornet* from taking on board anything indicating hostile intentions; that he had been advised that it was the purpose of that vessel to clear for Nassau; that he could not act legally on mere surmise; but that, if proper evidence were furnished, he would take any steps necessary to prevent violations of the laws of the United States.

It is further charged in Mr. Lopez Roberts's note that the steamer *Hornet* on the same day put to sea, without such steps "having been taken to prevent her departure as should have been dictated by the circumstances and criminal antecedents of the aforesaid vessel."

The undersigned has the honor, in reply to this portion of the first note of Mr. Lopez Roberts, to say that it appears from this correspondence that the *Hornet*, having been seized on the complaint of the Spanish consul only two months before the date of the correspondence, and a hearing in which the Spanish consul took part having resulted in the discharge of the vessel, no subsequent proof, or anything in the nature of legal evidence other than a repetition of that which had already been passed upon by the court, and been decided to be insufficient for the detention of the vessel, had been furnished by the consul, or by any other Spanish official; that, nevertheless, the district attorney offered to again take steps to detain the *Hornet*, if proof were furnished which would warrant him in so doing, which proof was not furnished.

The undersigned takes the liberty to call the attention of Mr. Lopez Roberts to the fact that a district attorney of the United States is an officer whose duties are regulated by law, and who, in the absence of executive warrant, has no right to detain the vessels of American citizens without legal process, founded not upon surmises, or upon the antecedent character of a vessel, or upon the belief or conviction of a consul, but upon proof submitted according to the forms required by law. Although it appears to the undersigned that in this case the district attorney complied with his duty, and would not have been justified in

taking steps for the seizure of the *Hornet* in December, on the unsupported representations of the consul, after the failure of that officer to furnish the requisite proof to authorize her continued detention, yet, as Mr. Lopez Roberts seems to think that there may have been a dereliction of duty, the undersigned will transmit to the head of the Department of Justice, to whom the district attorney for the southern district of New York is subordinate, a copy of Mr. Lopez Roberts's complaint, and of the correspondence inclosed in his note.

The undersigned, in taking leave of this branch of the subject, invites the attention of Mr. Lopez Roberts to the inaccuracy of the Spanish consul at New York, when he states that "the Secretary of State of the United States has informed his excellency the minister of Spain that all complaints or information in respect to violations of the neutrality laws of this Government, to the prejudice of the lawful authority of Spain, shall be presented to you, (the district attorney,) as the prosecuting officer of the United States." It is undoubtedly true that the undersigned did request Mr. Lopez Roberts, for convenience in the judicial proceedings which might be begun, as well as to secure promptness of action in the courts when necessary, to say to the consuls of Spain that they would be authorized to lay before the prosecuting officers of the United States, without previous transmission to the undersigned through the Spanish legation at Washington, any legal proof of a violation of its laws that might be in their possession. The undersigned was thus able to show to the government of Spain that the United States would omit nothing that could be reasonably deemed essential to the performance of their duties toward Spain. But it was not the purpose of the undersigned to surrender to these subordinates the respective right and duty of making and receiving all complaints in respect to any alleged violation of the neutrality laws of this country, to the prejudice of the lawful authority of Spain. Such a proceeding would not have accorded with the dignity of this Government, or with the respect which it entertains for its ancient ally and friend. It is also reasonable to conclude from the transmission of this note to the undersigned, that Mr. Lopez Roberts regards the subject in the same light, and that when he inclosed in his note a copy of the consul's letter, he failed to consider with his usual care the latitude of its signification.

The remainder of the note, to which the undersigned is now replying, is devoted to a criticism upon the conduct of the Government of the United States with reference to the previous career of the *Hornet*. The second note of Mr. Lopez Roberts, of the same date, is devoted to the examination of the conduct of this Government toward certain other vessels and persons charged with past violations of the neutrality laws of the United States connected with previous alleged expeditions against the island of Cuba. The undersigned proposes to treat these subjects together.

Mr. Lopez Roberts claims that he has shown by satisfactory proof that the vessels known as the *Perit*, the *Catherine Whiting*, the *H. M. Cool*, the *Jonathan Chase*, the *George B. Upton*, and the *Hornet*, have been engaged in aiding the insurrection in Cuba, in such a way as to violate the laws of the United States known as the "neutrality laws." He also says that in his judgment the owners of all vessels who, "knowing the purpose for which their property is destined, load them in order to break the laws established for the maintenance of the duties of international neutrality, should be made to feel the legal consequences of their conduct in the improper employment of their property." He further gives the names of sundry persons who, in the city of New York

and elsewhere in the territory of the United States, are said to have aided and abetted in alleged violations of the laws of the United States in one or more of these expeditions. With regard to most of these persons, he sets forth with some detail a variety of acts, which were said to have been committed prior to the 12th day of October last.

It would also appear, from the statement of Mr. Lopez Roberts, that some efforts have been made by Spanish officials to induce the district attorney for the southern district of New York to proceed against some of these vessels or persons, and that he has decided that, in some of the cases, no proceedings can be had, for technical reasons that are stated in Mr. Lopez Roberts's note, and that, as to the individuals named, no proceedings can be maintained, because it is supposed by him that under the operation of the proclamation of the President of the United States, dated October 12, 1870, all offenses against international or municipal law referred to in the proclamation were pardoned or condoned.

He also complains, in the case of the *Hornet*, that the proceedings which were begun against that vessel at Wilmington were not prosecuted to final judgment and execution; and he adds that, "if the Federal Government had given the necessary orders for it to be continued in the courts of justice, it is not to be doubted that, at the present moment, the steamer *Hornet* would not be about to commence new and criminal adventures."

He complains of the restitution of the *Hornet* as "an incomprehensible act of neglect." He says that while he "is far from wishing to make any suggestion which could be interpreted as an interference in the administration of the laws of this country in that which relates to past offenses against neutrality, yet he cannot avoid the conviction that the Secretary of State will agree that such an indulgence * * * tends to preserve and encourage the state of things in New York relative to expeditions against Cuba."

It would be a sufficient answer for the undersigned, in reply to these portions of Mr. Lopez Roberts's notes, to say that his very proper disclaimer of a purpose to interfere in the administration of the laws of this country in that which relates to past offenses against neutrality, renders all these statements irrelevant. So long as the rights in the domestic tribunals of the United States which are secured to the subjects of Spain by treaty are not invaded, and so long as the officials of the United States manifest the readiness which they have ever shown to prevent attempted violations of the laws enacted to enforce their international obligations, a criticism upon the conduct of the courts of the United States in the treatment of persons charged with past offenses could not but be regarded as a step beyond the recognized bounds of diplomatic correspondence. It may not, however, be improper, while accepting the disclaimer of Mr. Lopez Roberts, to indicate to him the leading motives which prompted the benevolent act of the President and the merciful policy of this Government.

A fierce and sanguinary conflict had been raging for two years in the island of Cuba when the President's proclamation of October 12 was issued. That this conflict originated in a sense of wrongs sustained through a long series of years of misgovernment prior to the outbreak of the late revolution on the Peninsula, would probably not be denied by the eminent men who were at the head of that revolution. On the contrary, it is understood that they have been free in the expression of their regret that the Cubans would not trust the remedy of their undoubted grievances to the hands of the liberals of Spain.

In the prosecution of this contest several decrees were made by the

Spanish authorities which interfered with, or threatened to interfere with, the rights of citizens of the United States. The United States took occasion in advance to express their dissatisfaction with such decrees, and to point out how they might conflict with the rights of their citizens.

In the progress of events the sympathies of large portions of the people of the United States naturally became interested in the struggle to throw off a political connection which had entailed upon Cuba an onerous system of taxation, and which had deprived it of its autonomy. This natural feeling was increased and vivified, when it became known that the insurgents were further contending for a cause for which the American people had themselves suffered so much—the abolition of African slavery.

The Government of the United States felt constrained by its international duties not to permit itself to be controlled by this popular sympathy. The authorities of Spain denied that the insurrection possessed that civil and political organization, and that probability of success, which would require the other national powers to accord to it the right to carry on a recognized war, and this Government admitted that such was the case, and has continued so to regard it up to the present time.

In the course of the struggle, as had been foreseen, the rights of citizens of the United States were affected by the steps taken by the Spanish authorities to crush the insurrection. It being found inconvenient to refer all such cases to Madrid, Mr. Lopez Roberts was, upon the request of this Government, authorized to settle by agreement with the captain general of Cuba, without consulting the Spanish government, questions arising with this Government or its citizens, from the circumstances through which the island of Cuba was passing, except in cases of disagreement with the superior authority, or in a case of such gravity that, in the judgment of Mr. Lopez Roberts, it might require previous consultation with the government.

Under the operation of this regulation, various representations were from time to time made to Mr. Lopez Roberts by the undersigned, and questions were thus amicably adjusted, until the power was withdrawn by the government at Madrid, "*in view*," as the undersigned was afterward officially informed, "*of the favorable situation in which the island of Cuba then was.*"

It was understood here, both from representations made to the American minister at Madrid, and from the views repeatedly expressed by the Spanish minister at Washington, that the "favorable situation" referred to was the supposed extinction of an organized armed resistance to Spanish authority in Cuba.

The President did not and would not suppose that the government of Spain would lessen the means of protection to the persons and properties of citizens of the United States in Cuba, which it had extended during the insurrection at the request of this Government, unless it was convinced that the insurrection, which made it necessary, had virtually ceased. He could not and would not assume that a government which had maintained such friendly relations with this Government would voluntarily do so unfriendly an act as to withdraw, without notice, the powers conferred upon Mr. Lopez Roberts at its request, unless it was convinced that the necessity for them had ceased in consequence of the suppression of the insurrection. He was pleased to believe that, in the opinion of the Spanish government, the danger from the insurrection was over; that the time for milder measures had come, and that the blessings of peace were to follow. It did not appear to him that the re-

straints upon the commerce of the United States and upon the free movements of their citizens—measures which had been taken because the maintenance of the obligations of the United States as one of the family of nations appeared to require them—should be longer imposed. It did not seem to this Government that good could come from continuing preventive, much less punitive proceedings against individuals or vessels, when the cause which prompted the alleged illegal acts was supposed to have disappeared. It was believed to be in harmony with the humane policy which has characterized this Government, that a suspension of the rigid prosecutions of offenses (partaking of a political character) growing out of a sympathy with a political struggle in a neighboring island, might well take place. It was hoped that the benevolent example of the United States in this respect might, perhaps, be reflected in the policy of Spain toward Cuba. It was believed that the reforms which had been so often promised to the representative of the United States at Madrid were about to be granted; that the blot of slavery would disappear; that the right of colonial self-government would be given to the island; that the burdensome system of taxation would be abolished, and that, peace being restored, all the desired reforms being granted, and amnesty and pardon being given, the Government of the United States would be relieved from the disagreeable duties which it had performed for about two years.

Mr. Lopez Roberts will find in these considerations an evidence of the generous purposes and desires of the Government of the United States toward his government and toward the island of Cuba, and its logical action in reliance upon the promises and the representations of the Spanish government, and of its esteemed representative to this Government. He will permit the undersigned also to say (in reply to his suggestion that these persons have been stimulated and encouraged by the indulgence hitherto shown them by a benevolent government) that it seems to the undersigned that they have found their encouragement and their stimulus, not in the humane course of this Government, but in that love of liberty and in that sympathy with communities struggling against oppression, and for freedom, which is the portion of all generous natures; and that such stimulus and encouragement will fail them when Spain shall imitate the benign policy of the United States.

Mr. Lopez Roberts also does the undersigned the honor to quote with approval, from a dispatch from the undersigned to Mr. Motley, the following passages:

We hold that the international duty of the Queen's government in this respect was above and independent of the municipal law of England. It was a sovereign duty, attaching to Great Britain as a sovereign power. The municipal law was but a means of repressing or punishing individual wrong-doers; the law of nations was the true and proper rule of duty for the government.

But the Government of the United States has never been able to see the force of this alleged difficulty. The common law of England is the common law of the United States. In both countries, and certainly in England, revenue seizures are made daily, and ships are prevented from going to sea on much less cause of suspicion than attached to the suspected ships of the confederates.

The undersigned receives with great satisfaction this official adhesion of Spain to the doctrine that in time of war it is as well the right as the duty of the non-combatant powers to maintain a neutral position—a doctrine of which the United States were the earliest, and have remained the most consistent, advocates. In the first stage of their national history, they suffered from the unlawful attempts of other belligerent powers to force them from the neutral attitude which they had the right to maintain. In a later and more trying period, they were injured by the

neglect of other powers to preserve their neutrality when they themselves were in a state of war. It is a satisfaction to feel that the position which they have maintained when they were at peace, and claimed when they were at war, is gaining ground on the continent of Europe.

The intelligence and acumen of Mr. Lopez Roberts cannot have failed to notice that these doctrines were applied to a condition when a state of war was recognized by the neutral; that the whole of the context of the argument from which Mr. Lopez Roberts has done the undersigned the honor to excerpt the passages which are quoted above, relate to a recognized condition of war, and that the grievances complained of by the United States in the dispatch, from which the quotations are made were the acts of a government which had formally recognized a state of war between the United States and their armed opponents.

To make the doctrine of the passages which have been quoted applicable to the relations of Spain and Cuba, the former must acknowledge a state of war between herself and the inhabitants of Cuba which other nations may recognize.

The undersigned has not heretofore understood that the government of Spain had yet recognized, or was yet willing that the other powers should recognize a state of war as existing in the island of Cuba, but the application which his excellency the minister of Spain endeavors to make of the position in which the United States acknowledged to have found themselves after that several powers, including Spain, had accorded the rights of belligerents to their revolted citizens, induces the undersigned to inquire whether Spain now regards her position toward the insurgents of Cuba the same as that which the United States occupied toward their insurgent citizens at the time of the occurrence of the acts complained of in the dispatch from which Mr. Lopez Roberts has quoted.

The undersigned avails himself of this occasion to renew to Mr. Lopez Roberts the assurance of his very high consideration.

HAMILTON FISH.

No. 380.

Mr. Lopez Roberts to Mr. Fish.

WASHINGTON, May 5, 1871. (Received May 5.)

The undersigned, minister of Spain, has the honor to acknowledge to the honorable Secretary of State the receipt of his note of the 3d instant, in which he is pleased to state that William T. Otto has been appointed arbitrator, and the Hon. Caleb Cushing counsel on the part of the United States, in accordance with the bases agreed upon in Madrid, on the 12th of February last, between his excellency Don Christino Martos, minister of state of His Majesty the King, and General Sickles, envoy extraordinary and minister plenipotentiary of this Republic in Spain, for the settlement of claims of American citizens in consequence of the insurrection in the island of Cuba.

The undersigned informs Mr. Hamilton Fish, that by virtue of the powers conferred upon him by the 1st article of said bases, he has appointed as arbitrator on the part of Spain Mr. Luis de Potestad, 1st secretary of this legation, and Mr. J. Mandeville Carlisle as counsel.

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

MAURICIO LOPEZ ROBERTS.

No. 381.

CONSULAR CORRESPONDENCE.

Mr. H. C. Hall to Mr. Davis.

No. 560.]

UNITED STATES CONSULATE GENERAL,
Havana, October 13, 1871. (Received October 23.)

SIR: The accompanying slips from the New York Herald of 24th ultimo and 2d instant purport to be telegrams transmitted from this place. I have made inquiry, and have ascertained from an authoritative source that the said telegrams have not been sent from here.

In connection with the statements contained in the slips, I beg to transmit a memorandum of a conversation with an intelligent gentleman, a British subject, whom I consider entirely credible, who has lately visited the eastern and central departments, from which it would appear that the insurrection is still strong, and that there is as little probability of its being promptly suppressed as there has been at any time during the past two years.

I have the honor, &c.,

HENRY C. HALL.

Inclusures.

No. 1.—Purported telegrams to the New York Herald.

No. 2.—Memorandum of a conversation with a gentleman from the eastern department.

[Inclosure No. 1.]

[From the New York Herald of September 24, 1871.]

Cuba—Herald special report from Havana—Capture and surrender of all the prominent leaders of the insurrection—A handful of marauders in hiding—A proclamation to announce the end of the insurrection—Telegram to the New York Herald.

The Herald correspondent at the Cuban capital has forwarded us the following special dispatch:

HAVANA, September 24, 1871.

Letters from Puerto Principe announce that the eastern part of the island, which included the whole seat of the insurrection, has been completely pacified, and that the captain general will shortly return to Havana.

All the principal leaders of the insurrection, with their forces, have either surrendered or been captured, and there exists now only a handful of marauders, who are hiding, and, as it appears, would also surrender, but for the fear of being prosecuted by the local authorities for the atrocities committed upon the lives and property of the inhabitants.

A proclamation by the captain general, declaring the insurrection at an end, is shortly to be issued.

[From the New York Herald of October 2, 1871.]

PEACE IN CUBA.

Herald special report from Havana—The telegraphic line between Puerto Principe and Havana re-established—The pacification of Cuba complete—Telegram to the New York Herald.

The Herald correspondent at the Cuban capital has forwarded us the following special dispatch:

HAVANA, October 1, 1871.

The telegraphic line between Havana and Puerto Principe, which passes through the district of Camaguey, the stronghold of the late insurrection, has been completely re-established and is now in working order.

The line had been cut by the insurgents at the beginning of the struggle, and kept interrupted ever since, by their possession of the intervening large territory of the Camaguey.

The want of telegraphic communication with Havana hampered the operations of the Spanish war authorities, and the insurrection had to be subdued before the line could be held and repaired.

With the re-establishment of the telegraph between Havana and Puerto Principe, the pacification of the island is complete.

[Inclosure No. 2.]

HAVANA CONSULATE, October 13, 1871.

Memorandum.—A gentleman who has recently visited the eastern and central departments of the island reports the following:

That he was at Guantanamo a week ago, when an alarm was raised that the insurgents were approaching the place. The governor ordered the inhabitants into the block-houses, and prepared for defense. The insurgents appeared on the outskirts of the town, but did not attack it, contenting themselves with selecting and driving off all the best cattle in the vicinity.

That the insurgents have full control of all the country around Guantanamo, and within the radius of a league from Santiago de Cuba. These places receive nearly all their provisions and supplies from the western department.

That in a recent attack of the insurgents upon Yara, they completely sacked the place, carrying off in their carts all the goods and provisions of the place, as well as the commissary stores; they afterward burned the place, not leaving a single building. The resistance they met with was very trifling.

That the loyal inhabitants in those departments are exceedingly despondent and dissatisfied; they are convinced that without large re-enforcements from Spain, and more active co-operation on the part of the western department, the task of suppressing the insurrection is a hopeless one.

The slaves of the eastern department are being removed hither in large numbers, some to be sold and others to be hired. As they are all more or less tainted with insurrectionary ideas, their influence upon the same class in this department is to be feared.

That near Puerto Principe there was quite a sharp engagement, a few days since, between the government forces and insurgents, in which the former were defeated.

~~SWEDEN AND NORWAY.~~

No. 382.

Mr. Androto to Mr. Fish.

No. 93.]

LEGATION OF THE UNITED STATES,
Stockholm, March 3, 1871. (Received March 23.)

~~SIR: I have the honor to inclose a translation of the report by Count Lewenhaupt, the Swedish and Norwegian chargé d'affaires in Washington, on emigration, made to his government on the 17th November last; also a printed copy of the same, in the Swedish language.~~

~~The report has been communicated to the Diet and to the Storting. It has been extensively published in the newspapers of Norway, but as yet only extracts from it have been published in the Swedish journals.~~

~~The spirit of the report appears to me to be excellent. Taken together, I think Americans could not regret its extensive circulation in Sweden and Norway. Count Lewenhaupt states that a majority of emigrants from these kingdoms prosper in the United States. He has, however, as might be expected in treating of so extensive a topic, fallen into a few errors. He states that it happens "very" often that the~~